



Local Division Milan  
**ORD\_59913/2024**  
ACT\_59213/2024  
UPC\_CFI\_643/2024

**ORDER**  
**On Application for Provisional Measures**  
**Without Hearing the Other Party**  
of the Court of First Instance of the Unified Patent Court  
Local Division Milan  
issued on 5 November 2024

APPLICANT

**CARDO SYSTEMS, Ltd.**

13 Zahrin Street  
4366241 Ra'anana – Israel

(referred to as the “**Applicant**”)

Represented by:

Tjibbe DOUMA (525128/2023), with registered offices at (Bird & Bird (Netherlands) LLP) Gustav Mahlerlaan 42, 1082 MC Amsterdam, The Netherlands  
Giovanni GALIMBERTI (168539/20223), with registered offices at (Bird & Bird Società tra Avvocati Srl) Via Porlezza, 12, Milan 20123, Italy.

Additionally represented by:

Emelia ZALEWSKA (21048/204) and Anna KOSTER (52423/2024) with registered offices at (Bird & Bird (Netherlands) LLP) Gustav Mahlerlaan 42, 1082 MC Amsterdam, The Netherlands.  
Markus HERZOG and Manuel MILLAHN (European Patent Attorneys) with registered offices at (Weickmann & Weickmann) Richard-Strauss-Strasse 80, Munich 81679, Germany.

RESPONDENTS

**1. SHENZHEN ASMAX INFINITE TECHNOLOGY Co. Ltd.**

(referred to as “**Respondent 1**”)

Registered Offices:

Room 908, Building 2, Aviation & Space Building,  
No. 53 Gaoxin South 9th Road, Gaoxin  
Community, Yuehai Street, Nanshan District -  
518063 - Shenzhen – China

Postal Address for Service

Room 908, Building 2, Aviation & Space Building,  
No. 53 Gaoxin South 9th Road, Gaoxin  
Community, Yuehai Street, Nanshan District -  
518063 - Shenzhen - China

**2. HONG KONG YIHENG INTERNATIONAL TECHNOLOGY Co. Limited**

(referred to as “**Respondent 2**”)

Registered Offices: Unit B, 13/F, Shing Lee Commercial Building, No. 8, Wing Kut Street, Central 00000 – Hong Kong – Hong Kong  
Postal Address for Service Unit B, 13/F, Shing Lee Commercial Building, No. 8, Wing Kut Street, Central 00000 – Hong Kong – Hong Kong

PATENT AT ISSUE:  
*EUROPEAN PATENT NO EP 4 240 194*  
(referred to as the “**Patent**”)

PANEL/DECIDING JUDGE:  
Single judge: Samuel Granata  
(referred to as the “**Court**”)

LANGUAGE OF THE PROCEEDINGS:  
English

ORAL PROCEEDINGS:  
Request for not hearing the Respondents (R. 206.3 (a) of the Rules of Procedure (hereinafter “RoP”))

SUBJECT-MATTER OF THE PROCEEDINGS  
Application for a preliminary injunction and other provisional measures R. 206 (1) and 211 (1) RoP

### **PROCEDURAL HISTORY**

1. On 4 November 2024 the Applicant filed with the CMS an “*Application for Provisional Measures without Hearing the Other Party*” in application of Art. 62 UPCA, 60.5. UPCA and R. 206 (3) RoP indicating that main proceedings on the merits of the case had not yet been started before the Court (R. 208 (2) RoP).
2. On the same day the Notification of “*Positive Outcome Following Formal Checks*” (R. 208 (1) RoP) was communicated to the Applicant and a single judge was appointed (R. 208 (2) RoP).

#### **I. ORDER SOUGHT BY THE APPLICANT**

3. The Applicant requests that the Court (without hearing the Respondents) issues the following provisional measures:

##### **I.1. Injunction**

Shenzhen Asmax and HK Yiheng are ordered to refrain from making, offering, placing on the market, using, importing or storing for the aforementioned purposes in the territories of the Member States of the Unified Patent Court (i.e. in the territories of Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovenia and Sweden)

a combination of a functional unit (102) a receiving unit (104) and a fastening device (100) for releasably fastening said functional unit (102) in a connection direction (C) to said receiving unit (104), said functional unit (102) and said receiving unit (104) each having a longitudinal direction (L), a transverse direction (T) and a height direction (H),

said functional unit (102) further having a functional unit abutment surface (106), and said receiving unit (104) further having a receiving unit abutment surface (108), said functional unit abutment surface (106) and said receiving unit abutment surface (108) being adapted for abutting against each other in the connected state,

said fastening device (100) further comprising at least one pair of magnets (110), at least one functional unit magnet (112) being allocated at or close to the functional unit abutment surface (106), and at least one receiving unit magnet (114) being allocated at or close to the receiving unit abutment surface (108), **said** magnets (112, 114) of said at least one pair of magnets (110) exerting an attractive force to each other,

said fastening device (100) further comprising at least one mechanical locking unit (130) comprising a functional unit locking element (130a) allocated to the functional unit (102) and a receiving unit locking element (130b) allocated to the receiving unit (104), said locking elements (130a, 130b) being adapted and intended to cooperate with each other, characterized in that

said functional unit (102) includes a communication device (154)

the at least one mechanical locking unit (130) is designed as a snap-lock unit, comprising at least one catch element (132) and at least one trap element (134), adapted and intended to cooperate with each other, and

the fastening device (100) further comprises a securing element (140), said securing element (140) being transferable between a securing position and a releasing position, said securing element (140) being adapted to prevent in its securing position a movement of the functional unit (102) relative to the receiving unit (104) in a detaching direction (142), while allowing such movement in its releasing position, in a deflection direction of a catch end of the at least one catch element (132) extending substantially parallel to a first direction, namely the transverse direction (T) or the longitudinal direction (L),

the detaching direction extending substantially parallel to a second direction, namely the longitudinal direction (L) or the transverse direction (T), i.e. substantially orthogonal to both, the deflection direction and the connection direction (C),

(claim 1 of EP 4 240 194)

such as Z1-ASMAX and F1-ASMAX, and any Pro, Pro Max or Plus versions thereof

in the alternative:

wherein at least one of the functional unit magnet (112) and the receiving unit magnet (114) is an active magnet, e.g. a permanent magnet or an electromagnet

(claim 2 of EP 4 240 194)

in the further alternative:

wherein the positions of the at least one functional unit magnet (112) and of the at least one receiving unit magnet (114) in the connected state when viewed in the connection direction (C) are at least partially overlapping, preferably substantially aligned to each other

(claim 3 of EP 4 240 194)

in the further alternative:

wherein the functional unit abutment surface (106) comprises at least one inclined functional unit abutment surface portion (106a) and the receiving unit abutment surface (108) comprises at least one inclined receiving unit abutment surface portion (108a), being in the connected state of the functional unit (102) and the receiving unit (104) at least partially aligned to said at least one inclined functional unit abutment surface portion (106a)

(claim 5 of EP 4 240 194)

in the further alternative:

wherein at each lateral side of the functional unit (102) and the receiving unit (104) at least one mechanical locking unit (130) is provided

(claim 6 of EP 4 240 194)

in the further alternative:

wherein the at least one trap element (134) is provided with a trap sliding surface (134a) and the at least one catch element (132) is provided with a catch sliding surface (132a), said trap sliding surface (134a) and said catch sliding surface (132a) when sliding along each other elastically deflecting a catch end (132b) of the catch element (132) to a locking preparation position.

(claim 7 of EP 4 240 194)

in the further alternative:

wherein the securing element (140) is provided at, preferably integrally formed with, its allocated unit, namely the receiving unit (104) or the functional unit (102), preferably the receiving unit (104)

(claim 11 of EP 4 240 194)

in the further alternative:

wherein the securing element (140) is formed in a U-shape

(claim 12 of EP 4 240 194)

in the further alternative:

wherein the fastening device (100) further comprises first movement limiting means (142) adapted to prevent the securing element (140) from being moved beyond the securing position and/or second movement limiting means (148) adapted to prevent the securing element (140) from being moved beyond the releasing position

(claim 13 of EP 4 240 194)

in the further alternative:

wherein the fastening device (100) further comprises a stopper surface (150) provided at the receiving unit (104) and a stopper counter-surface (152) provided at the functional unit (102) adapted and intended to cooperate with the stopper surface (150) in order to limit a movement of the functional unit (102) relative to the receiving unit (104) in a direction opposite to the detaching direction (142)

(claim 14 of EP 4 240 194)

in the further alternative:

wherein said communication device (154) uses Bluetooth® technology

(claim 15 of EP 4 240 194)

in the further alternative:

wherein said receiving unit (104) is part of a head protection gear or formed as a separate unit operatively fixable to said head protection gear

(claim 16 of EP 4 240 194)

## I.2. Delivery up

Shenzhen Asmax and HK Yiheng are ordered to delivery up to the bailiff the products referred to and any promotional and advertising material concerning them, in its direct or indirect possession or control, at the EICMA 2024.

## I.3. Penalty

219. Shenzhen Asmax and HK Yiheng are ordered to pay to the Unified Patent Court, for each individual violation of the orders under I. and II. above, a penalty of EUR 1.000 per infringement (where one infringing act with one Infringing Product

is considered a single infringement) with a maximum of EUR 500.000, or any other amount to be reasonably determined by the Court.

#### I.4. Enforcement

The present decision is effective and enforceable immediately.

##### *in the alternative:*

The present decision is immediately enforceable. Cardo is ordered to provide security in the amount of EUR 150,000.00 within a period of 10 days from the service of the decision of the Court, or any other amount to be reasonably determined by the Court, and in the form of a deposit which may be replaced within 3 months as of the deposition of the security amount by a bank guarantee issued by a bank licensed to do business in the European Union,. If Cardo does not comply, the enforceability of the decision shall be suspended until the security has been provided.

#### I.5. Service

The present decision is to be served to Shenzhen Asmax and HK Yiheng at the Asmax's stand at EICMA 2024, FIERA MILANO, SS. 33 del Sempione 28, 20017 Rho (Milan) by the bailiff, who shall deliver it – together with a copy of the application for provisional measures and the exhibits referred to in the application – to any Asmax's staff member present at the stand. Shenzhen Asmax and HK Yiheng are ordered to accept the service in English language.

#### I.6. Execution

The legal representatives of Cardo indicated in the application (or other representatives of Bird & Bird nominated by them) are permitted to assist to the execution of the provisional measures.

## II. **FACTS**

### II.1. The parties

4. Parties are competitors in the field of Bluetooth<sup>®</sup> and Dynamic Mesh Communication and entertainment systems for motorcyclists. The Applicant alleges to be the leader in this field and alleges that the "ASMAX-group" (consisting of inter alia Respondent 1 and 2) entered the European market to compete (i.a.) with the Applicant with the products hereunder mentioned.
5. The competent products of the ASMAX-group (which would fall under the scope of the Patent – see hereafter) are the following: "Z1-ASMAX", "F1-ASMAX" and further

variations of these products such as “Plus”, “Pro” and “Pro Max” models (hereafter referred to as the “**Infringing Products**”).

6. The ASMAX-group will be attending between 5 and 10 November 2024 the “*International Motorcycle Exhibition*” (hereafter referred to as “EICMA”) to be held in Milan (Italy). The Applicant contends that this fair is one of the most relevant trade fairs in the world for the motorcycle industry where the Applicant argues that above mentioned products will be showcased (and offered for sale).

## II.2. The Patent

7. The Patent is titled “*Fastening device, head-protective gear with such a fastening device*”. After the Patent was filed on 4 November 2021, it was published on 9 October 2024. It claims priority of PCT/IB2020/060404 (5 November 2020). The PCT application WO 2022/097063 has been published on 12 May 2022.

8. The Applicant provides the following technical teaching of the Patent in its Application:

22. *The Patent relates to a combination of a functional unit, a receiving unit and a fastening device, providing a reliable fastening of the functional unit to the receiving unit as well as easy release (see § (0004) – (0005)).*

23. *The Patent describes use of at least one pair of magnets as means of fastening: a magnet located in the functional unit and a magnet located in the receiving unit. (see § (0006))*

24. *The Patent explains that the magnets provide attractive forces when they are located close to each other. The use of at least one pair of magnets assists the user of a helmet when approaching the functional unit to the receiving unit, as the magnets pull the functional unit to the correct place relative to the receiving unit. This is achieved even when the user wears gloves and when the user cannot see the units as he or she wears a helmet. It is sufficient for the user to hold the units close to each other. The magnets provide the so-called self-centering effect. The attractive forces of the magnets hold further the functional and receiving units reliably when they are connected. (see § (0006))*

25. *This reliable fastening of functional unit and receiving unit is further achieved by the functional unit having abutment surface with at least one inclined portion and the receiving unit having abutment surface with at least one inclined portion, being (partially) aligned to inclined functional unit abutment surface portion, when the functional unit and the receiving unit are in the connected state. (see § (0015))*

26. *The fastening device has further a mechanical locking unit with a functional unit locking element allocated to the functional unit and a receiving unit locking element allocated to the receiving unit, which are adapted to cooperate with each other. (see § (0018))*

27. *The fastening device has also a securing element, being transferable between a securing position and a releasing position, to prevent in its securing position a movement of the functional unit relative to the receiving unit in a detaching direction while allowing such movement in its releasing position. (see § (0026)) Thus, the device provides for an easy and secure fastening while at the same time allowing for easy release.”*

9. The Applicant alleges infringement to the following claims (independent claim 1 (divided into features) and dependent claims 2, 3, 5-7 and 11-15) of the Patent:

<b>Claim 1</b>	<b>Features</b>
1.1.	A combination of a functional unit (102) a receiving unit (104) and a fastening device (100) for releasably fastening said functional unit (102) in a connection direction (C) to said receiving unit (104),
1.2.	said functional unit (102) and said receiving unit (104) each having a longitudinal direction (L), a transverse direction (T) and a height direction (H),
1.3.	said functional unit (102) further having a functional unit abutment surface (106), and said receiving unit (104) further having a receiving unit abutment surface (108), said functional unit abutment surface (106) and said receiving unit abutment surface (108) being adapted for abutting against each other in the connected state,
1.4.	said fastening device (100) further comprising at least one pair of magnets (110), at least one functional unit magnet (112) being allocated at or close to the functional unit abutment surface (106), and at least one receiving unit magnet (114) being allocated at or close to the receiving unit abutment surface (108),
1.5.	said magnets (112, 114) of said at least one pair of magnets (110) exerting an attractive force to each other,
1.6.	said fastening device (100) further comprising at least one mechanical locking unit (130) comprising a functional unit locking element (130a) allocated to the functional unit (102) and a receiving unit locking element (130b) allocated to the receiving unit (104), said locking elements (130a, 130b) being adapted and intended to cooperate with each other, characterized in that
1.7.	said functional unit (102) includes a communication device (154)
1.8.	the at least one mechanical locking unit (130) is designed as a snap-lock unit, comprising at least one catch element (132) and at least one trap element (134), adapted and intended to cooperate with each other, and
1.9.	the fastening device (100) further comprises a securing element (140), said securing element (140) being transferable between a securing position and a releasing position, said securing element (140) being adapted to prevent in its securing position a movement of the functional unit (102) relative to the receiving unit (104) in a detaching direction (142), while allowing such movement in its releasing position,
1.10.	a deflection direction of a catch end of the at least one catch element (132) extending substantially parallel to a first direction, namely the transverse direction (T) or the longitudinal direction (L), the detaching direction extending substantially parallel to a second direction, namely the longitudinal direction (L) or the transverse direction (T), i.e. substantially orthogonal to both, the deflection direction and the connection direction (C).

#### **Claim 2**

The combination according to claim 1, wherein at least one of the functional unit magnet (112) and the receiving unit magnet (114) is an active magnet, e.g. a permanent magnet or an electromagnet.

#### **Claim 3**

The combination according to claim 1 or 2, wherein the positions of the at least one functional unit magnet (112) and of the at least one receiving unit magnet (114) in the connected state when viewed in the connection direction (C) are at least partially overlapping, preferably substantially aligned to each other

#### **Claim 5**

The combination according to any of the preceding claims, wherein the functional unit abutment surface (106) comprises at least one inclined functional unit abutment surface portion (106a) and the receiving unit abutment surface (108) comprises at least one inclined receiving unit abutment surface portion (108a), being in the connected state of the functional unit (102) and the receiving unit (104) at least partially aligned to said at least one inclined functional unit abutment surface portion (106a).



**Claim 6**

The combination according to any of the preceding claims, wherein at each lateral side of the functional unit (102) and the receiving unit (104) at least one mechanical locking unit (130) is provided.

**Claim 7**

The combination according to any of the preceding claims, wherein the at least one trap element (134) is provided with a trap sliding surface (134a) and the at least one catch element (132) is provided with a catch sliding surface (132a), said trap sliding surface (134a) and said catch sliding surface (132a) when sliding along each other elastically deflecting a catch end (132b) of the catch element (132) to a locking preparation position.

**Claim 11**

The combination according to any of the preceding claims, wherein the securing element (140) is provided at, preferably integrally formed with, its allocated unit, namely the receiving unit (104) or the functional unit (102), preferably the receiving unit (104).

**Claim 12**

The combination according to any of the preceding claims, wherein the securing element (140) is formed in a U-shape.

**Claim 13**

The combination according to any of the preceding claims, wherein the fastening device (100) further comprises first movement limiting means (142) adapted to prevent the securing element (140) from being moved beyond the securing position and/or second movement limiting means (148) adapted to prevent the securing element (140) from being moved beyond the releasing position.

**Claim 14**

The combination according to any of the preceding claims, wherein the fastening device (100) further comprises a stopper surface (150) provided at the receiving unit (104) and a stopper counter-surface (152) provided at the functional unit (102) adapted and intended to cooperate with the stopper surface (150) in order to limit a movement of the functional unit (102) relative to the receiving unit (104) in a direction opposite to the detaching direction (142).

**Claim 15**

The combination according to any of the preceding claims, wherein said communication device (154) uses Bluetooth® technology.

**Claim 16**

The combination according to any of the preceding claims, wherein said receiving unit (104) is part of a head protection gear or formed as a separate unit operatively fixable to said head protection gear.

### II.3. The alleged infringement

10. This procedure is related to the alleged infringement of the Patent of which the Applicant is the owner by the Respondents. Specifically the Applicant argues that the following claims of the Patent are infringed 1, 2, 3, 5, 6, 7, 11, 12, 13, 14, 15 and 16.
11. The Applicant brings to the attention of the Court the following factual circumstances

(with reference to its Exhibits):

29. (...) For testing purposes, Cardo purchased Z1-ASMAX and F1-ASMAX on Amazon.de and Amazon.it (with delivery to the Netherlands and Italy respectively). Cardo submits the invoices of the purchase as **Exhibit BB09**.

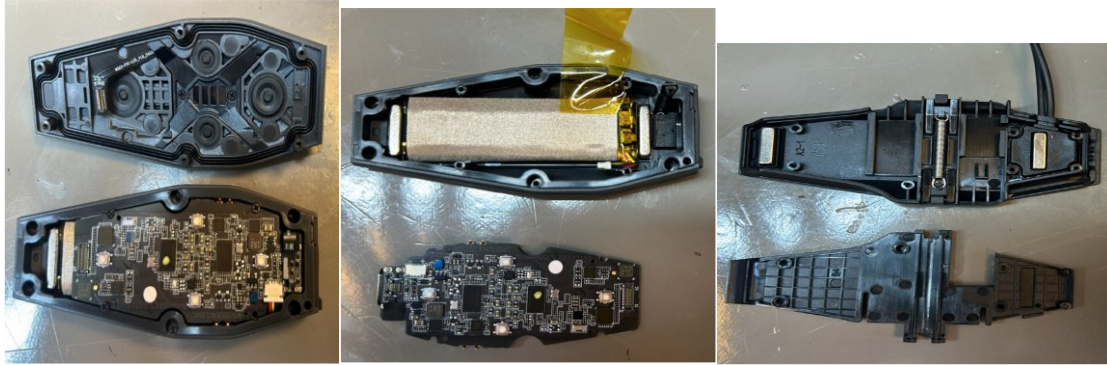
30. The ASMAX Group launched also the Pro, Pro Max and Plus versions of Z1-ASMAX and F1-ASMAX. The Pro, Pro Max and Plus models are available on the Asian market (**Exhibit BB10**) and are since very recent also offered for sale on the ASMAX Group website (**Exhibit BB03**).

31. The ASMAX Group launched the Pro, Pro Max and Plus models on its websites ahead of EICMA in the weekend of 2 and 3 November 2024. Cardo refers in this regard to **Exhibit BB02** containing the screen shots of the ASMAX Group's website taken on 1 November 2024 and **Exhibit BB03** with the screen shots taken on 3 November 2024. EICMA trade fair is the perfect opportunity for the ASMAX Group to roll-out further the Pro, Pro Max and Plus models in Europe.

32. The Pro, Pro Max and Plus models fall also under the scope of protection of the Patent, as these are, as confirmed by the ASMAX Group, technically the same as Z1-ASMAX and F1-ASMAX not only in terms of PCB and circuit but also in terms of structure and internal of the model (**Exhibit BB11**). Cardo refers also to par. 10 from which it follows that the Plus, Pro and Pro Max models of Z1-ASMAX, F1-ASMAX incorporate the use of the magnets for the mounting purposes as thought by the Patent. Cardo submits also the following photos of F1-ASMAX and the Pro model of F1-ASMAX as purchased on the Asian market that confirm that the products are the same in as far as relevant for the Patent (**Exhibit BB12**):



33. Cardo submits also as **Exhibit BB13** photos of the disassembled Pro model of F1-ASMAX as purchased on the Asian market, from which it follows that the Pro, Pro Max and Plus models of F1-ASMAX comprise the magnets as required by the Patent:



### **III. GROUNDS FOR THE ORDER**

#### **III.1. Jurisdiction of the UPC and Competence of the LD Milan**

##### **III.1.a. International jurisdiction**

12. Art. 31 UPCA establishes the international jurisdiction of the UPC in accordance with Regulation (EU) No 1215/2012 as amended by EU Regulation 542/2014. According to Art. 4(1), 7(2), 71, 71a and 71b of mentioned Regulation and 32(1)(c) and 83(2) UPCA, the UPC has jurisdiction to hear cases regarding European patents that have not been opted-out from the jurisdiction of the UPC.

13. As the Patent has not been opted-out, the UPC has international jurisdiction.

##### **III.1.b. Competence of the UPC regarding the Subject-Matter**

14. As the Application is an action for provisional measures in application of Art. 32 (c) UPCA, the Court has jurisdiction regarding the subject-matter.

##### **III.1.c. Territorial Competence of the Milan Local Division**

15. The Milan Local Division of the Court of First Instance has competence to hear the case (in application of Art. 33 (1) (a) UPCA) as the local division (hosted by the Contracting Member State (Italy) where the actual of threatened infringement has occurred or may occur. The Court refers to the following factual circumstances:

- Respondent 1 is the manufacturer of the Infringing Products as indicated on the product packaging.
- Respondent 1 is responsible for the ASMAX-group website ([www.asmaxworld.com](http://www.asmaxworld.com)) where the Infringing Products are offered and placed on the market. This site offers direct worldwide delivery of the Infringing Products (and as such in the Contracting Member States).

- Respondent 1 is the developer of the ASMAX world app. This app is available in the *Apple App Store* in multiple languages including German, English, French, Italian and Spanish.
- Respondent 1 is the holder of the ASMAX trademark.
- Respondent 1 confirmed its participation to the EICMA-event through social media platforms (i.a. Instagram and Facebook). The Applicant makes it reasonable that Respondent 1 will be offering and putting on the market and using the Infringing Products which were previously imported for these purposes.
- Respondent 2 (trading under the name “ASMAX World US”) offers and places on the market the Infringing Products on the AMAZON e-commerce platform across several Contracting Member States (including Italy, the Netherlands, Germany, France and Spain). The Applicant refers specifically to the examples of Infringing Products available for sale on [www.amazon.de](http://www.amazon.de) and [www.amazon.it](http://www.amazon.it).
- The invoices for the (test-) orders of the Infringing Products (specifically Z1-ASMAX and F1-ASMAX) placed by the Applicant indicate Respondent 2 as responsible for these sales. Respondent 2 seems to be offering and placing on the market (the Contracting Member States) the Infringing Products produced by Respondent 1.

### III.2. Application (action) to be heard by a single judge

16. The Court finds that the factual circumstances are as such to consider the urgent interest of the Applicant to be of an “*extreme urgent*” nature which allows the application of R. 208 (2) RoP. In this regard the Court explicitly refers to the presentation for sale of the Infringing Products during the EICMA-event to be held between 5 and 10 November 2024 in Milan (Italy).
17. In application of R. 209 RoP, the assigned single judge is attributed all necessary powers of the Court.

### III.3. Ex Parte

18. The Court finds the request in application of R. 206 (3) RoP, that the provisional measures be ordered without hearing the Respondents, well-founded based on the following temporal (R. 211 (4) RoP) and factual (R. 206 (2) (c) RoP) circumstances:
  - The organization of *inter partes* proceedings would cause an unreasonable delay with regard the provisional measures requested (and in particular the provisional measures to be executed during the EICMA-event to be held between 5 and 10 November 2024 in Milan (Italy)).
  - Hereby the Court also takes into consideration the location of the registered offices of the Respondents (being outside the Contracting Member States) and the time frame

necessary to render standard service in application of R. 274 RoP.

#### III.4. No oral procedure

19. Although an oral procedure should be, as a principle, part of the procedure for provisional measures (see R. 205 (b) RoP) and although the Applicant has not requested the Application to be heard by the standing judge, the Court has discretionary power (R. 210 (1) RoP) to decide without an oral hearing.
20. Based on the following reasoning the Court holds that no oral hearing should be organized:
  - The “*extreme*” nature of the urgent interest of the Applicant (which allowed the application of R. 208 (2) RoP) is as such that no oral hearing should be organized. The Court specifically refers to the presentation for sale of the Infringing Products during the EICMA-event to be held between 5 and 10 November 2024 in Milan (Italy). The organization of an oral hearing would cause an unreasonable delay for the Applicant.
  - The Application is deemed to be complete in the sense that no additional information or evidence from the Applicant is necessary for the Court to decide on the Application.

#### III.5. Provisional Measures

##### III.5.a. General

21. In its decision of 15 October 2024, the LD Lisbon (UPC\_CFI\_317/2024) clearly set the general (cumulative) principles regarding the granting of preliminary measures. These (cumulative) principles can be summarized as follows:
  - the Applicant is required to provide reasonable evidence to satisfy the Court with a sufficient degree of certainty:
    - that the Applicant is entitled to initiate proceedings under Art. 47 UPCA,
    - that the patent is valid, and
    - that its rights are being infringed, or that such infringement is imminent (R. 211.2 RoP).
  - The Applicant is required to indicate the urgency and the balance of interest to be considered by the Court (R. 209(1)(b), 211(2) and (3) RoP).
22. The nature of the sufficient degree of certainty has been pointed out by the CoA of the UPC in its decision of 26 February 2024 (CoA, 26 February 2024, UPC\_CoA\_335/2023) requiring that the Court considers it at least more likely than not

that the Applicant is entitled to initiate proceedings and that the patent is valid and infringed.

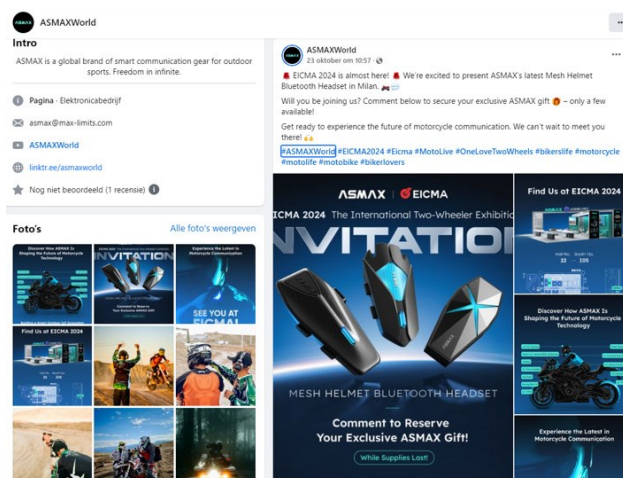
23. In line with the nature of proceedings (to be organized by way of summary proceedings (R. 205 RoP) the analysis the Court has to make is of a “*prima facie*”-nature. This specifically is relevant in cases the Court decides where the nature is *ex parte* and no oral hearings are organized. As such any assessment hereafter made should be regarded as *prima facie* and does not bind the UPC in proceedings on the merits.

### III.5.b. Applied

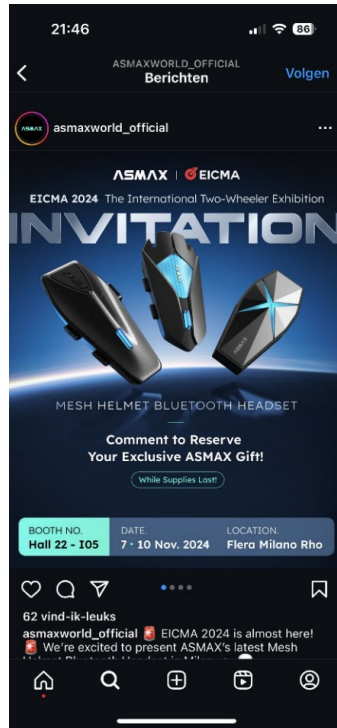
#### (i) Urgency

24. The Court finds that the Applicant has sufficiently met its burden of proof relating to urgency, more specifically the Applicant has convinced the Court that, considering the factual circumstance, it has not delayed proceedings (introducing the Application 4 November 2024) unnecessarily.. The Court argues as follows:

- The Applicant has purchased the Infringing Products in Italy and the Netherlands on 29 October 2024 (which were delivered on 29 October 2024). Upon analyse of the products, the Applicant was able to come to the opinion that these products fall under the scope of protection of the Patent.
- The Applicant came aware that the ASMAX-group had started the roll-out of the “Plus”, “Pro” and “Pro Max” models of the Z1-ASMAX and F1-ASMAX through its websites. The Court finds that the presentation of the Infringing Products on the social media platforms (such as Instagram and Facebook) regarding its participation (and invitation) to the EICMA-event is an indication of this roll-out:







(ii) Validity of the Patent





25. The Court holds that the Applicant has sufficiently met its burden of proof relating to validity of the Patent. The Court argues as follows:

- During the prosecution proceeding at the EPO, the EPO has only identified three prior art documents: US 2014/173811 A1, US 2015286 117 A1 and US 2006/133068 A1. The Applicant argues that none of these prior art documents discloses or teaches the use of the magnets, the snap-lock elements and the securing element (in the securing for the fastening purposes and releasing position to release the functional unit) together. The Applicant convinces the Court that this is due to the nature of the Patent reflecting that the Patent overcame the challenges identified in the industry.
- A comparable patent has been granted in the United States with essentially the same claim language.

(iii) Infringement

26. The Court finds that the Applicant has sufficiently met its burden of proof relating to infringement of the Patent. The Court argues as follows:

Claim 1	Infringement
1.1.	<p>The Applicant sufficiently proves that Z1-ASMAX and F1-ASMAX comprise a combination of a functional unit, a receiving and a fastening device.</p> <p>That Feature 1.1. is met, is sufficiently proven by the following photographic representations:</p>





Z1-ASMAX	F1-ASMAX
Functional unit: 	Functional unit 
Receiving unit 	Receiving unit 

Regarding the fastening device, the Applicant refers convincingly to the proof of infringement of claim 1.9. (see hereafter)

1.2. The Applicant sufficiently proves that the functional unit and the receiving unit of Z1-ASMAX and F1-ASMAX have a longitudinal direction (L), a transverse direction (T) and a height direction (H). That Feature 1.2. is met, is sufficiently proven by the following photographical representation:










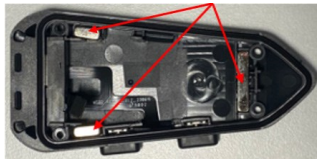
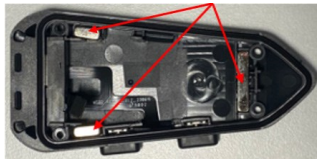


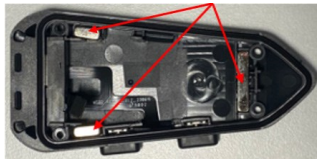

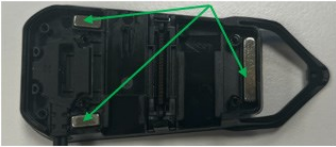
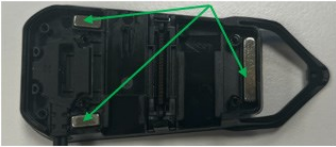
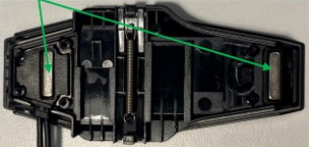
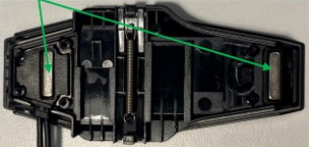
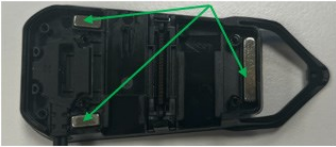
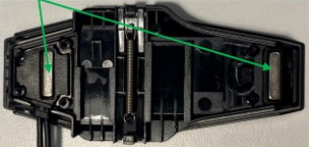






Z1-ASMAX	F1-ASMAX
	

1.3. The Applicant sufficiently proves (making use of a photographical representation) that the functional unit and the receiving unit of Z1-ASMAX and F1-ASMAX have a functional unit abutment surface and a receiving unit abutment surface respectively.





Z1-ASMAX	F1-ASMAX
Functional unit abutment surface 	Functional unit abutment surface 
Receiving unit abutment surface 	Receiving unit abutment surface 

Subsequently, the Applicant sufficiently proves (making use of a photographical representation) that the functional unit abutment surface and the receiving unit abutment surface of Z1-ASMAX and F1-ASMAX are adapted for abutting against each other in the connected state follows from the following presentation:



<table border="1"> <thead> <tr> <th data-bbox="400 226 874 259">Z1-ASMAX</th> <th data-bbox="874 226 1331 259">F1-ASMAX</th> </tr> </thead> <tbody> <tr> <td data-bbox="400 259 874 472">  </td> <td data-bbox="874 259 1331 472">  </td> </tr> </tbody> </table>	Z1-ASMAX	F1-ASMAX			<table border="1"> <thead> <tr> <th data-bbox="874 226 1331 259">F1-ASMAX</th> </tr> </thead> <tbody> <tr> <td data-bbox="874 259 1331 472">  </td> </tr> </tbody> </table>	F1-ASMAX	
Z1-ASMAX	F1-ASMAX						
							
F1-ASMAX							
							
<p>As such, it is sufficiently proven that Feature 1.3. is met.</p>							
<p>1.4.</p>	<p>The Applicant sufficiently proves (making use of a photographic representation) that the fastening device of Z1-ASMAX has three pairs of magnets and the fastening device of F1-ASMAX has two pairs of magnets. In each pair of the magnets at least one functional unit magnet is allocated at or close to the functional unit abutment surface and at least one receiving unit magnet is allocated at or close to the receiving unit abutment surface:</p> <p>That Feature 1.4. is met, is sufficiently proven by the following photographic representations:</p>						
<table border="1"> <thead> <tr> <th data-bbox="400 824 874 857">Z1-ASMAX</th> </tr> </thead> <tbody> <tr> <td data-bbox="400 857 874 1122"> <p>Functional unit magnets:</p>  </td> </tr> </tbody> </table>	Z1-ASMAX	<p>Functional unit magnets:</p> 	<table border="1"> <thead> <tr> <th data-bbox="874 824 1331 857">F1-ASMAX</th> </tr> </thead> <tbody> <tr> <td data-bbox="874 857 1331 1122"> <p>Functional unit magnets:</p>  </td> </tr> </tbody> </table>	F1-ASMAX	<p>Functional unit magnets:</p> 		
Z1-ASMAX							
<p>Functional unit magnets:</p> 							
F1-ASMAX							
<p>Functional unit magnets:</p> 							
<table border="1"> <thead> <tr> <th data-bbox="400 1122 874 1155">Z1-ASMAX</th> </tr> </thead> <tbody> <tr> <td data-bbox="400 1155 874 1368"> <p>Receiving unit magnets:</p>  </td> </tr> </tbody> </table>	Z1-ASMAX	<p>Receiving unit magnets:</p> 	<table border="1"> <thead> <tr> <th data-bbox="874 1122 1331 1155">F1-ASMAX</th> </tr> </thead> <tbody> <tr> <td data-bbox="874 1155 1331 1368"> <p>Receiving unit magnets:</p>  </td> </tr> </tbody> </table>	F1-ASMAX	<p>Receiving unit magnets:</p> 		
Z1-ASMAX							
<p>Receiving unit magnets:</p> 							
F1-ASMAX							
<p>Receiving unit magnets:</p> 							
<p>1.5.</p>	<p>The pairs of magnets of Z1-ASMAX and F1-ASMAX exert an attractive force to each other. The Applicant refers convincingly to Exhibit BB02 with the screen shots of ASMAX's official website and Quick start guides (available on the said website) for both products submitted as <b>Exhibit BB14</b> where ASMAX advertises "magnetic mount" of the Z1-ASMAX and F1-ASMAX.</p> <p>That Feature 1.5. is met, is sufficiently proven (making use of a photographic representation of pictures which can be found on ASMAX's official website):</p>						
<table border="1"> <thead> <tr> <th data-bbox="400 1659 874 1693">Z1-ASMAX</th> </tr> </thead> <tbody> <tr> <td data-bbox="400 1693 874 1980"> <p>(see exhibit BB02)</p>  </td> </tr> </tbody> </table>	Z1-ASMAX	<p>(see exhibit BB02)</p> 	<table border="1"> <thead> <tr> <th data-bbox="874 1659 1331 1693">F1-ASMAX</th> </tr> </thead> <tbody> <tr> <td data-bbox="874 1693 1331 1980"> <p>(see exhibit BB02)</p>  </td> </tr> </tbody> </table>	F1-ASMAX	<p>(see exhibit BB02)</p> 		
Z1-ASMAX							
<p>(see exhibit BB02)</p> 							
F1-ASMAX							
<p>(see exhibit BB02)</p> 							

1.6. The Applicant sufficiently proves (making use of a photographic representation) that the fastening device of Z1-ASMAX and F1-ASMAX has two mechanical locking units, each of such units with a functional unit locking element allocated to the functional unit and a receiving unit locking element allocated to the receiving unit.



















Z1-ASMAX	F1-ASMAX
<p>Functional unit locking element allocated to the functional unit:</p> 	<p>Functional unit locking element allocated to the functional unit:</p> 
<p>Receiving unit locking element allocated to the receiving unit:</p> 	<p>Receiving unit locking element allocated to the receiving unit:</p> 





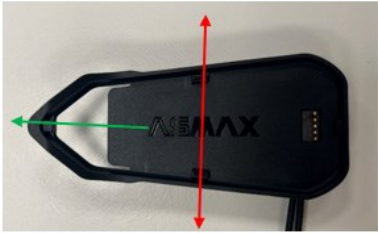
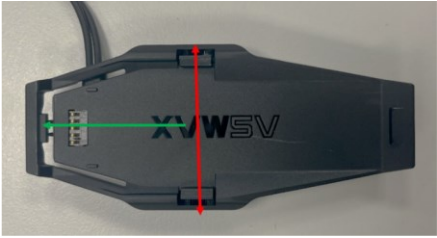
It is further sufficiently proven (making use of a photographic representation) that the functional unit locking elements and the receiving unit locking elements of Z1-ASMAX and F1-ASMAX are adapted to and cooperate with each other:

Z1-ASMAX	F1-ASMAX
	

As such, it is sufficiently proven that Feature 1.6. is met.

1.7. The Applicant sufficiently proves (making use of a photographic representation) that the functional unit of Z1-ASMAX and F1-ASMAX includes a communication device. The Applicant refers convincingly to the screen shots of ASMAX's official website (Exhibit BB02)

	<p>and Quick start guides for both products (Exhibit BB14). ASMAX advertises there such a communication device that has diverse features including inter alia intercom technology, mesh ranges from 1.8 to 15 km, group telecom, Bluetooth and voice commands</p> <p>As such, it is sufficiently proven that Feature 1.7. is met.</p>						
<p>1.8.</p>	<p>The Applicant sufficiently proves (making use of a photographic representation) that the mechanical locking units of Z1-ASMAX and F1-ASMAX are designed as a snap-lock unit with a catch element and a trap element:</p> <table border="1" data-bbox="416 488 1331 1111"> <thead> <tr> <th data-bbox="416 488 874 521">Z1-ASMAX</th> <th data-bbox="874 488 1331 521">F1-ASMAX</th> </tr> </thead> <tbody> <tr> <td data-bbox="416 521 874 813"> <p>Catch element of a snap-lock unit:</p>  </td> <td data-bbox="874 521 1331 813"> <p>Catch element of a snap-lock unit:</p>  </td> </tr> <tr> <td data-bbox="416 813 874 1111"> <p>Trap element of a snap-lock unit:</p>  </td> <td data-bbox="874 813 1331 1111"> <p>Trap element of a snap-lock unit:</p>  </td> </tr> </tbody> </table> <p>As such, it is sufficiently proven that Feature 1.8. is met.</p>	Z1-ASMAX	F1-ASMAX	<p>Catch element of a snap-lock unit:</p> 	<p>Catch element of a snap-lock unit:</p> 	<p>Trap element of a snap-lock unit:</p> 	<p>Trap element of a snap-lock unit:</p> 
Z1-ASMAX	F1-ASMAX						
<p>Catch element of a snap-lock unit:</p> 	<p>Catch element of a snap-lock unit:</p> 						
<p>Trap element of a snap-lock unit:</p> 	<p>Trap element of a snap-lock unit:</p> 						
<p>1.9.</p>	<p>To further develop this Feature in the Patent, the Applicant convincingly refers to Figure 4 (of the Patent) which indicates that the securing element (140) can be pushed down by the user (to the position of the dotted lines) enabling release of the receiving unit from the securing unit.</p> <p>The Applicant subsequently sufficiently (making use of a photographic representation) proves that the fastening device of Z1-ASMAX and F1-ASMAX include such a securing element</p> <table border="1" data-bbox="416 1469 1331 1753"> <thead> <tr> <th data-bbox="416 1469 874 1503">Z1-ASMAX</th> <th data-bbox="874 1469 1331 1503">F1-ASMAX</th> </tr> </thead> <tbody> <tr> <td data-bbox="416 1503 874 1753">  </td> <td data-bbox="874 1503 1331 1753">  </td> </tr> </tbody> </table> <p>Further, the Applicant sufficiently proves (making use of a photographic representation) that this fastening element is “transferable” between a securing position and a releasing position, and is adapted to prevent in its securing position a movement of the functional unit relative to the receiving unit in a detaching position, while allowing such movement in its releasing position. It is further also sufficiently clear from this photographic representation that the securing element can be pushed down by the user and the functional unit can be released from the securing unit.</p>	Z1-ASMAX	F1-ASMAX				
Z1-ASMAX	F1-ASMAX						
							

	Z1-ASMAX	F1-ASMAX
	Securing element in securing position: 	Securing element in securing position: 
	Securing element in releasing position: 	Securing element in releasing position: 
	As such it is sufficiently proven that Feature 1.9. is met.	
1.10.	The Applicant sufficiently proves (making use of a photographic representation) that a deflection direction of a catch end of the catch element of Z1-ASMAX and F1-ASMAX extends substantially parallel to the transverse direction (T) and the detaching direction extends substantially parallel to the longitudinal direction (L), i.e. substantially orthogonal to the deflection direction and the connection direction (C). The deflection direction and the detaching direction are illustrated with red and green arrows respectively:	
	Z1-ASMAX 	F1-ASMAX 
	As such, it is sufficiently proven that Feature 1.10. is met.	

**Claim 2**

The Applicant sufficiently proves with reference to above assessment of Claim 1 that the combination referred to is present in Z1-ASMAX and F1-ASMAX.

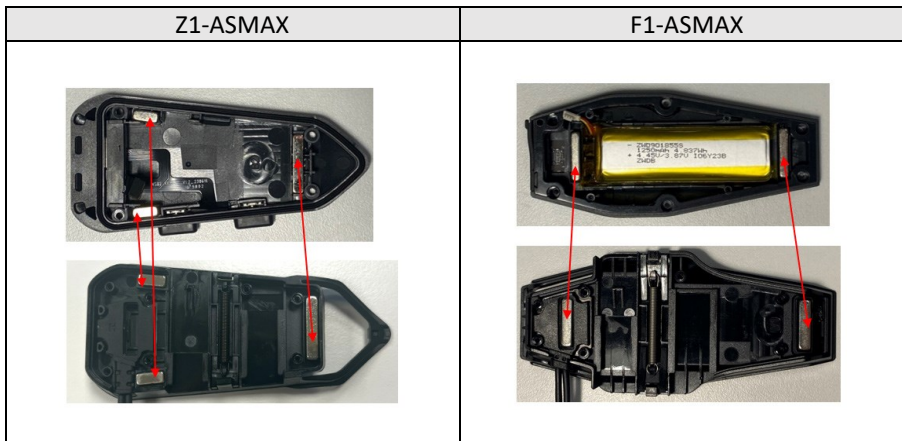
The Applicant further sufficiently proves that at least one of the functional unit magnet and the receiving unit magnet is also an active magnet, as the pairs of magnets of Z1-ASMAX and F1-ASMAX exert an attractive force to each other (see in this regard the assessment of the infringement of Feature 1.5.).

As such, it is sufficiently proven that claim 2 is met.

**Claim 3**

With reference to the assessment of the infringement relating to Claim 1 and Claim 2, it is sufficiently proven that the mentioned combination is present in Z1-ASMAX and F1-ASMAX.

Further, the Applicant sufficiently proves (making use of a photographic representation) that the functional unit magnets and the receiving unit magnets of Z1-ASMAX and F1-ASMAX are (at least partially) overlapping and are substantially aligned to each other, when in the connected state and viewed in the connection direction (C).

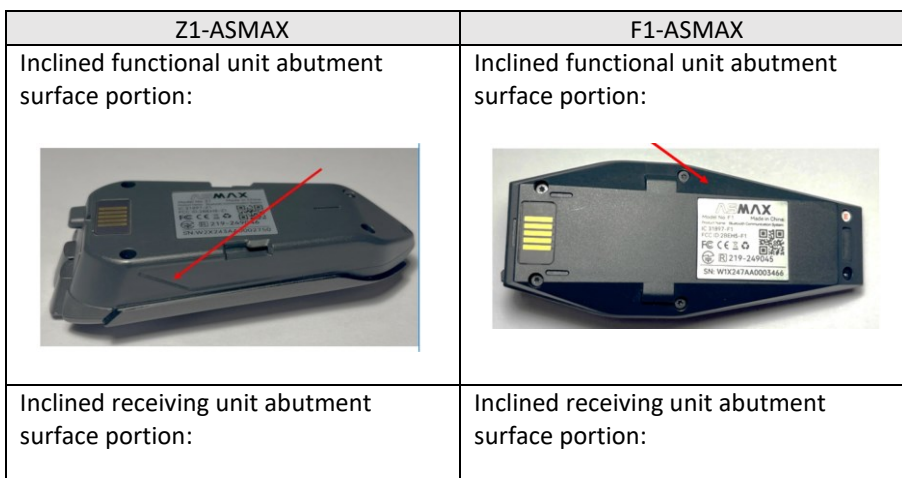


As such, it is sufficiently proven that claim 3 is met.

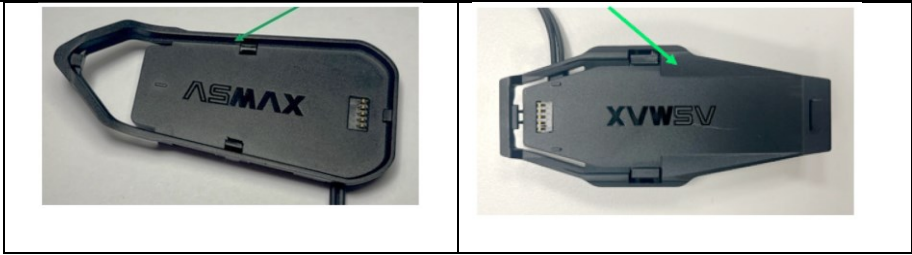
**Claim 5**

With reference to the assessment of the infringement relating to Claim 1 to 3, it is sufficiently proven that the mentioned combination is present in Z1-ASMAX and F1-ASMAX.

Further, the Applicant sufficiently proves (making use of a photographic representation) that the functional unit abutment surface of Z1-ASMAX and F1-ASMAX has inclined functional unit abutment surface portions and the receiving unit abutment surface of Z1-ASMAX and F1-ASMAX has inclined receiving unit abutment surface portions. One of inclined functional unit abutment surface portions is illustrated below and indicated with red arrows while one of the inclined receiving unit abutment surface portions is illustrated and indicated below with green arrows:







Finally, the Applicant sufficiently proves (making use of a photographic representation) that when the functional unit and the receiving unit of Z1-ASMAX and F1-ASMAX are in the connected state, inclined receiving unit abutment surface portion is (at least partially) aligned with inclined functional unit abutment surface portion:

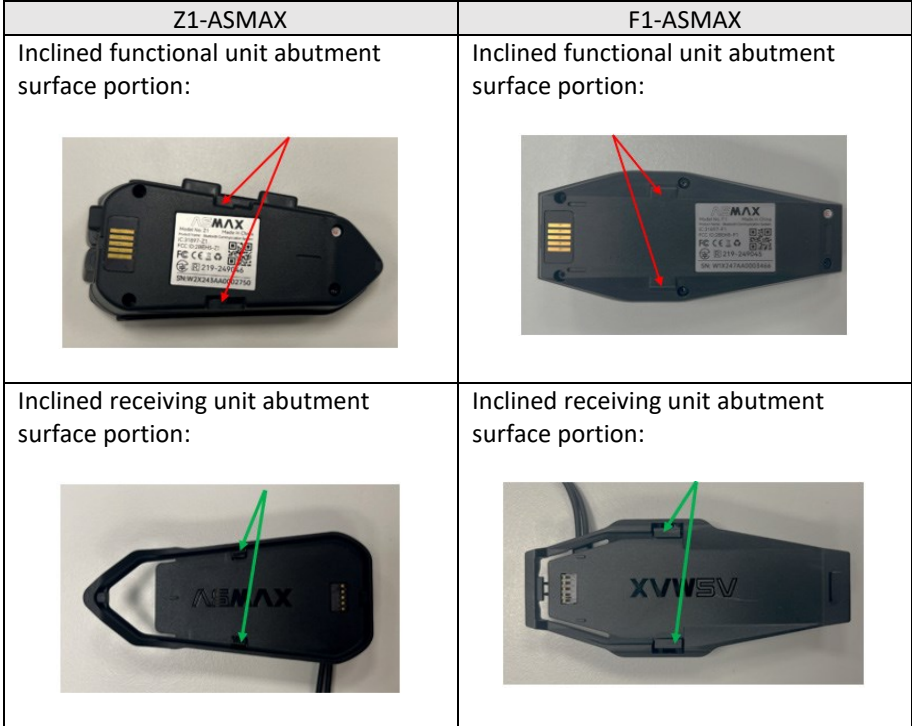


As such it is sufficiently proven that claim 5 is met.

**Claim 6**

With reference to the assessment of the infringement relating to Claim 1 to 3 and Claim 5, it is sufficiently proven that the mentioned combination is present in Z1-ASMAX and F1-ASMAX.

Further, the Applicant sufficiently proves (making use of a photographic representation) that in Z1-ASMAX and F1-ASMAX there is a at each lateral side of the functional unit and receiving unit a mechanical locking unit provided.







As such, it is sufficiently proven that claim 6 is met.

**Claim 7**

With reference to the assessment of the infringement relating to Claim 1 to 3 and Claim 5-6, it is sufficiently proven that the mentioned combination is present in Z1-ASMAX and F1-ASMAX.

Further, the Applicant sufficiently proves with reference to a photographic representation that Z1-ASMAX and F1-ASMAX have also (at least one) trap element provided with a trap sliding surface and (at least one) catch element provided with a catch sliding surface.

Z1-ASMAX	F1-ASMAX
<p>Trap sliding surface:</p> 	<p>Trap sliding surface:</p> 
<p>Catch sliding surface:</p> 	<p>Catch sliding surface:</p> 

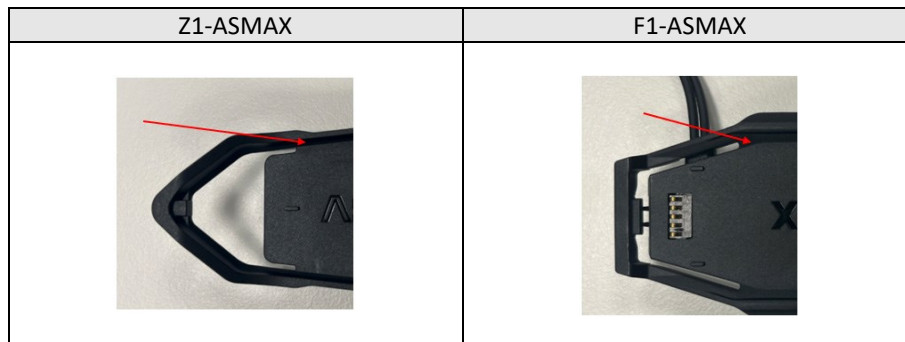
Finally, the Applicant sufficiently proves with reference to the design of the trap and catch elements (illustrated under the assessment of claim 12 - see hereafter) that the trap sliding surface and catch sliding surface of Z1-ASMAX and F1-ASMAX when sliding along each other elastically deflecting a catch end of catch element to a locking preparation position.

As such, it is sufficiently proven that claim 7 is met.

**Claim 11**

With reference to the assessment of the infringement relating to Claim 1, Claim 2, Claim 3, Claim 5 Claim 6 and Claim 7, it is sufficiently proven that the mentioned combination is present in Z1-ASMAX and F1-ASMAX.

Further, the Applicant sufficiently proves with reference to the following photographic representation that the security element of Z1-ASMAX and F1-ASMAX is integrally formed with the receiving unit.



As such, it is sufficiently proven that claim 11 is met.

**Claim 12**

With reference to the assessment of the infringement relating to Claim 1, Claim 2, Claim 3, Claim 5 Claim 6, Claim 7 and Claim 11, it is sufficiently proven that the mentioned combination is present in Z1-ASMAX and F1-ASMAX.

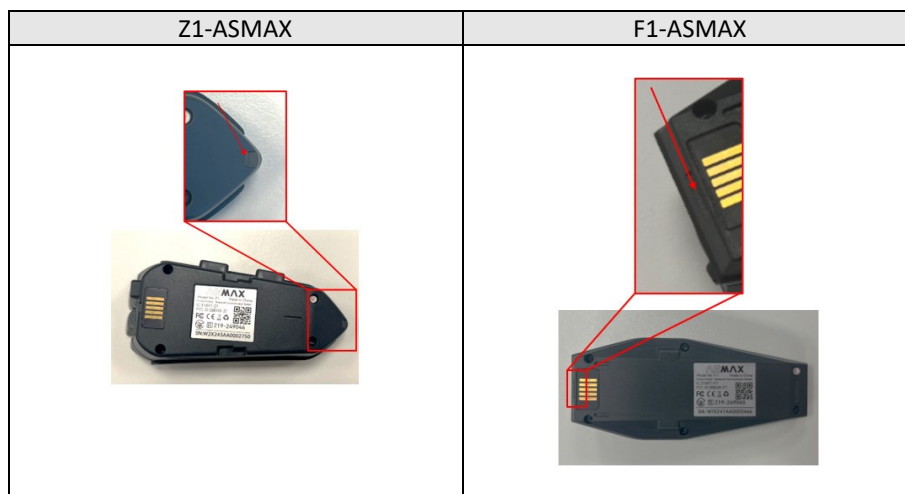
Further, the Applicant sufficiently proves that the F1-ASMAX has a security element which is formed in a U-shape.

As such, for F1-ASMAX, it is sufficiently proven that claim 12 is met.

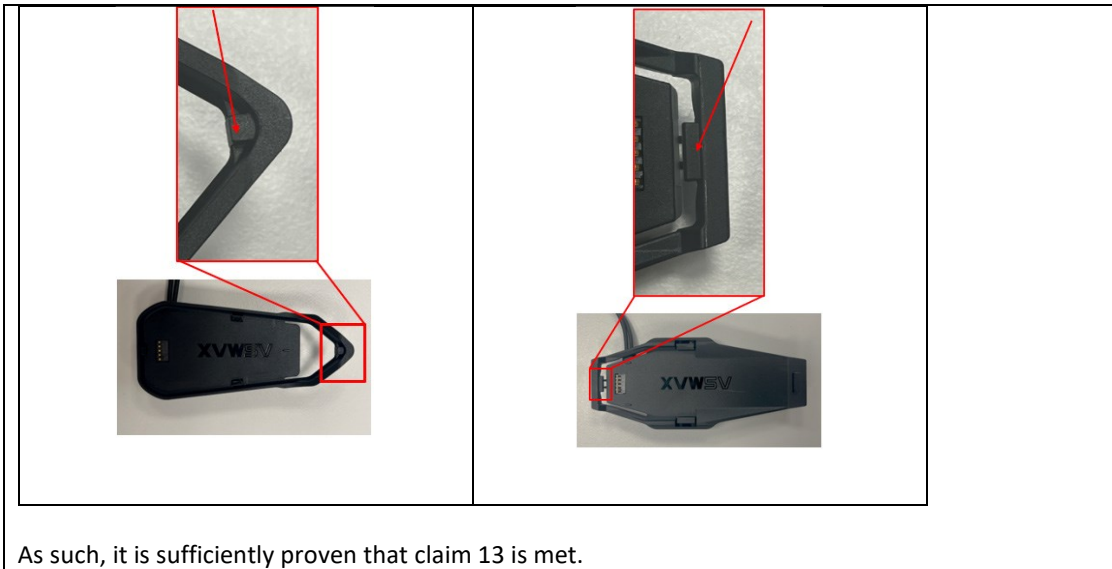
**Claim 13**

With reference to the assessment of the infringement relating to Claim 1 to 3, Claims 5 to 7 and Claim 11 to 12, it is sufficiently proven that the mentioned combination is present in Z1-ASMAX and F1-ASMAX.

Further, the Applicant sufficiently proves with reference to the following photographic representation that the fastening device of Z1-ASMAX and F1-ASMAX has movement limiting means adapted to prevent the securing element from being moved beyond the securing position:







**Claim 14**

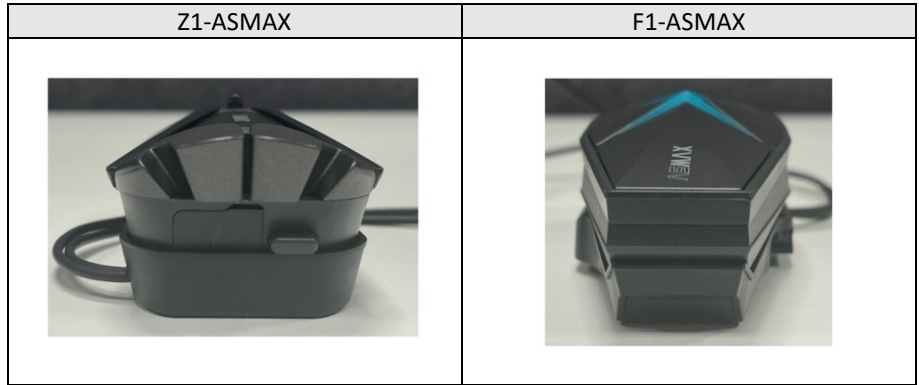
With reference to the assessment of the infringement relating to Claim 1 to 3, Claims 5 to 7 and Claim 11 to 13, it is sufficiently proven that the mentioned combination is present in Z1-ASMAX and F1-ASMAX.

Further, the Applicant sufficiently proves with reference to the following photographic representation that the fastening device of Z1-ASMAX and F1-ASMAX has a stopper surface at the receiving unit and stopper counter-surface at the functional unit:

Z1-ASMAX	F1-ASMAX
<p>Stopper surface:</p>	<p>Stopper surface:</p>
<p>Stopper counter-surface:</p>	<p>Stopper counter-surface:</p>

--	--

Finally, the Applicant sufficiently proves that the stopper counter-surface of Z1-ASMAX and F1-ASMAX is adapted and cooperates with the stopper surface limiting a movement of the functional unit relative to the receiving unit in a direction opposite to the detaching direction. This is proven sufficiently with reference to the following photographic representation when the functional unit and the receiving unit are in a connected state:



As such, it is sufficiently proven that claim 14 is met.

**Claim 15**

With reference to the assessment of the infringement relating to Claim 1 to 3, Claims 5 to 7 and Claim 11 to 14, it is sufficiently proven that the mentioned combination is present in Z1-ASMAX and F1-ASMAX.

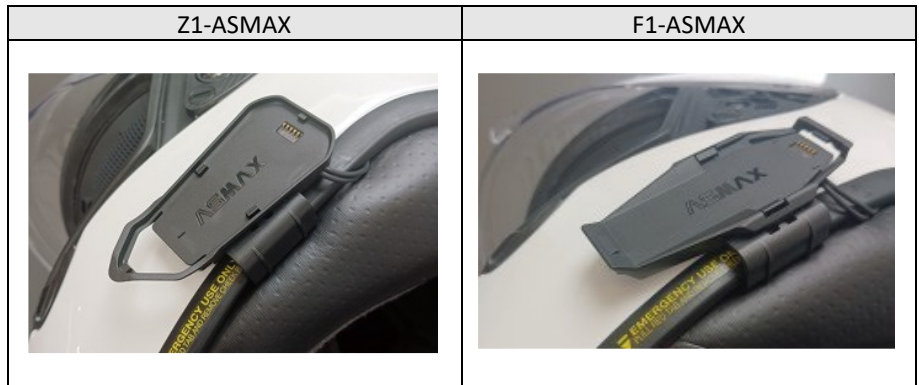
From the marketing and instruction materials of Z1-ASMAX and F1-ASMAX it is sufficiently clear that Bluetooth<sup>®</sup> technology is used.

As such, it is sufficiently proven that claim 15 is met.

**Claim 16**

With reference to the assessment of the infringement relating to Claim 1 to 3, Claims 5 to 7 and Claim 11 to 15, it is sufficiently proven that the mentioned combination is present in Z1-ASMAX and F1-ASMAX.

Further, the Applicant sufficiently proves that the receiving unit of Z1-ASMAX and F1-ASMAX is a separate unit operatively fixable to the head protection gear. This is proven referring to the Quick start guide of both products:



As such, it is sufficiently proven that claim 16 is met.

(iv) Weighing of the interest

27. In weighing the interests of the parties (in application of Art. 62 (2) UPCA and R. 211 (3) RoP) the Court finds these in favour of the Applicant (i.e. in favour of granting the requested provisional measures) as it holds that the potential harm for the Applicant when not-granting these measure outweighs the potential harm for the Respondents when granting thse measures. The Court argues as follows:

- The CoA of the UPC stated that the possible damage for an Applicant does not necessarily require irreparable harm (*Court of Appeal, decision of 25 September 2024, UPC\_CoA\_182/2024, Ortovox v. Mammut*).
- The Infringing Products are direct competitive products with those offered by the Applicant (based on the Patent) and sold at a significantly lower price. The Applicant sufficiently proves that the Infringing Products are marketed at a price ranging from € 130 to € 175, while the Applicant's products are situated in the price range of € 330 and € 470.
- Allowing the further sales of the Infringing Products will, therefore, result in an unreasonable gain and unfair competitive advantage for Respondents as its prices for the Infringing Products do not reflect the substantial investments which the Applicant has borne to develop and market its products.
- Further, the Applicant also sufficiently convinces the Court that these competing products have a relative long life-cycle (between 3 and 5 years), meaning that the end-user of such products does not buy them frequently.
- As the Infringing Products benefit from the research and development (and marketing efforts) carried out by the Applicant allowing the Respondents to sell the Infringing Products at a lower price, it follows that the economic risk for the Respondents is minimal (in comparison to that for the Applicant).
- The potential harm for the Respondents is further covered by granting the provisional measures under the condition of a security (see No 32).

III.6. Assessment of the orders sought

III.6.a. Injunction

28. Based on above assessment of the (substantial) elements the Court grants the requested injunction and obliges the Respondents to refrain from any further acts of infringement according to Art. 62 (1) UPCA and R. 211(1)(a) RoP.

Regarding the infringement as such it should be noted that only for F1-ASMAX it is sufficiently proven that claim 12 is met.

### III.6.b. Delivery up

29. The delivery up to the bailiff of the products referred to in this order as Infringing Products and any promotional and advertising material concerning them, in the direct or indirect possession or control of the Respondents, at the EICMA 2024, is granted pursuant to Art. 62 (3) UPCA and R. 211(1)(b) RoP. The Courts argues as follows:
- The request is sufficiently justified by the Applicant where it states that there is a risk that the Respondents may dispatch the Infringing Products (and related marketing material) to later try to use them in the Contracting Member States. The Infringing Products (and related marketing material) are small and can easily be shipped and transported.
  - Not only is there a risk that the Respondents would act as such, but also the risk that there is a risk that these Infringing Products would be sold outside of the official webshops is imminent if they are not delivered-up.
30. The Applicant is ordered to inform the Court (represented by the Local Division Milan) of the name of the bailiff and the place where the seized goods are kept, and this within five days upon the execution of this order.

### III.6.c. Penalty

31. The penalty as requested (€ 1.000 per infringement (where one infringing act with one Infringing Product is considered an infringement) with a maximum of € 500.000) is granted (in application of Art. 82 (4) UPCA and Rule 354 (3) RoP). The Courts argues as follows:
- Desisting from an infringement is a negative action and cannot, as such, be enforced. The order to desist can only be enforced by ordering a penalty to be paid in case of non-compliance with the order.
  - The penalty is also allowed regarding the delivery up to allow some reasonable pressure for the Respondents to comply.
  - The height of the payment (penalty per infringement and maximum) is set having regard to the price of the Infringing Products and the value of the case (set at € 500.000 by the Applicant).

### III.6.d. Enforcement

32. In application of Art. 82 (1) UPCA and R. 354 (1) RoP the Court orders that this order is immediate effective and enforceable but the Applicant is ordered the payment of a security in the amount of € 100.000. In ordering a security the Court argues as follows:

- The Court notes that the burden of proof relating to the validity is relatively slim, but in this regard also notes that this is due to the recent grant of the Patent by the EPO. The fact that the Patent was recently granted may, however, not have an impact on the rights conferred to Applicant based on a granted patent.
  - This being said, the risk of a wrong decision is considered relatively high due to the minimal reliable indications related to the validity of the Patent. As such the Patent has not survived opposition proceedings or revocation proceedings. Further, no indication is given that licensees would have accepted the validity of the Patent. Although the Court finds that the burden of proof relating the validity of the Patent has been sufficiently met to grant provisional measures, the Court finds that, together with the fact that this order is rendered and issued without hearing the Respondents, the ordering of a security is necessary to safeguard the (economical) rights of the Respondents.
  - The amount of € 100.000 for the security seems in balance with the (economical) rights of the Respondents should the patent be held to be (partially) invalid in proceedings on the merits.
33. The Applicant is ordered to provide a security in favour of the Respondents within a period of 10 days from the service of this order. Such security should take the form of a deposit which may be replaced within 3 months as of the deposition of the security amount by a bank guarantee issued by a bank licensed to do business in the European Union
34. Should the Applicant not comply with this requirement within the aforementioned period, enforceability (of the injunction) shall lapse until the security has been provided in full. However, in such event any and all goods and materials seized should be returned to the Respondents.

#### III.6.e. Service

35. The Court permits the service by alternative method and at an alternative place in application of R. 275 RoP. The Court argues as follows:
- The urgency of the case requests that the order is served to the Respondents at the stand at the EICMA-event held in Milan (Italy) and this at its stand(s) by the bailiff (who shall deliver the order together with a copy of the Application, the Exhibits referred to in the Application and the instructions for access to the proceedings in the CMS) to any of the Respondent's staff present at the stand.
  - The language of the Application (and as such this order) is considered comprehensible for the Respondents (being present at an international trade fair).

- Should the Respondents not voluntarily accept the Application and the Exhibits, the Court orders the Respondents to accept them.

#### III.6.f. Execution

36. The legal representatives of the Applicant indicated in the application (or other representatives of Bird & Bird nominated by them) are permitted to assist to the execution of the provisional measures. The Court argues as follows:

- Based on the nature of this Application and the (granted) orders sought it seems reasonable to assume that the risk that trade secrets are accessed or seized is non-existent.

#### III.6.g. Preferable Hours of execution of the Order

37. In application of the principle of proportionality (in application of Art. 41 and 42 UPCA) which also relates to the choice of enforcement measures and taking into account that the measure will have to be enforced in the context of an exhibition event open to the public, it is specified that the bailiff should preferably proceed, where possible, with the enforcement at times other than those intended for the opening of the public or of less flow at the stand of the Respondents.

#### IV. Review

38. Reference is made to R. 212 (3) RoP, R. 197 (3) RoP and R. 197 (4) RoP.

#### V. Information about Appeal

39. This Order may be appealed in accordance with Art. 73 UPCA and R. 220.1 RoP and 224.1(b) RoP within 15 calendar days of the notification of this order.

#### **ORDER**

(1) The Court orders as follows:

#### Injunction

The Respondents are ordered to refrain from making, offering, placing on the market, using, importing or storing for the aforementioned purposes in the territories of the Member States of the Unified Patent Court (i.e. in the territories of Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovenia and Sweden)

a combination of a functional unit (102) a receiving unit (104) and a fastening device (100) for releasably fastening said functional unit (102) in a connection direction (C) to said receiving unit (104), said functional unit (102) and said receiving unit (104) each having a longitudinal direction (L), a transverse direction (T) and a height direction (H),

said functional unit (102) further having a functional unit abutment surface (106), and said receiving unit (104) further having a receiving unit abutment surface (108), said functional unit abutment surface (106) and said receiving unit abutment surface (108) being adapted for abutting against each other in the connected state,

said fastening device (100) further comprising at least one pair of magnets (110), at least one functional unit magnet (112) being allocated at or close to the functional unit abutment surface (106), and at least one receiving unit magnet (114) being allocated at or close to the receiving unit abutment surface (108), said magnets (112, 114) of said at least one pair of magnets (110) exerting an attractive force to each other,

said fastening device (100) further comprising at least one mechanical locking unit (130) comprising a functional unit locking element (130a) allocated to the functional unit (102) and a receiving unit locking element (130b) allocated to the receiving unit (104), said locking elements (130a, 130b) being adapted and intended to cooperate with each other, characterized in that

said functional unit (102) includes a communication device (154)

the at least one mechanical locking unit (130) is designed as a snap-lock unit, comprising at least one catch element (132) and at least one trap element (134), adapted and intended to cooperate with each other, and

the fastening device (100) further comprises a securing element (140), said securing element (140) being transferable between a securing position and a releasing position, said securing element (140) being adapted to prevent in its securing position a movement of the functional unit (102) relative to the receiving unit (104) in a detaching direction (142), while allowing such movement in its releasing position, in a deflection direction of a catch end of the at least one catch element (132) extending substantially parallel to a first direction, namely the transverse direction (T) or the longitudinal direction (L), the detaching direction extending substantially parallel to a second direction, namely the longitudinal direction (L) or the transverse direction (T), i.e.

substantially orthogonal to both, the deflection direction and the connection direction (C),

(claim 1 of EP 4 240 194)

such as Z1-ASMAX and F1-ASMAX, and any Pro, Pro Max or Plus versions thereof

in the alternative:

wherein at least one of the functional unit magnet (112) and the receiving unit magnet (114) is an active magnet, e.g. a permanent magnet or an electromagnet

(claim 2 of EP 4 240 194)

in the further alternative:

wherein the positions of the at least one functional unit magnet (112) and of the at least one receiving unit magnet (114) in the connected state when viewed in the connection direction (C) are at least partially overlapping, preferably substantially aligned to each other

(claim 3 of EP 4 240 194)

in the further alternative:

wherein the functional unit abutment surface (106) comprises at least one inclined functional unit abutment surface portion (106a) and the receiving unit abutment surface (108) comprises at least one inclined receiving unit abutment surface portion (108a), being in the connected state of the functional unit (102) and the receiving unit (104) at least partially aligned to said at least one inclined functional unit abutment surface portion (106a)

(claim 5 of EP 4 240 194)

in the further alternative:

wherein at each lateral side of the functional unit (102) and the receiving unit (104) at least one mechanical locking unit (130) is provided

(claim 6 of EP 4 240 194)

in the further alternative:

wherein the at least one trap element (134) is provided with a trap sliding surface (134a) and the at least one catch element (132) is provided with a catch sliding surface (132a), said trap sliding surface (134a) and said catch sliding surface (132a) when sliding along each other elastically deflecting a catch end (132b) of the catch element (132) to a locking preparation position.

(claim 7 of EP 4 240 194)



in the further alternative:

wherein the securing element (140) is provided at, preferably integrally formed with, its allocated unit, namely the receiving unit (104) or the functional unit (102), preferably the receiving unit (104)

(claim 11 of EP 4 240 194)

in the further alternative:

wherein the securing element (140) is formed in a U-shape

(claim 12 of EP 4 240 194)

in the further alternative:

wherein the fastening device (100) further comprises first movement limiting means (142) adapted to prevent the securing element (140) from being moved beyond the securing position and/or second movement limiting means (148) adapted to prevent the securing element (140) from being moved beyond the releasing position

(claim 13 of EP 4 240 194)

in the further alternative:

wherein the fastening device (100) further comprises a stopper surface (150) provided at the receiving unit (104) and a stopper counter-surface (152) provided at the functional unit (102) adapted and intended to cooperate with the stopper surface (150) in order to limit a movement of the functional unit (102) relative to the receiving unit (104) in a direction opposite to the detaching direction (142)

(claim 14 of EP 4 240 194)

in the further alternative:

wherein said communication device (154) uses Bluetooth® technology

(claim 15 of EP 4 240 194)

in the further alternative:

wherein said receiving unit (104) is part of a head protection gear or formed as a separate unit operatively fixable to said head protection gear

(claim 16 of EP 4 240 194)

**Delivery up**

The Respondents are ordered to delivery up to the bailiff the products referred to and any promotional and advertising material concerning them, in its direct or indirect possession or control, at the EICMA 2024.

The Applicant is ordered to inform the Court (represented by the Local Division Milan) of the name of the bailiff and the place where the seized goods are kept, and this within five days upon the execution of this order.

### **Penalty**

The Respondents are ordered to pay to the Unified Patent Court, for each individual violation of the orders (see Injunction and Delivery Up), a penalty of € 1.000 per infringement (where one infringing act with one Infringing Product is considered a single infringement) with a maximum of € 500.000, or any other amount to be reasonably determined by the Court.

- (2) The present order is immediately enforceable. The Applicant is ordered to provide security in the amount of € 100.000 within a period of 10 days from the service of the decision of the Cour and in the form of a deposit which may be replaced within 3 months as of the deposition of the security amount by a bank guarantee issued by a bank licensed to do business in the European Union. If the Applicant does not comply, the enforceability of the decision shall be suspended until the security has been provided and any goods (materials) seized in conformity with the “*Delivery Up*” should be returned to the Respondents.
- (3) The present order is to be served to the Respondents at the Asmax’s stand at EICMA 2024, FIERA MILANO, SS. 33 del Sempione 28, 20017 Rho (Milan) by the bailiff, who shall deliver it – together with a copy of the application for provisional measures, the exhibits referred to in the application and instructions for access to the proceedings i n the CMS– to any Asmax’s staff (Respondents’ staff) member present at the stand. The Respondents are ordered to accept the service in English language.
- (4) The legal representatives of the Applicant, indicated in the application (or other representatives of Bird & Bird nominated by them), are permitted to assist to the execution of the provisional measures.
- (5) The Court holds that in the event that the Respondents do not comply with this order voluntarily, the bailiff is authorised, if deemed necessary, to request the assistance of the police, in accordance with the provisions of Italian law on the execution of judicial measures.

- (6) The Court orders that the proceedings on the merits be instituted within 31 calendar days or 20 working days from the date of service of this order to the Respondents, noting that the order will be revoked or otherwise become ineffective, at the request of the Respondents, if the Applicant does not initiate proceedings on the merits before the Unified Patent Court within that period.
- (7) The Court holds that the costs of the proceedings will be settled in the proceedings on the merits.
- (8) The Court holds that this order may be reviewed and appealed.

Issued on 5 November 2024 by:

Samuel GRANATA Legally Qualified Judge  Single Judge	
Maddalena FERRETTI  Clerk	

**ORDER DETAILS**

ORDER No.: ORD\_59913/2024  
 Actie Nummer: ACT\_59213/2024  
 UPC Nummer: UPC\_CFI\_643/2024  
 Type Actie: Application for Provisional Measures (R. 206 RoP)