



Hamburg - Local Division

UPC_CFI_664/2024
Procedural order
of the Court of First Instance of the Unified Patent Court,
issued on: 12/12/2024

Parties:

Hand Held Products, Inc., represented by its Managing Director, 855 S Mint Street, Charlotte, NC 28202, USA,

Plaintiff,

Attorneys-at-law and patent attorneys of
BARDEHLE PAGENBERG Partnerschaft mbB, Dr
Tilmann Müller, Dr Tobias Wuttke, Bohnenstraße
4, 20457 Hamburg
mueller@bardehle.de

Scandit AG, represented by the Managing Director Mr Samuel Mueller, Hardturmstrasse 181, 8005 Zurich, Switzerland,

defendant

Attorneys-at-law and patent attorneys of Quinn
Emanuel Urquhart & Sullivan LLP, Dr Marcus
Grosch, Hermann-Sack-Straße 3, 80331 Munich,

PATENT AT ISSUE: EP 3 764 271

DECIDING JUDGE

PRESIDING JUDGE AND JUDGE-RAPPORTEUR SABINE KLEPSCH LANGUAGE OF THE

PROCEEDINGS: GERMAN

SUBJECT MATTER OF THE CASE: PATENT INFRINGEMENT

JUSTIFICATION OF THE ORDER:

By action of 6 November 2024, the plaintiff asserted claims against the defendant before the Hamburg local division for an alleged infringement of EP 3 764 271 (patent-in-suit). The action was served on the defendant in Switzerland on 20 November 2024 in accordance with the provisions of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (CJCA). The date of service entered in the Unified Patent Court's Case Management System (CMS) is 23 November 2024. The date of service entered is due to the fact that the fiction provided for in Rule 271.6 RoP, according to which service by registered letter with acknowledgement of receipt or equivalent document is deemed to have been served on the tenth day after posting, is automatically applied in the CMS. The CMS does not allow the date of service to be changed.

However, Rule 271.6 RoP does not apply in the present case, as service was not effected in accordance with Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (EU Regulation), which provides for Rule 271.1 RoP. Switzerland, the defendant's domicile, is not a Member State within the meaning of the Regulation, so that Rule 271 RoP and the fiction of service provided for in para. 6 do not apply.

Rather, Rule 274 RoP, which regulates service outside the Member States, is relevant for service in Switzerland. This neither expressly provides for a fiction of service nor does it contain a reference to Rule 271.6 RoP. Rather, pursuant to Rule 274.3 RoP, the Registry informs the plaintiff of the date of service, which leads to the conclusion that the actual date of service is decisive. The fact that no corresponding fiction is provided for service outside the Contracting Member States is probably due to the fact that service within ten days cannot be assumed, so that the actual date of service is decisive.

As there is therefore a discrepancy between the date of service entered in the CMS and the actual date of service, this order is required.

ORDER:

It is established that the statement of claim dated 6 November 2024 was served on the defendant on 20 November 2024.

INFORMATION ON THE ORDER:

Order no. ORD_65439/2024 in PROCEDURE NUMBER: ACT_59941/2024

UPC number: UPC_CFI_664/2024

Nature of the action: Action for infringement

Sabine
Maria
Klepsch

Digitally signed by
Sabine Maria
Klepsch
Date: 2024.12.12
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