Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Local Division Mannheim
UPC_CFI_159/2024

Procedural Order
of the Court of First Instance of the Unified Patent Court
issued on *11/03/2025*
concerning EP 2 028 981

CLAIMANT

Hurom Co., Ltd. - 80-60, Golden root-ro - 62184 - Juchon-myeon, Gimhae-si, Gyeongsangnam-do - KR	Represented by Klaus Haft

DEFENDANTS

1)	**NUC Electronics Europe GmbH** - Schwalbacher Strasse 76 - 65760 - Eschborn - DE	Represented by Christian Kau
2)	**WARMCOOK** - 73 boulevard Gay Lussac - 13014 - Marseille - FR	Represented by Christian Kau

PATENT AT ISSUE:

European Patent No. EP 2 028 981

PANEL/DEVISION:

Panel of the Local Division in Mannheim

DECIDING JUDGES:

This order is issued by the presiding judge Tochtermann, the legally qualified judge Böttcher as judge-rapporteur and the legally qualified judge Perrotti.

LANGUAGE OF PROCEEDINGS: English

SUBJECT-MATTER OF THE PROCEEDINGS: Patent infringement action – separation of proceedings

REASONS FOR THE ORDER:

The order is based on R. 302.1, R. 303.2, R. 340.2 RoP applied accordingly.

The decision of the European Court of Justice in re C-339/22 (BSH Hausgeräte) had not been delivered until the end of the oral hearing but only thereafter on 25 February 2025. With the decision pending, no guidance was available concerning a fundamental question of European Law concerning the international jurisdiction under the Brussels Ia Regulation to be applied by the UPC pursuant Art. 71a, Art. 71b (1) Brussels Ia Reg. Although the ECJ delivered its decision before the date foreseen for the delivery of the decision in the proceedings at hand, it would be inadmissible, at least questionable in the light of parties' right to be heard if the panel would now base its decision on the ECJ's decision without the parties having had the opportunity to comment on this decision and its implications. However, it seems to be likewise inappropriate to hold a second oral hearing for the whole case although the panel could deliver a decision on the merits with regard to national parts of the patent-in-suit for which the panel has jurisdiction regardless of the outcome of said ECJ decision. The panel believes that, in any situation where the infringement proceedings is ready for decision with regard to single national parts only, such decision should not be withheld on a regular basis, if this would result in delaying in part the enforcement of claimant's potential patent rights. Otherwise, the enforcement of these national parts would be delayed in comparison to a situation where national courts of the UPCA member states would have adjudicated on the respective national parts separately although there is no indication apparent that the UPCA intends to provide less protection. Therefore, in the panel's opinion, such situation calls for R. 302.1, R. 303.2, R. 340.2 RoP to be applied accordingly in order to separate the proceedings with regard to national parts of traditional European bundle patents which are not ready for decision yet. Such separation of proceedings is not counter to Art. 33 (2) UPCA. This provision concentrates proceedings concerning the same parties and the same patent before a single division. However, it does not call for such proceedings to be connected. In particular in cases, where a part of the proceedings is ready for decision only, a panel, when exercising its discretion whether to connect such proceedings or not, has to take into account that the enforcement of claimant's rights would be delayed in part.

The parties were informed by order of 23 January 2025 that, with regard to non-UPC countries (Poland, Spain, (possibly) Turkey, United Kingdom), the panel may deal with the questions concerned by the pending ECJ decision in re C-339/22 (BSH Hausgeräte) in separate proceedings after the separation of cases in the event that no decision of the ECJ should be delivered until the oral hearing has taken place. The parties did not oppose.

ORDER:

Claimant's requests based on the national parts of the patent-in-suit concerning Poland, Spain, Turkey and the United Kingdom are separated and will be dealt with in one separate proceedings.

Issued in Mannheim on 11 March 2025

NAMES AND SIGNATURES

Presiding judge Tochtermann	Peter Michael Dr. Tochtermann Digital unterschrieben von Peter Michael Dr. Tochtermann Datum: 2025.03.11 10:03:10 +01'00'
Legally qualified judge Böttcher	Dirk Andreas Böttcher Digital unterschrieben von Dirk Andreas Böttcher Datum: 2025.03.10 17:46:37 +01'00'
Legally qualified judge Perrotti	Pierluigi Perrotti Firmato digitalmente da Pierluigi Perrotti Data: 2025.03.11 09:17:25 +01'00'