



Helsinki local division

PROCEDURAL ORDER

of the Court of First Instance of the Unified Patent Court
Local Division in Helsinki
issued on August 28, 2023
concerning European patent n° EP3295663
CMS no 545571/2023, the main proceedings
CMS no 551054/2023, the provisional measures application

CLAIMANT / APPLICANT:

AIM Sport Vision AG

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DEFENDANTS:

1. Supponor Oy

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2. Supponor Limited

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PATENT AT ISSUE:

European patent n° EP3295663

DECIDING JUDGE

This order has been issued by the judge-rapporteur / presiding judge Petri Rinkinen.

LANGUAGE OF THE PROCEEDINGS

English

THE STATUS OF THE PROCEEDINGS

Aim Sport Vision AG has filed on 5 July 2023 a Statement of Claim in the main proceedings (CMS no 545571/2023) concerning the alleged infringement of the European patent n° EP3295663, including an application for provisional measures. For technical reasons of the Unified Patent Court's Case Management System (CMS) a separate workflow for the provisional measures (CMS no 551054/2023) was filed on July 12, 2023.

The defendants have lodged on August 18, 2023 a preliminary objection in the main proceedings based on rule 19 of Rules of Procedure (RoP) and on the same date they have lodged an objection to the provisional measures application based on rule 209 RoP including the same preliminary objections as filed in the main proceedings. The latter includes also a number of additional requests such as a request to appoint a technical judge and a request for security for costs of the defendants (rule 158 RoP).

GROUND FOR THE ORDER

Based on rule 9 RoP the Court may of its own motion make a procedural order to take any step within time periods to be specified.

Based on rule 20 RoP the judge-rapporteur shall decide the preliminary objection and shall give the parties an opportunity to be heard.

Based on rule 102.1 RoP the judge-rapporteur may refer any matter to the panel for decision.

Based on rule 158.2 RoP if the security for costs has been requested the parties shall be heard before making the decision.

Based on rule 205 RoP the provisional measures shall consist of a written procedure and oral procedure, which may include an oral hearing of the parties.

Based on rule 264 RoP where the rules provide that a party shall or may be given an opportunity to be heard before the Court makes an order or takes some action, the Court shall or may (as the case may be) request the parties to provide written submissions within a specified period and/or shall or may invite the parties to an oral hearing on a fixed date by the Court.

Reference in this regard is also made to Chapter 8 – Case Management of the Rules of Procedure.

Based on the above the Court has decided that the following steps shall be taken in the main proceedings and the provisional measures proceedings.

In the main proceedings the plaintiff shall have the opportunity to lodge a written submission in the CMS concerning the preliminary objection by the defendants by September 4, 2023.

In the provisional measures procedure the applicant has the opportunity to lodge a written submission concerning the defendants' arguments about the competence/jurisdiction of the UPC (section C.I on the preliminary objection), about the Issues relevant to individual Defendants (section C.VIII) and Territories (section C.IX) and about the procedural request concerning the Security for Costs (section F.IV). This submission is to be lodged in the CMS separately to the workflow concerning the provisional measures by September 4, 2023. It is to be noted that the CMS seems to have technical challenges concerning the workflow in question, so if the CMS does not allow the applicant to lodge the submission, it can be lodged by email to the following address:

Contact_ HELSINKI.LOC@unifiedpatentcourt.org

Regardless of the above there is **no need** to address the issue concerning the competence/jurisdiction of the Court concerning the application for seizure in Finland as it is not relevant at this stage of the proceedings.

The defendants have the opportunity to lodge a written submission concerning the issues specified above by September 11, 2023 noting the two separate workflows in the CMS and the technical challenges in the provisional measures workflow as explained above.

When providing the written submissions, parties should take into consideration in their argumentation the Brussels regulation (recast) (Regulation (EU) No 1215/2012), especially but not limited to Articles 71b–71d.

The parties are invited to an oral hearing on September 21, 2023 to be held in front of the whole panel, including a technically qualified judge (to be nominated in conformity with rule 33.3), at the premises of the Market Court in Helsinki, Finland.

Parties should take into consideration the following instructions at the oral hearing:

- Provisional measures matter as a whole will be heard as well as the preliminary objection concerning the main proceedings and the request for security of the costs. The additional written submissions are requested by the court only concerning the issues defined above.
- It is possible for the parties and their representatives to participate to the oral hearing on site or via online connection.
- The hearing will be audio recorded by the Court. The recording shall be made available at the premises of the Court to the parties or their representatives after the hearing (rule 264 RoP in connection with rule 106 RoP). Parties are not allowed to make any recordings of the hearing.
- The hearing will be public. Members of the public are not allowed to make any recordings of the hearing.
- Parties shall inform in their written submissions the persons who shall participate on site and who shall participate online (providing their email addresses). If changes are needed after the written submissions, the parties should take contact with the clerks in Helsinki Local Division using the email address provided above.
- Parties shall have in total 90 minutes each to present their case in the provisional measures matter as well as concerning the preliminary objection filed by the defendant:
 - First the applicant concerning the provisional measures application.
 - Followed by the defendants concerning their preliminary objections (jurisdictional issues) and procedural requests as well as their answer to the provisional measures application.
 - Finally the plaintiff / applicant concerning jurisdictional issues and the procedural requests by the defendants.
- It is up to the parties to decide how they divide the time between the different issues.
- It is allowed to use visual aids, such as power point presentations. In such case, either a copy in electronic form or five copies on paper should be provided to the Court and also copies to the other party prior the presentations.
- After the presentation there will be a break followed by 15 minutes rebuttals per party, first the plaintiff /applicant and then the defendant, possibly followed by an active debate upon questions from the Court.
- After rebuttals and active debate the Court will deliberate and either give its decision concerning the provisional measures application and the other issues at hand on this hearing or inform parties of any other arrangement.

ORDER

For these grounds the presiding judge / judge rapporteur orders that:

The plaintiff/applicant shall lodge by September 4, 2023 its written submissions on the main proceedings (CMS no 545571/2023) as well as on the provisional measures proceedings (CMS no 551054/2023) on the matters explained in detail above taking into consideration the potential technical challenges in the CMS concerning the provisional measures proceedings.

The defendants shall lodge by September 11, 2023 their written submissions on the main proceedings (CMS no 545571/2023) as well as on the provisional measures proceedings (CMS no 551054/2023) on the matters explained in detail above taking into consideration the potential technical challenges in the CMS concerning the provisional measures proceedings.

The oral hearing shall be held on September 21, 2023 starting at 9 am local time at the premises of the Market Court, Radanrakentajantie 5, 00520 Helsinki, Finland, court room no 4. The parties shall be present and duly represented. The failure to participate to the hearing is subject to a decision by default (rule 355 RoP).

Issued on August 28, 2023

NAMES AND SIGNATURES

Judge rapporteur / presiding judge

Signed electronically