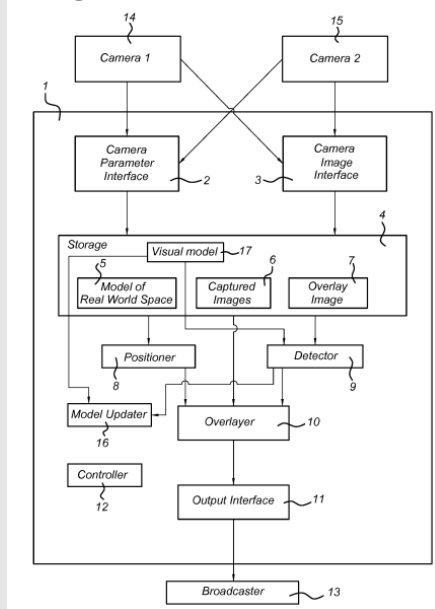


UPC CFI, Local Division Helsinki, 11 February 2025,
AIM Sport v Supponor

Appeal dismissed: IPPT20250411, UPC CoA, Supponor v AIM Sport

digitally overlaying an image with another image

Fig. 1



PATENT LAW – PROCEDURAL LAW

Rule 263 RoP application allowed after appeal but prior to filing of Statement of Defence

- **Amendments to the case must be explained in R. 263 application but can be detailed in an appendix**

Based on the **R. 263 RoP** “any such application shall explain why such change or amendment was not included in the original pleading”. Hence the rule does not require that the amendments are presented in detail in the application but that they are explained in the application. The Court does not accept the Defendants’ argument that the amendments should be dismissed as a principle because they are only set out in detail in an appendix. Instead, it is necessary to examine whether the amendments are explained in the AIM Sport’s application on 8 January 2025 or in the second submission on 15 January 2025.

Adding new defendant and adding Germany and Spain allowed

- **procedural economy and aim to avoid the risk of irreconcilable and inconsistent decisions favours allowing adding a party at this stage. The latter also concerns situations should the case be initiated in another court and hence favours the acceptance of a new party. (R. 305 RoP)**

The new defendant TGI Sport Virtual UK is claimed to jointly infringe the patent in suit with the other Defendants. The claims are based to the same patent and to the same products of the Defendants. There are no

reasons that the Court would be obliged not to accept TGI Sport Virtual UK as a new party to the case.

If the adding of a new party would be denied, it would always be possible to the claimant to initiate separate proceedings against that party either in the UPC or other courts. If the new case would be initiated in the UPC then the issue of joining the cases based on **R. 340 RoP** would emerge as otherwise there would be the risk of irreconcilable and inconsistent decisions. It is the understanding of the Court that joining the cases would be very likely and hence the procedural economy and aim to avoid the risk of irreconcilable and inconsistent decisions favours allowing adding a party at this stage. The latter also concerns situations should the case be initiated in another court and hence favours the acceptance of a new party.

No literal interpretation of R. 263 RoP

- **Unconventional situation, were the case re-starts and the front loaded nature of UPC procedure is protected**

51. According to the R. 263.2(a) RoP a condition for accepting the amendment is that the amendment in question could not have been made with reasonable diligence at an earlier stage. It is clear that AIM Sport could have included the permanent injunction claims relating to Spain already to the original SoC but chose not to do that. Hence the literal interpretation of the rule favours not accepting this change. The rationale behind the rule is to protect the frontloaded nature of the UPC procedure. From the Court’s opinion this rule should not be interpreted literally in the present, very unconventional situation, where the case re-starts. It could also be interpreted that this is the first stage of the procedure and hence there is no earlier stage in these procedures.

Source: **Unified Patent Court**

UPC CFI, Local Division Helsinki,

11 February 2025

(Rinkinen, Granata, Bessaud, Augarde)

UPC_CFI_214/2023

ACT_545571/2023

App_1205/2025

PROCEDURAL ORDER

of the Court of First Instance of the Unified Patent Court

Local Division Helsinki

issued on 11 February 2025

ACT_545571/2023, Infringement Action

App_1205/2025, Application for leave to change claim or amend case/pleading App_2558/2025

App_3474/2025

HEADNOTES:

The Court may add a party to the case when the right of defence of defendants, including the new party, are sufficiently guaranteed (**R. 305 RoP**).

When considering the leave to amend the case or to change the claims (**R. 263 RoP**) the risk of irreconcilable and inconsistent decisions from different courts favours allowing the changes but at the same time protecting the

frontloaded procedure of the UPC and the rights of the defendants to defend themselves must be the leading principles.

The amendments to the case must be explained in [R. 263 RoP](#) application but can be detailed in an appendix.

KEYWORDS:

Change in parties, leave to change claim or amend case
APPLICANT

AIM Sport Development AG (hereinafter AIM Sport)
Replacing AIM Sport Vision AG based on the decision of the UPC Local Division Helsinki on 26 February 2024.

Represented by:

Johanna Flythström, Roschier Attorneys Ltd
Mikael Segercrantz, Roschier Attorneys Ltd
Ari Laakkonen, Powell Gilbert (Europe) LLP
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Niclas Gajeck, Noerr Partnerschaftsgesellschaft mbB

DEFENDANTS

1. **TGI Sport Suomi Oy (previously Supponor Oy)**
2. **TGI Sport Virtual Limited (previously Supponor Limited)**
3. **Supponor SASU**
4. **Supponor Italia SRL**
5. **Supponor España SL**

(hereinafter Supponor, Supponor companies or the Defendants)

All represented by:

Dr. Henrik Lehment, Hogan Lovells International LLP
Dr. Matthias Sonntag, Gleiss Lutz Panu Siitonen,
Hannes Snellman Attorneys Ltd.

PATENT AT ISSUE

Patent no Proprietor
[EP3295663](#) AIM SPORT VISION AG

DECIDING JUDGES

Presiding judge, judge-rapporteur Petri Rinkinen
Legally qualified judge Samuel Granata
Legally qualified judge Mélanie Bessaud
Technically qualified judge Eric Augarde

LANGUAGE OF PROCEEDINGS: English

SUBJECT MATTER OF THE PROCEEDINGS:

Infringement action, [R. 263 RoP](#) application to amend claims and grounds including a [R. 305 RoP](#) application to add a new defendant

BACKGROUND FOR THE APPLICATION

1. Helsinki Local Division issued a written decision on 20 October 2023 dismissing the Infringement action lodged by AIM Sport (ACT_545571/2023) based on the lack of competence of the UPC. At that stage only a preliminary objection based on the lack of competence of the UPC was lodged by the Defendants.

2. [The Unified Patent Court's Court of Appeal \(CoA\) issued on 12 November 2024 \(UPC CoA 489/2023, APL 596007/2023 / UPC CoA 500/2023, APL 596892/2023\)](#) an order setting aside the Helsinki Local Division decision and referring the action ACT_545571/2023 back to the Helsinki Local Division.
3. After hearing the parties the Court has ordered that AIM Sport is allowed by 8 January 2025 to file a [R. 263 Rules of Procedure of UPC \(RoP\)](#) application to

amend the case. The Court has also ordered that, as the Defendants did not file a Statement of Defence (SoD) due to the pending appeal proceedings, the next phase would be that after an order on the [R. 263 RoP](#) application has been issued and hence the content of the Statement of Claims (SoC) is determined, the Defendants shall, based on [R. 23 RoP](#), have three months to lodge their SoD.

AIM SPORT APPLICATION

4. AIM Sport has on 8 January 2025 filed their application for leave to change claim or amend case/pleading (App_1205/2025) based on [R. 263 RoP](#). On 15 January 2025, after an order of the Court on 9 January 2025, AIM Sport filed an additional submission concerning grounds for the acceptability of a new defendant and referred to [R. 305 RoP](#) (this submission was filed in workflow App_2558/2025 due to CMS-issues). Requested changes and argued grounds
5. In AIM Sport's application the following changes are requested:

1: To add a new defendant, TGI Sport Virtual UK Limited (previously known as Supponor UK Ltd), and a corresponding infringement case against that defendant under the same patent already in issue (EP '663).

2: To extend the infringement case to Spain, relying on the same patent (EP '663) and the same infringing acts, committed by members of the Supponor group jointly.

3: To include more recent information concerning the joint actions of the Supponor group companies and a secondary claim that Supponor group companies are liable as intermediaries.

4: Modifications necessary to reflect recent judgments in parallel cases in the UK and Germany, and submissions consequential to those judgments.

6. AIM Sport has lodged, as an appendix to the application, a new SoC highlighting all the changes made compared to the original SoC and also a new clean SoC.

7. AIM Sport provided the following grounds in arguing the admissibility of the requested changes:

Change 1 – new defendant (TGI Sport Virtual UK Limited)

8. At the time of lodging the original SoC or during the oral hearing in September 2023, AIM Sport was not aware of any sufficiently specific information that would indicate that Supponor UK Ltd (now TGI Sport Virtual UK Limited) was involved in acts infringing EP '663. It was only later that AIM Sport gained knowledge that TGI Sport Virtual UK Limited was involved in infringing acts in Germany. This knowledge was based on a draft agreement which is provided as an appendix to the Court. As the contents of this draft agreement are deemed confidential, the Court will not further elaborate in this order the content of this draft agreement.

9. Should TGI Sport Virtual UK Limited not be added as a defendant to these proceedings AIM Sport will have to file a separate infringement claim against TGI Sport Virtual UK Limited and this based on the identical factual circumstances relating to infringement. As such, two different courts would have to decide on the infringement issues. This would lead to a risk of

irreconcilable and inconsistent decisions. On the contrary, adding TGI Sport Virtual UK Limited as a defendant would eliminate the risk of such irreconcilable and inconsistent decisions. As such, procedural economy and efficiency favour the addition of TGI Sport Virtual UK Limited as a defendant. Further, adding an additional defendant would not delay the proceedings or cause prejudice to TGI Sport Virtual UK Limited as the Defendants will be awarded three months to lodge their SoD.

Change 2 – extension to Spain

10. In its SoC AIM Sport already alleged infringement of the Spanish designation of EP '663 but only seeking a preliminary injunction, which has now become devoid of temporal purpose.

11. This Court has jurisdiction and competence to decide upon the infringement claims in Spain.

12. The Supponor companies are jointly committing the infringing acts. The claims against the joint infringers are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings. Unlike Supponor companies have claimed, there are no previous proceedings in Spain, there is only protective letter that has been filed in Spain by Supponor Oy, Supponor Limited and Supponor España SL. Filing of the protective letter on behalf of those three companies also proves that Supponor companies take the view that they all are active in Spain. It also supports the allegation that they are acting jointly.

Change 3 – (3.1) further information and (3.2) intermediary liability

3.1 Further information concerning intra group co-operation

13. Supponor Oy is the R&D arm of Supponor and provides the SVB System and AIR System to the rest of the Supponor group. Supponor Limited is the “headquarters” and hosts the management of the Supponor group, including its CEO. The members of the Supponorgroup co-ordinate their activities and infringing acts are committed jointly. The local companies in Spain (Supponor España SL), Italy (Supponor Italia SRL) and France (Supponor SASU) will become involved and will collaborate with their sister companies in the Supponor group in their respective countries.

3.2 Intermediary liability

14. If the Court finds there is joint responsibility between some Defendants in certain acts, then such Defendant(s) would at least qualify as intermediaries whose services are being used by other Supponor companies to infringe EP '663 based on [Art. 63\(1\) UPCA](#).

Change 4 – (4.1) modifications based on new judgments and (4.2) equivalence

4.1. New judgments

15. Judgments have been rendered in April and May 2024 between the parties in UK and Germany which need to be brought to the attention of the Court. Modifications to the original SoC related to these judgements should be accepted. 4.2 Equivalence

16. Based on these judgments AIM Sport wishes to expand its infringement claims to infringement by equivalence. The German Court of Appeal did not find literal infringement based on a very narrow interpretation of the patent claim. Should this claim construction be applied by the Court, infringement by equivalence should be considered by the Court. General grounds for accepting the application

17. All the changes above are of such a nature that AIM Sport was unable to present them earlier as they are based on factual circumstances which occurred after the oral hearing in September 2023.

18. AIM Sport has given its consent that the Defendants shall have three months to lodge their defence after the Court has decided which changes are to be accepted. Hence the Defendants are given sufficient time to formulate their SoD.

RESPONSE OF SUPPONOR

19. Supponor has filed their response on 22 January 2025 to workflow App_3474/2025 (due to the issues with the CMS preventing lodging in the earlier workflows). In their submission the Defendants informed the following change in the company names: Supponor Oy – TGI Sport Suomi Oy (officially changed)

Supponor Limited – TGI Sport Virtual Limited (officially changed)

Supponor SASU – TGI Sport France SASU (application pending)

Supponor Italia S.r.l. – TGI Sport Italia S.r.l. (application pending)

Supponor España SL – TGI Sport España SL (application pending)

Requests of Supponor

20. Supponor requests that the application for leave to change claim and to amend the SoC be dismissed (submissions dated 8 January 2025 and 15 January 2025).

21. As an auxiliary request Supponor requests, should the Court not issue a uniform cost decision, AIM Sport to bear the costs incurred by this application. General grounds for the dismissal

22. The application must be found inadmissible as the application itself does not include the amendments to the SoC but the changes are in an appendix.

23. Additionally, the request must furthermore be found inadmissible because the changes in the appendix exceed the changes requested in the application. The application is therefore inconsistent and lacks reasons for allowing those new arguments and amendments. As an example the Defendants refer to the fact that the permanent injunction has not only been extended to Spain, but also to Germany which has not been explained in the application. The Defendants consider that AIM Sport does not provide arguments as to how this amendment is in line with the strict requirements developed in the UPC jurisprudence on [R. 263 RoP](#). This lack of consistency supports that the amendments in the appendix must be found inadmissible. Grounds for dismissal for the requested changes Change 1 – new defendant

24. Adding a new party, TGI Sport Virtual UK Limited (previously known as Supponor UK Ltd), is in the Court's discretion and it should not be accepted based on the grounds presented.

25. Selecting the Defendants which are currently parties to the UPC proceedings was either random or not diligently investigated. None of the reasons provided by AIM Sport in the application, nor in its additional statement, constitute a justification for AIM Sport not being able to include TGI Sport Virtual UK Limited into the UPC proceedings in its original SoC.

26. It has been clear from the accounts of then Supponor UK Ltd, published in the British Companies House, that it is involved in the developing and commercializing of Digital Billboard Replacement Technology, which is the relevant technology in this case. Supponor UK Ltd was further explicitly mentioned in the Order of the UK High Court of Justice dated 5 April 2023 as an undertaking to be bound by any injunctive relief granted against Supponor Limited to restrain infringement of the UK designation of EP '663. Hence, an alleged involvement of TGI Sport Virtual UK Limited in connection with the SVB System must have also been considered in the UK proceedings.

27. If AIM Sport has in fact received information after the oral hearing regarding the agreement it refers to in its application, it should have provided detailed information about how and when this information was available to them. As such the Defendants dispute that AIM Sport could not have introduced this information in their original SoC.

28. The Defendants also dispute that AIM Sport was as not aware of any sufficiently specific information that would indicate that TGI Sport Virtual UK Limited was allegedly involved in acts infringing EP '663.

Change 2 – extension to Spain

29. The requirements of [R. 263 RoP](#) are not met in relation to extending the claims to Spain. AIM Sport previously and intentionally limited the territorial and factual scope of the permanent injunction. This is already apparent from the fact that – different from France and Italy – Spain was not included in the original request for a permanent injunction. In its application AIM Sport did not provide a comprehensible factual reasoning as to why the amendment in question could not have been made with reasonable diligence at an earlier stage. It is for the applicant to provide these reasons to the Court. Therefore, this request should be dismissed simply because it does not provide a plausible justification to meet the requirements of, e.g. [R. 263.2 \(a\) RoP](#).

30. The dismissal or disposal of a preliminary injunction does not justify this amendment. As Spain was not included in the infringement action the request for a preliminary injunction could only have a temporally limited effect. In addition, the preliminary injunction sought with regard to Spain did not cover the SVB System at all.

31. Further, the validity decisions in the UK and Germany cannot be a justification for amending the scope of the request for a permanent injunction to also

cover Spain. The national decisions on the national designations of EP '633 have no legal impact for the Spanish designation of EP '633 as only the Spanish courts can decide on the validity of the Spanish part of EP '663.

Change 3 – (3.1) further information and (3.2) intermediary liability

32. The submission lacks a clear and comprehensible explanation for which reasons these multiple late-filed aspects in an appendix should be admissible. AIM Sport has not shown how the new alleged facts and new infringement theories could not have been filed earlier from the view of a diligent applicant.

Change 4 – (4.1.) modifications based on new judgments and (4.2) equivalence

33. Changes relating to infringement under the doctrine of equivalents should be dismissed, especially because these arguments were known to AIM Sport from the earlier German proceedings and hence should have been included already in the SoC. **FOUNDATIONS FOR THE ORDER** Relevant legal framework

34. Based on [R. 263.1 RoP](#) a party may at any stage of the proceedings apply to the Court for leave to change its claim or to amend its case, including adding a counterclaim. Any such application shall explain why such change or amendment was not included in the original pleading.

According to [R. 263.2 RoP](#), subject to paragraph 3, leave shall not be granted if, all circumstances considered, the party seeking the amendment cannot satisfy the Court that:

- (a) the amendment in question could not have been made with reasonable diligence at an earlier stage; and
- (b) the amendment will not unreasonably hinder the other party in the conduct of its action.

The referred paragraph 3 states that leave to limit a claim in an action unconditionally shall always be granted.

35. Based on [R. 305.1\(a\) RoP](#) the Court may, on application by a party, order a person to be added as a party.

36. [The Court of Appeal of UPC \(CoA\) has in its order 21 November 2024 \(UPC CoA 456/2024, APL 44633/2024\)](#) given guidance on application of [Rule 263 RoP](#):

- According to headnote 1 not every new argument constitutes an “*amendment of a case*” requiring a party to apply for leave under [R. 263 RoP](#). An amendment of a case occurs when the nature or scope of the dispute changes. For example, in an infringement case, this occurs if the plaintiff invokes a different patent or objects to a different product.

- According to headnote 2, if a new argument is not an amendment of the case for which judicial leave is required under [R. 263 RoP](#), there still are restrictions on raising new arguments. [R. 13 RoP](#) requires that the Statement of claim contains the reasons why the facts relied on constitute an infringement of the patent claims, including arguments of law. This provision must be interpreted in light of the final sentence of Recital 7 of the Preamble to the Rules of Procedure, which requires

parties to set out their case as early as possible in the proceedings.

- According to headnote 3, however, [R. 13 RoP](#) does not preclude a claimant from raising any new argument after the submission of the Statement of Claim. Whether a new argument is admissible depends on the circumstances of the case, including the reasons why the claimant had not already raised the argument in the Statement of Claim and the procedural opportunities for the defendant to respond to the new argument. In making this assessment, the Court of First Instance has a certain discretion. The Court of Appeal's review is thus limited. 37. The UPC system is based on the presumption of [R. 23 RoP](#) that three months are sufficient for defendants to present their defence.

38. Based on the above rules and the guidance from the CoA, the main issues to be considered when addressing the admissibility of changes in a case are that the nature of the frontloaded procedure in the UPC must be protected and that during the process there are no such changes that the defendant's right to defence is compromised. If these two premises are protected there is discretion for the Court to accept changes.

Changes in the application or in an appendix

39. The Defendants have argued that the amendments are inadmissible because they are not included in the application itself but in a separate appendix.

40. Based on the [R. 263 RoP](#) "*any such application shall explain why such change or amendment was not included in the original pleading*". Hence the rule does not require that the amendments are presented in detail in the application but that they are explained in the application. The Court does not accept the Defendants' argument that the amendments should be dismissed as a principle because they are only set out in detail in an appendix. Instead, it is necessary to examine whether the amendments are explained in the AIM Sport's application on 8 January 2025 or in the second submission on 15 January 2025.

41. Supponor is claiming that the addition of Germany is not explained in the application.

42. In its application AIM Sport explains that the new defendant's actions occurred in Germany. These explanations clearly explain why Germany is added as a new territory to the SoC and hence this argumentation of Supponor cannot be accepted. The present situation

43. The present situation is very different and specific compared to the normal situation when application to amend a case is lodged. At the present situation the case is about to start basically from the beginning as the claimant has requested to change the SoC before the defendants have filed their SoD and it has been ordered by the Court, based on the requests of the parties, that the Defendants shall have the full three months (based on [R. 23 RoP](#)) to lodge their SoD.

44. Hence the main principles laid down above, frontloaded procedure and defendant's right to defence, are fulfilled in the case. Nevertheless, it must be considered whether the changes are allowed.

45. The changes of the SoC include three main amendments and additional amendments based on those

three and some other amendments mainly based on the passage of time as over a year has passed from the original oral hearing. The main three amendments are adding a new defendant and expanding the territory where infringement is claimed to take place to Spain and Germany.

The new defendant

46. The new defendant TGI Sport Virtual UK is claimed to jointly infringe the patent in suit with the other Defendants. The claims are based to the same patent and to the same products of the Defendants. There are no reasons that the Court would be obliged not to accept TGI Sport Virtual UK as a new party to the case. If the adding of a new party would be denied, it would always be possible to the claimant to initiate separate proceedings against that party either in the UPC or other courts. If the new case would be initiated in the UPC then the issue of joining the cases based on [R. 340 RoP](#) would emerge as otherwise there would be the risk of irreconcilable and inconsistent decisions. It is the understanding of the Court that joining the cases would be very likely and hence the procedural economy and aim to avoid the risk of irreconcilable and inconsistent decisions favours allowing adding a party at this stage. The latter also concerns situations should the case be initiated in another court and hence favours the acceptance of a new party.

47. Based on the above the Court accepts the adding of a new party TGI Sport Virtual UK. Also, all the changes in the grounds relating to the new defendant are acceptable.

48. The addition of the new party cannot be executed under the workflow AIM Sport has been using. A new [R. 305 RoP](#) workflow must be initiated. Further advice on this is given below.

Adding Germany

49. The original SoC did not include claims concerning infringement in Germany. The new defendant TGI Sport Virtual UK is claimed to infringe the patent in Germany jointly with the other Defendants and this is based on a draft agreement which AIM Sport claims that it did not have knowledge of at the time of the lodging of the SoC or the original oral hearing. As the claims are based on the same patent and the same products of the Defendants in Germany than in the other territories and as the Defendants have the full three months to answer to the SoC, the Court finds this change acceptable. Also, all the changes in the grounds relating to Germany are acceptable.

Adding Spain

50. The original SoC included claims concerning permanent injunction, but not relating to Spain, and it included preliminary injunction claims relating to Spain. At first only one submission was lodged including these both claims. The permanent injunction (ACT_545571/2023) and the preliminary injunction (ACT_551054/2023) were later separated to two separate workflows in the CMS, but there were no separate submissions. The original SoC included the Spanish subsidiary as a defendant also relating to the permanent injunction even there were no claims relating

to Spain. Hence at least a part of the grounds concerning the infringement in Spain were introduced already in the original SoC.

51. According to the [R. 263.2\(a\) RoP](#) a condition for accepting the amendment is that the amendment in question could not have been made with reasonable diligence at an earlier stage. It is clear that AIM Sport could have included the permanent injunction claims relating to Spain already to the original SoC but chose not to do that. Hence the literal interpretation of the rule favours not accepting this change. The rationale behind the rule is to protect the frontloaded nature of the UPC procedure. From the Court's opinion this rule should not be interpreted literally in the present, very unconventional situation, where the case re-starts. It could also be interpreted that this is the first stage of the procedure and hence there is no earlier stage in these procedures.

52. Regardless of the above, if adding permanent injunction concerning Spain would not be accepted, AIM Sport could initiate new proceedings in the UPC or other courts. If such would take place, there would be the risk of irreconcilable and inconsistent decisions. If the case would be initiated in the UPC, it would be foreseeable that the joining of the cases would be requested and probably accepted in order to avoid such risk of irreconcilable and inconsistent decisions. Adding Spain in the scope of a permanent injunction at this stage of the proceedings, as the Defendants shall have the full three months to lodge their SoD, would not risk the frontloaded nature of the procedure nor would it hinder the Defendants in presenting their defence in any way. Also, the procedural economy of the process is better protected if the change is accepted as a new process concerning Spain and the same Defendants would only cause additional work to the parties and to the court where the case would be lodged. Nevertheless, in the original Soc, AIM already sought damages in relation to Supponor Limited's infringement of the Spanish designation and also alleged infringement under Article 25(c) in respect of the Defendants' importing into France, Italy and Germany of a product obtained in Spain directly by a process which is the subject matter of EP 663 (SoC, p. 36, mn. 67 et 68). Based on the above, the Court accepts the adding of Spain. Also, all the changes in the grounds relating to Spain are acceptable.

Additional changes

53. There are a number of additional changes in the SoC.

54. Section 5.1.1 "*Infringement by equivalents*" is new.

[The CoA has on its order 21 November 2024 \(UPC CoA 456/2024, APL 44633/2024\)](#) given guidance on application of [R. 263 RoP](#) and guidance whether a claim based on infringement by equivalence is an allowed amendment. Basically, the CoA is allowing equivalence claims even without [R. 263 RoP](#) application in situations where the patent and the infringing acts are the same as in literal infringement claims. Hence this amendment doesn't fall under the scope of [R. 263 RoP](#). Referring to the CoA order 21 November 2024 the Court finds these changes admissible.

55. Section 5.2.6 "*Intermediary services*" is new. AIM Sports' new alternative claim is that certain defendants should be considered intermediaries if they are not considered infringers. The claims are based on same acts and the same patent. The difference between an infringer and an intermediary is based on legal evaluation of their acts based on the jurisprudence of UPC. Similar evaluation should be used here as in relation to issues relating to infringement by equivalence. The Court finds these changes admissible.

56. Paragraphs 220a and 223a are new. They mainly refer to actions during years 2023–2024 and hence are admissible.

57. The rest of the additional changes are such that the Court considers that they do not fall under [R. 263 RoP](#) but just to make it clear the Court confirms that such changes are admissible.

58. Hence the clean SoC filed by AIM Sport is considered the new SoC in this matter, with the exception that all reference to Preliminary injunction shall be ignored as AIM Sport has informed the Court that the Provisional Measures Application (ACT_551054/2023) is withdrawn. Conclusion

59. The Court is accepting adding TGI Sport Virtual UK Limited as new defendant to the case subject to AIM Sport to follow the order to file a new [R. 305 RoP](#) application.

60. The Court accepts or considers admissible all the changes made to the SoC.

61. The Court does not address the cost issues relating to this application separately but they are addressed with the cost issues of the whole case.

INSTRUCTIONS TO THE PARTIES AND THE REGISTRY

62. The Court, in order to reduce duplicate filings to the CMS, is only issuing this order once to TGI Sport Suomi Oy (previously Supponor Oy). Should TGI Sport Suomi Oy not be able to receive this order and act on behalf of all the Defendants, it will have to inform the Court immediately.

63. In order to have the application to add a party accepted, AIM Sport shall, within seven days from the date of this order, lodge a new [R. 305 RoP](#) application to add TGI Sport Virtual UK Limited to the case. This lodging must be done because of the technical reasons of the CMS. The application can refer to this order already accepting that application. The Court will accept that application without hearing Supponor again as they have already been heard.

64. The representatives of Supponor shall within seven days from the date of this order inform the Court whether they represent also TGI Sport Virtual UK Limited and whether they accept the service of the new SoC as the representatives of that company.

65. After the above has been fulfilled, the new SoC shall be served to TGI Sport Virtual UK Limited and its time to lodge the SoD will start from the service.

66. The date of this order shall be considered the date of the service of the clean Statement of Claims, provided as an appendix to the AIM Sport application, when calculating procedural time limits presented in the

Agreement on a Unified Patent Court or the Rules of Procedure. Hence the three month-time limit to lodge their SoD for the present Defendants will start from the date of this order.

67. The Court grants the leave to appeal this order as there exists only limited guidance from the CoA in these issues so far. Regardless of the potential appeals, the case will proceed as instructed by the Court because the issues which might be under the appeal are only a minor part of the whole case and should the CoA amend this order of the CoFI, such parts would be possible to separate from the case before the case will go to the oral hearing.

68. The Registry is instructed to amend the names of Defendants 1 and 2 to the CMS.

ORDER

The Court grants leave to AIM Sport to change claim and amend case. The process in ACT_545571/2023 shall continue based on the clean Statement of Claims filed as an appendix to the AIM Sport application. The Defendants shall have three months from the date of this order to lodge their Statement of Defence. AIM Sport shall, within seven days from the date of this order, lodge a new [R. 305 RoP](#) application or the application to add a new defendant is dismissed.

The representatives of Supponor shall within seven days from the date of this order inform the Court whether they represent also TGI Sport Virtual UK Limited and whether they accept the service of the new Statement of Claims as the representatives of that company.

Defendants' auxiliary request for a cost decision at this stage is dismissed.

INFORMATION ON THE APPEAL

This order can be appealed within 15 days of service by any party which has been unsuccessful in all or part of its claims ([Art. 73\(2\)\(b\) UPCA](#), [R. 220.2](#), [224.1 \(b\) RoP](#)). Leave to appeal is granted.

Issued on 11 February 2025

ORDER DETAILS

Order no. ORD_6926/2025 in

ACTION NUMBER: ACT_545571/2023

UPC number: UPC_CFI_214/2023

Action type: Infringement Action Related proceeding no.

Application No.: 1205/2025 and 3474/2025 Application

Type: Application for leave to change claim or amend case/pleading ([RoP263](#))
