

Long-arm jurisdiction at the UPC

Decisions of the Court of Appeal and Referral to the Court of Justice of the European Union

Vol. 2 and Vol. 5 of *MALinsight* reported on landmark decisions of the Unified Patent Court (UPC) and the Court of Justice of the European Union (CJEU) on the so-called »long-arm« jurisdiction of courts of the Member States of the EU (referred to in the following as **EU-MS**), identifying the CJEU decision *BSH v. Electrolux*¹ as a game changer to international patent litigation, which re-opens European and potentially even global cross-border patent litigation.²

The first half of 2026 has now brought the first substantial guidance from the Court of Appeal (CoA) of the UPC. Two decisions stand out:

In *Dyson v. Dreame*, the CoA referred several questions to the CJEU concerning the scope of the UPC's international jurisdiction in provisional-measures proceedings, in particular where jurisdiction is asserted against a defendant domiciled outside the EU through an EU-domiciled alleged intermediary.³

In *Fujifilm v. Kodak*, the CoA confirmed that the UPC may, in principle, exercise long-arm jurisdiction over infringement claims based on European patents concerning non-UPC Contracting Member States (referred to in the following as **non-UPC-CMS**), including the UK designation, but it also provided detailed guidance on how such jurisdiction should be exercised when validity is raised as a defence.⁴

Moreover, further recent decisions of the UPC, including *Dyson v. Dreame II*, *Nixu v. Infoblox*, *Aesculap v. Shanghai Bojin* and *Valeo v. Bosch* (which are discussed in detail below), have clarified important aspects of international jurisdiction, anchor defendants, and the internal competence of UPC divisions.

This article summarizes where the case law currently stands, what is now pending before the CJEU, and how the CoA's guidance may shape future cross-border patent litigation before the UPC.

¹ CJEU, judgment of 25.02.2025, C-339/22 – *BSH Hausgeräte GmbH v. Electrolux AB*.

² *MALinsight* Vol. 2, 2025, p. 8-15; *MALinsight* Vol. 5, 2026, p. 28-38.

³ UPC CoA, order of 06.03.2026, UPC_CoA_789/2025 and UPC_CoA_813/2025 – *Dyson v. Dreame*.

⁴ UPC CoA, decision of 02.06.2026, UPC_CoA_312/2025, UPC_CoA_333/2025, UPC_CoA_880/2025 and UPC_CoA_882/2025 – *Fujifilm v. Kodak*.

1. Legal context

To understand the recent guidance of the UPC CoA, only a limited set of jurisdictional provisions is needed:⁵

The starting point is the Brussels *Ibis* Regulation⁶, which determines international jurisdiction in civil and commercial matters within the EU. For the UPC, this regime is incorporated by **Article 31 UPCA**: the international jurisdiction of the UPC is established in accordance with the Brussels *Ibis* Regulation and, where applicable, the Lugano Convention⁷.

The UPC is treated, for these purposes, as a »court common to several [EU] Member States« (**Article 71a of the Brussels *Ibis* Regulation**). Article 71b of the Brussels *Ibis* Regulation then determines when the UPC has jurisdiction: broadly speaking, the UPC may hear a case where, under the Brussels *Ibis* Regulation, a court of a Contracting Member State of the UPCA (referred to in the following as **UPC-CMS**) would have jurisdiction in a matter governed by the UPCA.

Three bases of jurisdiction are particularly relevant:

First, Article 4(1) of the Brussels *Ibis* Regulation

provides the general rule that a defendant domiciled in an EU-MS shall be sued in the courts of that Member State. In patent infringement cases, this domicile-based jurisdiction is potentially broad. As confirmed by the CJEU in *BSH v. Electrolux*, a court seized under Article 4(1) of the Brussels *Ibis* Regulation does not lose jurisdiction over an infringement action merely because the defendant challenges the validity of that patent as a defense.⁸

⁵ For a more detailed overview of the legal background to long-arm jurisdiction in EU and UPC patent litigation, see MAInsight Vol. 2, 2025, p. 9 and 12, and MAInsight Vol. 5, 2026, p. 30.

⁶ REGULATION (EU) No 1215/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 12.06.2012, on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), OJ L 351 20.12.2012, p. 1, recast of 26.02.2015.

⁷ Convention on the jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, Lugano, 30.10.2007.

⁸ CJEU, judgment of 25.02.2025, C-339/22 – *BSH Hausgeräte GmbH v. Electrolux AB*, headnote 1.

Second, Article 7(2) of the Brussels Ibis Regulation provides a special jurisdiction in matters relating to tort, delict, or quasi-delict: a defendant may be sued in the courts of the place where the harmful event occurred or may occur. In patent matters, this provision can establish jurisdiction at the place of infringement.⁹

Third, Article 8(1) of the Brussels Ibis Regulation allows multiple defendants to be sued together in the courts of the place where one of them is domiciled, provided that the claims are so closely connected that it is expedient to hear and determine them together in order to avoid irreconcilable judgments. This is the so-called »**anchor defendant**« mechanism. It is increasingly important in UPC litigation, especially where a claimant seeks to bring a non-EU or non-UPC-CMS domiciled defendant before the UPC together with a UPC-CMS-domiciled group company, distributor or intermediary. The limits of this mechanism are now at the heart of the CoA's referral to the CJEU in *Dyson v. Dreame*.

Validity is governed by **Article 24(4) of the Brussels Ibis Regulation** giving exclusive jurisdiction over proceedings concerned with the registration or validity of patents to the courts of the EU-MS in which the patent was granted or validated. The corresponding rule in the Lugano Convention applies to Norway, Iceland, and Switzerland (referred to in the following as **Lugano states**). This means that the UPC may not decide on validity for non-UPC-CMS in EU-MS (such as Spain or Poland) or Lugano states.

For proceedings concerned with parts of a European patent outside the EU and not covered by the Lugano Convention (referred to in the following as **third countries**, such as Turkey, UK), however, Article 24(4) of the Brussels Ibis Regulation does not apply. Following *BSH v. Electrolux*, a court seized under Article 4(1) of the Brussels Ibis Regulation may assess the validity of such a third-country patent as a defense, but only with *inter partes* effect and, hence, without affecting the existence or registration of the patent with *erga omnes* effect in that third country.

Finally, **Article 34 UPCA** has been referred to in this context. It provides that decisions of the UPC shall cover, in the case of a European patent, the territory of those UPC-CMS for which this patent has effect. In *Fujifilm v. Kodak*, the CoA clarifies whether this provision confines the UPC's international jurisdiction to UPC territory (see below).

The current discussion mainly centers on how far the UPC's »long-arm« reaches under Articles 4, 7, and 8 of the Brussels Ibis Regulation, and how the UPC should exercise that jurisdiction when infringement and validity in non-UPC-CMS are at issue. Hence, the major open questions after *BSH v. Electrolux* concern the limits and mechanics of that jurisdiction before the UPC:

- When may the UPC hear claims concerning non-UPC-MS?
- What happens if validity is raised?
- Can Article 8(1) of the Brussels Ibis Regulation be used against third-country defendants? Can an authorized representative serve as an anchor or be enjoined as an intermediary?
- How should the UPC exercise jurisdiction in a manner consistent with comity and the sovereignty of foreign patent systems?

The CoA has now started to answer these questions:

⁹ Notably, *BSH v. Electrolux* only deals with the defendant's domicile according to Article 4(1) of the Brussels Ibis Regulation. It is discussed and at least questionable, whether a »long-arm« is possible at all under Article 7(2) of the Brussels Ibis Regulation (cf. GRUR 2026, 21, section V.2.a).

2. The CoA's first long-arm guidance: *Fujifilm v. Kodak*

The Case: In *Fujifilm v. Kodak*, *Fujifilm* sued several German Kodak entities before the Mannheim Local Division (LD) for infringement of EP 3 511 174, which was in force in Germany and the United Kingdom. The German and UK parts of the dispute were separated. In April 2025, the Mannheim LD held the German part valid and infringed. In July 2025, after the CJEU had handed down *BSH v. Electrolux*, the Mannheim LD further held that it had jurisdiction to decide on infringement of the UK part and granted relief concerning the UK part. *Kodak* appealed.¹⁰

In its decision of 2 June 2026¹¹, the CoA set aside the first-instance decisions, but not because the UPC lacked international jurisdiction. On the contrary, the CoA confirmed the UPC's jurisdiction in principle (margin nos. 272 to 300). The action was ultimately dismissed for other reasons, including a private prior use defense in relation to the German designation (margin nos. 219 to 271) and insufficient substantiation of infringement under UK law (margin nos. 309 to 328). The significance of the decision lies in the CoA's **detailed statements on international jurisdiction** and, even more importantly, **on the exercise of such jurisdiction**, as detailed in the following.

The UPC's international jurisdiction is not limited to UPC territory

In headnotes 5 to 7 of the decision, the CoA summarizes that Article 34 UPCA concerns the territorial effect of UPC decisions within the UPCA system and does not exclude jurisdiction over non-UPC designations. Thus, the *«UPCA is expressly not limited to European patents insofar as validated for the UPC territory only. As such, European patents validated in territories outside the UPC territory is 'matter governed by the UPCA'»* (margin no. 279).

Such »extended« jurisdiction follows from the Brussels *Ibis* Regulation, wherein the CoA refers to Article 71b(1) of the Brussels *Ibis* Regulation and the UPC being a court common to all (EU!) Member States. Also, Article 3 UPCA defining that the UPCA *i.a.* concerns all EP patents was considered, leading to the conclusion that the UPC's competence is not narrowed to UPC-CMS.

Hence, **the UPCA confers jurisdiction not only for the UPC territory, but also for those EP-Member States (for which the EP patent is valid) outside the UPC territory.**

Applicable law and principles

The CoA clarified that *«a court which has jurisdiction to hear an alleged infringement of a patent validated outside of its own territory, is not only required to apply the law applicable to that patent, but must also apply international law principles such as comity»* (headnote 11).

The principle of **«comity»** is long-established in the legal context. The notion of international comity encompasses forms of conduct in relations between sovereign states which are based on courtesy, tradition, goodwill, or utility.¹² For example, the U.S. Supreme Court summarized this principle in 1895 as follows¹³:

«Comity,« in the legal sense, is neither a matter of absolute obligation, on the one hand, nor of mere courtesy and goodwill, upon the other. But it is the recognition which one nation allows within its territory to the legislative, executive, or judicial acts of another nation, having due regard both to international duty and convenience and to the rights of its own citizens or of other persons who are under the protection of its laws.

Based on the principle of international comity, the CoA has provided guidance on how to proceed in UPC proceedings reaching outside the UPC territory, as detailed in the following.

¹⁰ Mannheim LD, UPC_CFL_365/2023, decision of 02.04.2005 and of 18.07.2025 – *Fujifilm v. Kodak*; for a more detailed summary, cf. Vol. 5 of MALinsight, p. 31.

¹¹ CoA, UPC_CoA_312/2025, UPC_CoA_333/2025, UPC_CoA_880/2025 and UPC_CoA_882/2025, decision of 02.06.2026 – *Fujifilm v. Kodak*.

¹² According to Oxford Public International Law, Max Planck Encyclopedia of Public International Law, encyclopedia entry »Comity«.

¹³ Hilton v. Guyot, 159 U.S. 113 (1895), page 164. CoA, UPC_CoA_789/2025 and UPC_CoA_813/2025, order of 06.03.2026 – *Dyson v. Dreame*.

Guidelines for exercising international jurisdiction

The most important part of *Fujifilm v. Kodak* is the CoA's guidance on how the UPC should exercise long-arm jurisdiction when validity is raised as a defense (headnotes 13 to 18, margin nos. 301 to 308). The CoA distinguishes between **two categories** of European patent (EP) designations outside the UPC territory, namely national parts of European patents in EU-MS or Lugano states (**EU/Lugano EPs**), on the one hand, and national parts of European patents outside EU-MS or Lugano states (**non-EU/Lugano EPs**), i.e., third countries, on the other hand, in three situations, as detailed in the following.

Situation I: UPC revocation action extending to outside the UPC territory (headnotes 13 and 14)

The UPC is only competent to revoke the EP patent with *erga omnes* effect for UPC-CMS. Hence, if a revocation action is lodged with the UPC concerning national parts of an EP outside the UPC territory, such as other EU-MS, Lugano states or third countries, the UPC must declare that it **lacks jurisdiction**.

Situation II: EP patent invalid in UPC territory, but infringed (headnotes 15 to 17)

This situation concerns an infringement action based also on non-UPC designations, where the UPC considered the EP patent in the UPC territory invalid, but infringement would be found by the UPC if the EP patent were valid.

Here, the CoA's approach foresees, for non-UPC designations, that the UPC should first offer the patentee an opportunity to withdraw the infringement action insofar as it is based on the non-UPC designations. This may be seen as a relatively patentee-friendly first (procedural) step.

If the patentee does not wish to withdraw the infringement action, the next steps depend on the territory in which the respective national part of the EP is in force:

For EU/Lugano EPs, the defendant should be given the opportunity to file national revocation actions before the competent national courts in the relevant EU-MS/Lugano states, unless such actions are already pending.

If national revocation actions are pending or are filed, it will generally be appropriate for the UPC to stay the infringement proceedings concerning those designations until a final, national validity decision has been rendered.

If the defendant does not file revocation actions and no such revocation actions are pending, the UPC must assume the EP patent is valid in the respective EU/Lugano state and decide the infringement action on that basis for the respective country.

Note: It remains questionable whether this may lead to a situation in which the UPC regards the UPC designation(s) of the EP patent as invalid, but »has« to regard the non-UPC, EU/Lugano designation of the same EP patent (with identical claims) as valid.

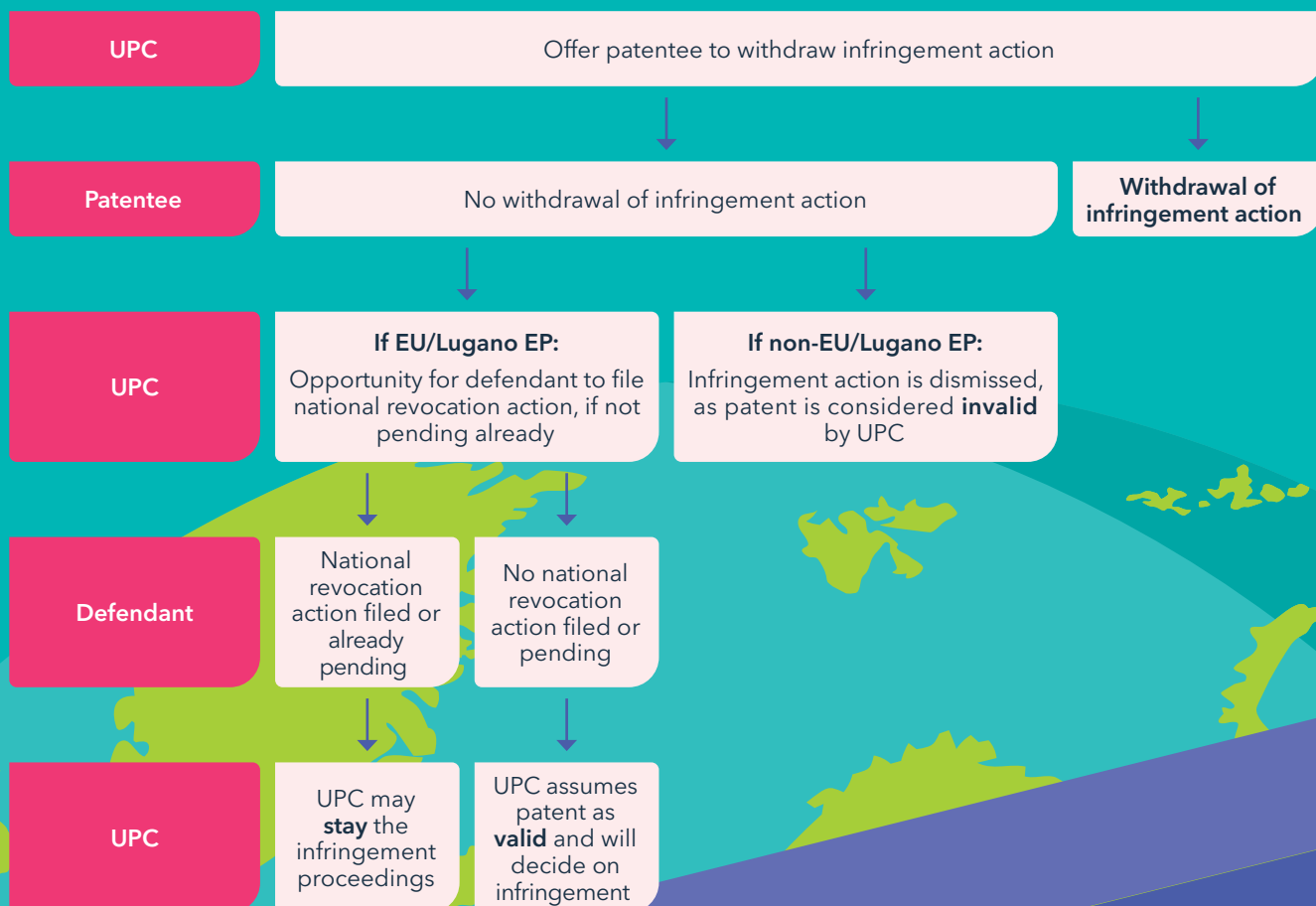
For non-EU/Lugano EPs, the position is different. If the UPC part of the patent is considered invalid and the patentee does not withdraw the claim based on the non-EU/Lugano states, the infringement action shall be dismissed, unless there are specific reasons not to do so, for example because the claims of this part are different and may be considered valid. Only if such a specific reason is shown, the procedure of Situation III shall apply.

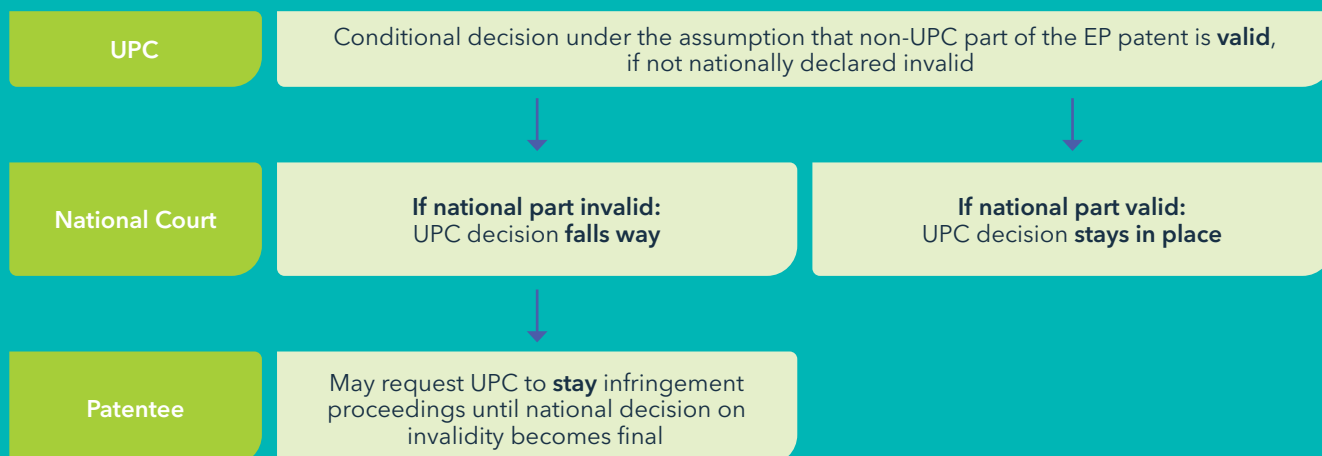
Hence, if the UPC has found the UPC designation(s) invalid and the non-EU/Lugano designation has the same relevant claim scope, the UPC will assume the same conclusion, namely invalidity, for the non-EU/Lugano designation.

This approach is an important corrective to an overly broad understanding of long-arm jurisdiction, while requiring both claimants and defendants to take an active procedural role.



Situation II: For non-UPC territory, if UPC finds EP patent infringed, but invalid for UPC territory



Situation III: For non-UPC territory, if UPC finds EP patent infringed and valid for UPC territory**Situation III: EP patent valid and infringed in UPC territory (headnote 18)**

The third situation concerns an infringement action where the UPC designation(s) are found valid and infringed, and the action also extends to EU/Lugano and/or non-EU/Lugano territory. Notably, here, the CoA does not distinguish between EU/Lugano EPs and/or non-EU/Lugano EPs but applies the principles of Article 24(4) of the Brussels Ibis Regulation not only to EU/Lugano EPs, but also, in view of comity, to non-EU/Lugano EPs.

The CoA suggests a solution based on conditional relief. Where appropriate, and in order to avoid undue delay, the UPC may consider whether there is a reasonable, non-negligible possibility that the non-UPC designation(s) will be held valid by the competent national court. The UPC may then issue a decision, including orders, under the condition that the relief remains in place unless the competent national court later holds the patent wholly or partially invalid to the extent relevant for infringement.

If the competent national court confirms validity, the UPC decision remains in place and, once the national decision is final, the UPC injunction becomes permanent.

If the national court finds the patent invalid to the relevant extent, the condition is not fulfilled and the UPC order falls away. The patentee may then request consequential orders under Rule 118.4 RoP, including a stay pending a final national decision.

3. Referral to the CJEU: *Dyson v. Dreame* (C-196/26)

In its order of 6 March 2026¹⁴, the UPC CoA referred questions to the CJEU for the first time. The referral is now pending as case C-196/26.

The Case: *Dyson Technology Limited* (Applicant) sought preliminary injunctive relief for alleged infringement of EP 3 119 235 in all UPC-CMS and Spain against several *Dreame* entities, including *Dreame International Limited*, a Hong Kong company, and *Eurep GmbH*, a German company acting as the »EU representative« (authorized representative for non-EU manufacturers) of *Dreame International*. At first instance, the Hamburg LD had granted a preliminary injunction in part, including relief extending to Spain (EU-MS, but non-UPC-CMS) against *Dreame International* and *Eurep*.¹⁵ Both sides appealed.

The CoA decided the parts concerning the UPC territory but stayed the proceedings insofar as they concern the action against *Dreame International* relating to Spain and the action against *Eurep*.

¹⁴ CoA, UPC_CoA_789/2025 and UPC_CoA_813/2025, order of 06.03.2026 – *Dyson v. Dreame*.

¹⁵ Hamburg LD, UPC_CFI_387/2025, order of 14.08.2025 – *Dyson v. Dreame*; for a more detailed summary, cf. Vol. 5 of MALinsight, p. 32-33.

The CoA referred four questions to the CJEU. These questions are now central to the future scope of UPC long-arm jurisdiction in multi-defendant and provisional-measures scenarios.

Question 1: Can an alleged intermediary serve as an anchor defendant?

The first question concerns Article 8(1) in conjunction with Article 71b(2) of the Brussels *Ibis* Regulation. More specifically, the CoA asks whether the UPC's jurisdiction over the action against Dreame International concerning Spain may be derived from its jurisdiction over the Co-Defendant Eurep, which is domiciled in Germany (margin nos. 13 to 18).

Article 71b(2) of the Brussels *Ibis* Regulation extends the jurisdictional rules of Chapter II, including Article 8(1), to defendants not domiciled in an EU-MS. On that basis, a third-country defendant may, in principle, be sued before the UPC together with an EU-domiciled co-defendant (the so-called «**anchor defendant**»), provided that the claims are so closely connected that separate proceedings would create a risk of irreconcilable judgments.

In substance, the CoA asks whether such a risk may exist where:

- a first company (Dreame International), established in a third country (Hong-Kong), is alleged to infringe a national part of a European patent in an EU-MS that is not a UPC-CMS (Spain); and
- a second company (Eurep), established in a UPC-CMS (Germany), is alleged to be an intermediary whose services are used by the first company (Dreame International) to infringe in that non-UPC EU-MS (Spain).

The difficulty is that Eurep is not alleged to be a direct infringer, but an intermediary. The CoA therefore asks whether the risk of irreconcilable judgments is sufficient in such a constellation, given that the intermediary's liability depends on the alleged infringement by Dreame International.

The answer will determine how powerful the anchor-defendant mechanism can be in UPC litigation involving non-EU defendants, EU-based intermediaries and non-UPC EU designations.

Question 2: Cross-border provisional measures

The second question concerns the territorial reach of provisional measures.

If Article 8(1) of the Brussels *Ibis* Regulation does not provide jurisdiction over Dreame International for Spain, the CoA asks whether the UPC may nevertheless order provisional measures for Spain under Article 71b(2), second sentence, of the Brussels *Ibis* Regulation (margin nos. 19 to 25).

This provision specifically addresses common courts such as the UPC. It allows an application for provisional, including protective, measures before a common court even if the courts of a third state have jurisdiction as to the substance of the matter. The CoA treats this provision as comparable to Article 35 of the Brussels *Ibis* Regulation, which permits provisional measures before national courts of an EU-MS even where the courts of another EU-MS have jurisdiction as to the substance of the matter, provided there is a «**real connecting link**» between the measure sought and the territorial jurisdiction of the court seized.

The referred question therefore asks whether such a *real connecting link* may exist where a third-country company (here Dreame International) allegedly offers the same infringing products through parallel country-specific websites in Spain and in UPC-CMS.

If the CJEU answers broadly, the UPC may become a powerful forum for rapid cross-border provisional relief, including relief extending to EU-MS outside the UPC system. If the CJEU answers narrowly, provisional long-arm relief will likely remain confined to UPC territory, unless jurisdiction can be established on another basis, such as on Article 4 or Article 8 of the Brussels *Ibis* Regulation.

Question 3: Relevance of using services of an EU-domiciled company

The third question is linked to the second. The CoA asks whether, for the purposes of Article 71b(2), second sentence, of the Brussels *Ibis* Regulation and, hence, for the second question referred, it is relevant that the third-country company (Dreame International) uses the services of a company (Eurep) established in a UPC-CMS (Germany) in connection with the alleged infringement.

This question addresses the «**real connecting link**» requirement developed in CJEU case law on Article 35 of the Brussels *Ibis* Regulation (margin nos. 22 and 23). If the alleged infringement outside UPC territory is sufficiently connected to the UPC territory through the services of an EU-domiciled service provider (Eurep), this may support the UPC's jurisdiction to order provisional measures extending beyond UPC territory.

Question 4: Authorized representatives as intermediaries

The fourth question concerns the concept of an »intermediary«. More specifically, the CoA asks whether an authorized representative (Eurep), may be enjoined as an intermediary under Article 62 UPCA and Article 9(1)(a) of the Enforcement Directive¹⁶ if it performs regulatory tasks under the General Product Safety Regulation¹⁷ and the Market Surveillance Regulation¹⁸ on behalf of a third-country manufacturer (Dreame International) (margin nos. 26 to 32). The Hamburg LD had answered this in the affirmative.

The CJEU has previously interpreted »intermediary« broadly, including in cases involving online platforms and physical marketplaces.¹⁹ However, those cases concerned services enabling infringement in fact. In *Dyson v. Dreame*, the CoA asks whether the same applies to services that primarily ensure legal or regulatory compliance and may not give the service provider practical control over the alleged infringement.

The answer will be of considerable practical importance. Many regulatory frameworks require non-EU manufacturers to appoint an EU-based economic operator or authorized representative. If authorized representatives or similar EU-based regulatory actors can be treated as intermediaries, they may become both targets for injunctions and potential anchor defendants in cross-border UPC litigation. This could affect not only consumer electronics, but also regulated sectors such as medical devices, in vitro diagnostics, and pharmaceuticals.

Outlook

Preliminary ruling requests to the CJEU take an average of about 12 to 18 months. A decision by the CJEU is therefore expected between March and September 2027.

¹⁶ Directive 2004/48/EC of 29.04.2004.

¹⁷ Regulation (EU) 2023/988 of 10.05.2023.

¹⁸ Regulation (EU) 2019/1020 of 20.06.2019.

¹⁹ See, for example, CJEU, judgment of 07.07.2016, C-494/15 – *Tommy Hilfiger v. Delta Center*; judgement of 27.03.2014, C-314/12 – *UPC Telekabel Wien v. Constantin Film*.



4. Developments after the referral: First reactions from the UPC

Final Order UPC_CFI_2255/2025 of the Hamburg Local Division – *Dyson v. Dreame II*

Shortly after the referral, the Hamburg LD narrows the reach of the long-arm of the UPC in a *Dyson v. Dreame* follow-on dispute concerning another Dreame product.²⁰ The decision is noteworthy because it applies the CoA's emerging framework and carefully distinguishes between different jurisdictional bases.

The case: As in former proceedings, Dyson Technology Limited (Applicant) requested a preliminary injunction for alleged infringement of EP 3 119 235 against five Defendants: Dreame International Limited (Hong Kong), the Swedish affiliate to Dreame International, the Dutch affiliate and EU representative of Dreame International, Teqphone GmbH (Germany), distributor for Germany, and Cellcom Ltd. (UK), the exclusive distributor of Dreame products in the UK.

The Applicant requested an injunction with respect to Dreame International and the Dutch Defendant for the UPC territory and Spain; with respect to the Swedish and German Defendants for the UPC territory; and with respect to the UK Defendant for the UK only, stating that the Dutch Defendant acts as an importer with respect to the EU, including Spain, and as an intermediary with respect to the UK.

The Defendants argued that the UPC has no jurisdiction with respect to Spain and UK.

For the UPC territory, the LD accepted that the UPC has international jurisdiction under Article 4 of the Brussels Ibis Regulation for defendants domiciled in UPC-CMS (margin nos. 44 to 46).

For the Defendant Dreame International, domiciled in Hong Kong, the LD accepted jurisdiction under Article 7(2) of the Brussels Ibis Regulation, because it operated country-specific websites with online shops directed to UPC-CMS (margin no. 47).²¹

For Spain, the LD accepted jurisdiction over the Dutch Defendant under Article 4 in conjunction with Article 71b(1) of the Brussels Ibis Regulation, and over the Defendant Dreame International under Article 8(1) of the Brussels Ibis Regulation, **using the Dutch Defendant as an anchor** (margin nos. 49, 50). Importantly, **the Dutch defendant was not merely an alleged intermediary; it was alleged to be a patent infringer itself as importer into the EU, including Spain.** The LD therefore considers the question referred to the CJEU and relating to an intermediary and infringement in a non-UPC-MS as not relevant in this context (margin nos. 53 to 55).

For the UK, however, the LD refused to extend jurisdiction over the UK distributor through the Dutch authorized representative (margin nos. 56 to 63). The UK, including Northern Ireland, presented a special situation because certain EU product safety rules continue to apply in Northern Ireland only to facilitate dual access and avoid a hard border. The LD considered that this was not a reasonably foreseeable basis for subjecting a UK distributor to UPC jurisdiction via Article 8(1) of the Brussels Ibis Regulation.

The LD further held that, even if the UPC had jurisdiction over the Dutch Defendant concerning the UK part, the Applicant Dyson had not shown with sufficient certainty that the Dutch authorized representative could be enjoined under UK law as an intermediary or joint tortfeasor.

²⁰ Hamburg LD, UPC_CFI_2255/2025, order of 07.04.2026 – *Dyson v. Dreame II*.

²¹ However, consistently with recent CoA case law, the LD emphasized that Article 7(2) of the Brussels Ibis Regulation is territorially limited to damage occurring in the UPC territory. It does not as such confer jurisdiction for Spain or the UK.

Procedural Order UPC_CFI_360/2026 of the Hamburg Local Division – *Nixu v. Infoblox*

The case: In *Nixu v. Infoblox*, the Hamburg LD dealt with a preliminary objection filed by a US Defendant. The Claimant had sued a US company and two German entities for infringement of EP 2 005 696 in Germany, France, Finland and the UK.

In its order of 8 June 2026²², the LD held that Article 7(2) of the Brussels Ibis Regulation could support jurisdiction over the US Defendant for alleged infringement in UPC designation(s), namely Germany, France, and Finland, based on the operation of a website from which the accused software could be downloaded. However, Article 7(2) of the Brussels Ibis Regulation could not support jurisdiction for the UK, because the UK is not part of the UPC territory (margin nos. 21 to 24).

The LD then considered Article 8(1) in conjunction with Article 71b(2) of the Brussels Ibis Regulation. The German Defendants could serve as anchor defendants for the US Defendant for Germany, France, and Finland. The UPC has domicile-based (universal) jurisdiction over them under Article 4 of the Brussels Ibis Regulation, and the Claimant had sufficiently alleged that they were involved in the distribution or support of the accused products within the UPC territory. This was sufficient to establish the required »close connection« in terms of Article 8(1) of the Brussels Ibis Regulation with regard to the US Defendant for the UPC-CMS concerned (margin nos. 25-33).

For the UK part, however, the LD refused jurisdiction for the US Defendant. It emphasized that, **when Article 8(1) of the Brussels Ibis Regulation is used to reach a non-UPC national part of a European patent, the Claimant must plead a close connection relating to that specific country.** It is not sufficient that the defendants allegedly infringe different national parts of the same European patent in different countries. For the UK, the Claimant had not alleged facts showing joint infringement of the UK part by the US Defendant and an anchor defendant domiciled in UPC territory (margin nos. 34 to 37).

The decision therefore draws an important line: within UPC territory, the UPC-wide nature of the court may support jurisdiction through an anchor defendant. For non-UPC territory, however, the close connection under Article 8(1) of the Brussels Ibis Regulation must be pleaded with respect to the relevant foreign designation.

Decision UPC_CFI_30/2025 of the Düsseldorf Local Division – *Aesculap v. Shanghai Bojin*

The case: Aesculap AG (Claimant) sued Chinese Shanghai Bojin entities (Defendants 1 and 3) and a German company acting as EU authorized representative under Article 11 of the Medical Device Regulation (Defendant 2) for infringement of EP 2 892 442, which was in force in Germany, France, and the UK. After the proceedings were settled with the Chinese Defendants 1) and 3), the case continued only against the German authorized representative (Defendant 2).

In its decision of 1 September 2026²³, the Düsseldorf LD confirmed the UPC's international jurisdiction also with regard to the UK part of the patent. Since the remaining Defendant 2 was domiciled in Germany, jurisdiction followed from Article 4(1) of the Brussels Ibis Regulation. The Court emphasized, in line with the CoA's recent case law, that this jurisdiction is not limited to acts within UPC territory; the connecting factor is the Defendant's domicile, not the place where the acts occurred. It was therefore not necessary, for jurisdictional purposes, to examine whether the Defendant had acted in the UK (margin no. 50).

On the merits, the Düsseldorf LD did not find the German authorized representative liable as a direct infringer, nor as a joint tortfeasor, instigator, or accessory (margin nos. 107 to 111). However, it held that the authorized representative could be liable as an intermediary under Article 63(1), second sentence, UPCA (margin nos. 112 to 117).

²² Hamburg LD, UPC_CFI_360/2026, procedural order of 08.06.2026 – *Nixu v. Infoblox*.

²³ Düsseldorf LD, UPC_CFI_307/2025, decision of 01.09.2026 – *Aesculap v. Shanghai Bojin*.

For the UK part, the Düsseldorf LD applied the CoA's guidance in *Fujifilm v. Kodak*. It accepted that orders may extend to a non-EU/Lugano state, but only subject to the condition that the UK part is not held invalid by the competent UK authorities. Based on the Claimant's uncontested submissions on UK law, the Court granted an injunction against the authorized representative also for the UK, while refusing further remedies such as information for the UK (margin nos. 125 to 138).

The decision is also noteworthy because the Düsseldorf LD refused to stay the proceedings pending the CJEU's answer in *Dyson v. Dreame*. Although the fourth referred question concerns authorized representatives as possible intermediaries, **the LD considered the referral too specific to provisional measures and to the General Product Safety and Market Surveillance Regulations**. The present case concerned main proceedings and the Medical Device Regulation. The Court therefore saw no sufficient reason to delay enforcement (margin nos. 143 to 149).

Orders UPC_CoA_4/2026 /13/2026 and UPC_CoA_50/2026 of the Court of Appeal - *Valeo v. Bosch*

The two CoA's orders of 22 June 2026 in *Valeo v. Bosch* do not concern international jurisdiction in the strict sense, but the internal competence of UPC divisions under Article 33 UPCA. It is nevertheless strategically relevant for cross-border litigation involving multiple defendants.

The case: Valeo brought an infringement action before the Paris seat of the Central Division against several Bosch entities, some domiciled in UPC-CMS and others outside UPC-CMS, including Serbia and China. The Central Division had initially declined competence and referred the case to the Düsseldorf LD.²⁴ The CoA set aside that order.

In the order UPC_CoA_4/2026 and UPC_CoA_13/2026, the CoA held that Article 33(1), third subparagraph, UPCA which states:

»If the Contracting Member State concerned does not host a local division and does not participate in a regional division, actions shall be brought before the central division.«,

is not an exception to the competence of local and regional divisions. Rather, this provision provides an alternative jurisdictional basis where defendants are domiciled outside the UPC territory: the Central Division may take the place of the division that would otherwise be competent by reason of a defendant's residence. The CoA emphasizes that it is necessary to avoid parallel proceedings before different Divisions of the Court of First Instance and the risk of contradictory decisions that could result, thereby rejecting any interpretation that would require proceedings to be split merely because one co-defendant is domiciled in a UPC-CMS and another is not.

In multiple-defendant cases involving both UPC-domiciled and non-UPC-domiciled defendants, the Central Division may therefore be competent if, by applying the mechanism provided in point (b) of the first subparagraph of Article 33(1) UPCA, the defendants have a commercial relationship and the action relates to the same alleged infringement. In the order UPC_CoA_50/2026, the CoA provides further guidance on the criteria »commercial relationship« and »same alleged infringement«.

Although, at first glance, these orders concern internal allocation within the UPC, they matter for forum strategy. In international multi-defendant cases, claimants may have a choice between local or regional divisions and the Central Division, depending on the defendants' domiciles and the alleged acts.

²⁰ CoA, UPC_CoA_4/2026 and UPC_CoA_13/2026, order of 22.06.2026 - *Valeo v. Bosch*; UPC_CoA_50/2026, order of 22.06.2026 - *Valeo v. Bosch*.

5. Strategic implications

The first half of 2026 has transformed the discussion on UPC long-arm jurisdiction from an abstract debate into a structured, operational framework. This has immediate strategic consequences. For claimants, the recent case law opens new avenues for centralized cross-border enforcement. For defendants, it creates new challenges in reacting to jurisdictional setups, anchor-defendant arguments and validity attacks across several jurisdictions.

Long-arm jurisdiction is confirmed, but the legal basis matters

After the CJEU's *BSH v. Electrolux* decision and the CoA's *Fujifilm v. Kodak* decision, it is now clear that long-arm jurisdiction before the UPC is not merely a theoretical possibility.

Article 4 of the Brussels Ibis Regulation remains the strongest basis where the defendant is domiciled in UPC territory: the connecting factor is the defendant's domicile, not the place where the alleged acts occurred. The UPC's jurisdiction relates to any EP designation.

By contrast, **Article 7(2) of the Brussels Ibis Regulation** is more limited. As the forum of the place where the harmful event occurred or may occur, it supports jurisdiction only for harm within the UPC territory and cannot, by itself, justify claims for infringement concerning non-UPC designations such as the UK or Spanish part of a European patent.

Article 8(1) of the Brussels Ibis Regulation is increasingly central to UPC litigation strategy in multi-defendant cases. It may allow claimants to bring third-country defendants into UPC proceedings through an EU/UPC-CMS-domiciled anchor defendant. However, the recent decisions show that this route is fact sensitive. For non-UPC territories, the claimant must plead a sufficiently close connection relating to the relevant foreign designation. The pending CJEU referral in *Dyson v. Dreame* will clarify how far this anchor defendant mechanism can reach and, in particular, whether an alleged intermediary such as a regulatory representative, distributor or other service provider can become gateways for broad UPC litigation.



The Central Division as an additional forum in multi-defendant cases

Valeo v. Bosch adds a further strategic option for claimants in international multi-defendant cases. Where a multinational infringement scenario involves both UPC-CMS and non-UPC-CMS-domiciled defendants, claimants may now also consider bringing a consolidated infringement action before the Central Division, provided that the defendants have a commercial relationship and the action relates to the same alleged infringement. In such constellations, the Central Division may offer a way to avoid parallel proceedings before different Divisions and reduce the risk of inconsistent decisions.

The decision therefore adds an internal UPC competence layer to broader long-arm and anchor-defendant strategies and makes pre-litigation analysis of corporate structures, supply chains and the respective roles of potential defendants even more important.

Validity strategy becomes more complex

The CoA's guidance in *Fujifilm v. Kodak* makes the defendant's validity defense strategy more complex. For EU/Lugano states, defendants who want to raise invalidity effectively may need to file national revocation actions in the relevant states. If they do not, the UPC may assume validity and decide infringement accordingly.

For non-EU/Lugano states, defendants may raise invalidity before the UPC as an *inter partes* defense, but the UPC will consider comity. Where the UPC part is valid and infringed, the UPC may grant conditional relief rather than await national validity proceedings.

Thus, defendants facing long-arm claims must decide quickly where and when to attack validity nationally. Plaintiffs, in turn, must assess whether the additional complexity of foreign law and possible national revocation actions is worth the benefit of centralized relief.

Regulatory representatives may become litigation targets - but the CJEU will decide

The most commercially sensitive open issue concerns the role of authorized representatives and similar EU regulatory actors. If such entities can be enjoined as intermediaries and thereby become both targets for injunctions and potential anchor defendants in cross-border UPC litigation under Article 8(1) of the Brussels *Ibis* Regulation, non-EU manufacturers may face increased exposure in UPC proceedings. This would be relevant not only for consumer products, but also for regulated industries such as medical devices, in vitro diagnostics and pharmaceuticals.

The Düsseldorf LD's decision in *Aesculap v. Shanghai Bojin* shows that such entities may be treated as intermediaries, at least where their role is indispensable for lawful market access under sector-specific EU regulation. At the same time, the pending CJEU referral leaves the broader question open. The CJEU's answer to the fourth question in *Dyson v. Dreame* will therefore need to be watched closely.



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