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UPC grants 'in absentia' permanent injunction on agricultural tool

Maschio Gaspardo S.p.A. v Spiridonakis Bros GP (UPC_CFI_513/2024 relating to EP1998604)

Order of 25 June 2025 (ORD_17812/2025 [1])

This Decision from the Central Division of the Unified Patent Court in Milan relates to EP1998604 (EP '604). The Applicant, Maschio Gaspardo S.p.A. ("MG"), requested a permanent injunction by Article 63(1) UPCA against Spiridonakis Bros GP ("Spiridonakis"), to prevent the sale and distribution of Spiridonakis' 'Bellota tool'.

Spiridonakis did not file an infringement defence, and the Court granted the requested permanent injunction, ordering Spiridonakis to refrain from any further acts of infringement, to provide MG with any information regarding the origin and the distribution channels of the infringing products, and to bear the legal costs of the proceedings and other expenses incurred by MG.

Decision 'in absentia'

MG filed an action for patent infringement against Spiridonakis on 5 September 2024 with the Central Division in Milan. The alleged infringement relates to the sale and distribution of an agricultural tool by the Defendant under the name of 'Bellota tool'. The 'Bellota tool' allegedly infringed EP1998604, validated in France, Turkey, Italy, Germany, Romania, Czech Republic and Bulgaria.

MG requested a decision by default under R. 355(1) RoP, based on Spiridonakis failing to file written submissions within the relevant time limit and failing to appear at the oral

hearing. MG requested grant of a permanent injunction by Article 63(1) UPC in the contracting member states where EP '604 is valid.

The Court stated that a default decision against a Defendant is subject to:

- verification of proper service;
- the absence of preliminary grounds for inadmissibility of the claim; and
- the assessment that the facts put forward by the claimant justify the remedy sought (Rule 355.2).

The Court stated that it was apparent from the service notification that the statement of claim was validly served on Spiridonakis on January 2, 2025.

The Court also stated that Rule 355.2 imposes de minimis factual allegations for a decision to be issued in absentia, namely those set out in Rules 12 and 13 RoP. That is, reasonably providing the Court with the patent documentation, as well as all documents and evidence related to infringement and damages, if requested.

Furthermore, the Court found that bringing the action before the Central Division was justified since:

- the principal place of residence and place of business of Spiridonakis is Greece, which is outside the territory of the Contracting Member States (Article 33(1) UPCA, paragraph 3); and
- Bulgaria, as a UPCA Contracting member state, does not host a local division and does not participate in a regional division (Article 33(1) UPCA, paragraph 4). Bulgaria was the place where the specific infringing acts were alleged to have occurred.

Validity

The Court did not find it was necessary to take a stand on patent invalidity, since this is not an issue that is raised by the Court ex officio, even in the case of a decision by default. According to the case law of the European Court of Justice (Case C-44/21), granted European patents enjoy a presumption of validity from the date of publication of their grant (cf. LD Munich, UPC_CFI_508/2023, 9 January 2025, air up v Guangzhou Aiyun).

Accordingly, EP '604 was presumed to be valid by the Court.

Infringement

EP '604 relates to a 'reversible tool for agricultural subsoilers'. This is a tool that can be mounted on agricultural machinery to penetrate and break up compacted soil layers

below the surface.

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MG conducted two online purchases (on 19 July 2024 and 6 August 2024) through Spiridonakis' website for delivery of the allegedly infringing 'Bellota tool' in Bulgaria. These products were labelled in the shipment receipts as "Spare parts nail ripper nail Maschio" and "Spare parts for agricultural machinery", according to automatic translations to English.

MG's CTO inspected the accused products and submitted (together with photographic evidence) that they were almost identical in shape, dimensions, and features to the patented embodiment. A panel of judges of the Milan Central Division travelled to Cremona to visually assess the structure and operation of the original product sold by MG and the allegedly infringing product sold by Spiridonakis.

Moreover, it was noted by MG that the 'Bellota tool' on the website of Spiridonakis.com was marketed as a "Point Ripper Maschio Bellota" tool, thereby evoking the name of the patent owner, Maschio Gaspardo, with the purpose of confusing the customer about the origin of the product. It was also submitted that the 'Bellota tool' also showed the product code R17622960, which is the distinguishing code of MG's product.

MG stated that Spiridonakis is offering and placing on the market products having all the features of at least claims 1, 2, 3, 5, 6, 9, and 10 of patent EP '604, at least in Bulgaria, where EP '604 is valid. The Court decided that the statement of claim was sufficiently detailed and supported by consistent evidence, in line with the requirements of Rule 355.2.

The Court decided that that the infringing offer, sale and distribution of the 'Bellota tool' in Bulgaria was proven. While the Court primarily saw this as an act of primary infringement (Art. 25 UPCA), in the alternative the Court held that the requirements for indirect infringement (Art. 26 UPCA) with regard to double territoriality were met, since the attacked embodiment could be supplied at least in Bulgaria, where EP '604 is valid, and the 'Bellota tool' is shipped.

Order to Communicate Information

It was further submitted that that the allegedly infringing product bears the trademark of the company Bellota, suggesting that Spiridonakis' allegedly infringing product is manufactured by the company Bellota. MG stated that they have a legitimate interest in understanding where the production takes place and who might be the infringing company, therefore justifying requesting the Court to order Spiridonakis to communicate, by Article 67(1) UPCA, information concerning the origin and distribution channels of the

infringing products.

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Decision

The Court found that the request from MG of ordering Spiridonakis to bear the legal costs of € 25,000 was well-founded under RoP 152, considering that the costs requested (€ 15,000 euro for the preparation of the case and € 10,000 euro for the oral hearing) were well below the minimum level of recoverable costs set out by the Presidium for an infringement action and appeared to be in line with the activity done by the legal representatives.

Accordingly, the Court granted the permanent injunction and ordered Spiridonakis refrain from any acts of infringement within UPC member states, and the payment of € 25,000 for legal costs and to refund the court fees paid by MG.

The Court also ordered Spiridonakis to communicate to MG information regarding the origin and the distribution channels of the infringing products, the quantities produced, delivered, ordered, the price related to the sales and the identity of any person involved in the production of the 'Bellota tool'.

[1] <https://www.unified-patent-court.org/en/node/136198>