

EIP

UPC denies provisional injunction on tool for adjusting the height of cabinet legs

Häfele SE & Co KG v Kunststoff KG Nehl & Co (UPC_CFI_443/2024 relating to EP3767151)

Order of 25 November 2024 (ORD_62433/2024 [1])

This Decision from the Court of First Instance of the Unified Patent Court Local Chamber in Munich relates to EP3767151, which is registered as a Unitary Patent. The Applicant, Häfele SE & Co KG (“Häfele”), requested a provisional injunction against Kunststoff KG Nehl & Co (“Kunststoff”), to stop manufacture, sale and distribution of Kunststoff’s allegedly infringing products across UPC Member States covered by the Unitary Patent, alongside the payment of legal costs and setting the amount in dispute at € 500,000.00.

The Court denied the requested provisional injunction based on an assessment of the balance of interests and doubts regarding the novelty of the patent.

Applicant’s requests

Häfele has been in direct competition with Kunststoff in the market space of height-adjustable cabinet legs and compatible adjustment tools for several years. Häfele originally brought an action before the Düsseldorf Regional Court for injunctive relief against Kunststoff in November 2021, based on alleged infringement of EP3055603, but the Court hearing was suspended pending the outcome of first instance opposition proceedings at the EPO.

As EP3055603 was maintained in amended form in November 2023, a new hearing was

scheduled for 27 May 2025. Häfele decided to take further legal action against Kunststoff, arguing the urgency of required preliminary measures based on the rescheduling of the Düsseldorf hearing to May 2025 following the opposition of EP3055603.

Häfele claimed that three of Kunststoff's products infringed EP3767151, a divisional patent stemming from EP3055603 which was granted on 3 July 2024. One of the allegedly infringing products was a height-adjustable leg for cabinets, while the other two allegedly infringing products were compatible tools for facilitating the adjustment of the aforementioned height-adjustable leg.

Häfele requested:

- a provisional injunction to stop Kunststoff from manufacturing, selling and distributing the allegedly infringing products in all UPC Member States covered by the Unitary Patent;
- an order for the defendant to pay the cost of the proceedings;
- setting the amount in dispute at € 500,000.00.

Urgency

The Court accepted that the application met the requirement of urgency in respect of the asserted patent EP3767151, since the application was filed on 26 July 2024, shortly after the unitary effect was registered on 12 July 2024. However, the Court stated that the duration of the proceedings before the Düsseldorf Regional Court did not justify urgency in obtaining preliminary measures against Kunststoff, as it was not clear why the failure to enforce property rights other than EP3767151 should be to the detriment of Kunststoff now.

Alleged infringement

Häfele's argument focused on independent claims 1 and 6 of EP3767151. Claim 1 was directed at a coupling mechanism (a cabinet foot) to provide height-adjustment of a cabinet leg, and an electrically powered tool comprising a system of releasably engageable wheels to adjust the coupling mechanism. Claim 6 was directed at the tool mentioned in claim 1.

The Court decided that Kunststoff's tools for facilitating the adjustment of height-adjustable cabinet legs were likely a direct infringement of claim 6 pursuant to Art. 25 (a) UPCA.

The Court also decided that Kunststoff's height-adjustable leg for cabinets was likely an indirect patent infringement of claim 1 pursuant to Art. 26 UPCA, as the as the height-

adjustable legs were not necessarily sold together with the tools. However, in the case that the leg was sold with the corresponding tool, that would constitute direct infringement of claim 1.

The Court determined that although it would usually be expected that a furniture leg is adjusted using its corresponding tool, Kunststoff's height-adjustable cabinet leg could in principle be adjusted by hand, thereby making its off-patent use possible.

Balance of interests

The Court stated that an unrestricted prohibition order could be considered for the manufacture, offer and sale of the tools and a combination of the infringing tools and cabinet legs. However, a similar prohibition could not be applied to Kunststoff's height-adjustable cabinet legs alone, as their off-patent use was in principle possible.

The Court weighed the interests of both parties, pursuant to Art. 62(2) UPCA and Rule 211(3) RP, considering the possible adverse effects of granting or refusing the issuance of interim measures.

The Court decided that it was not necessary to issue a provisional injunction despite Kunststoff's infringing actions, as Häfele's interest in obtaining a provisional injunction did not outweigh Kunststoff's interest in remaining free to continue its actions until a Decision on the merits.

Häfele claimed that the sale of Kunststoff's height-adjustable cabinet legs led to the equivalent annual loss of around € 1 million for Häfele, as Häfele estimated that Kunststoff sold around 750,000 furniture legs per year at a price of € 0.50 per unit (in comparison with Häfele's cabinet foot sold at € 1.50 per unit). Kunststoff disputed this analysis. In any case, the Court considered that Kunststoff's market share was significantly smaller compared to Häfele's, thereby making it unlikely that Häfele would suffer significant damage.

Häfele's additional argument of a lock-in effect was rejected, as the Court did not find that Häfele submitted any reliable evidence to support their hypothesis that once a customer had bought Kunststoff's tool they would continue thereafter to purchase the compatible legs.

Kunststoff had been on the market with the allegedly infringing products for several years and had been supplying height-adjustable cabinet legs to a major intermediary (referred to but not named in this Decision), which resold the product under its trademark. The Court considered that this established supply relationship would have been irreparably affected if Kunststoff were to be temporarily prohibited from supplying

the allegedly infringing products. In the balance of interests, it was considered unreasonable to enforce the preliminary measures in view of Kunststoff's long-standing market presence.

Validity

Doubts concerning the validity of the patent were mentioned by the Court as a potential factor in determining the balance of interests: Figures 1 and 2 from EP0904899 appeared to anticipate the majority of the features of claims 1 and 6 from EP3767151, with the positioning of the internal motor being the main point of discussion for the purpose of a novelty argument.

Decision

The application for interim measures was dismissed, and the Court ordered Häfele to bear the cost of the proceedings. The amount in dispute was set at € 500,000.00.

[1] <https://www.unified-patent-court.org/en/node/1328>