





In the (5) ..... proceedings, the HW companies (6) ..... the defence of invalidity of the national parts of the patent concerned without, however, having brought or even declared their intention of bringing proceedings for the annulment of the national parts of that patent, and without contesting the competence of the Dutch court to hear both the main proceedings and the interim proceedings.

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|--------------------|------------|--------------|
| (5) a) provisional | b) interim | c) temporary |
| (6) a) raised      | b) rised   | c) rose      |

## **LEGAL ASSESSMENT**

### **II. Answer the following questions.**

1. Application for provisional, including protective, measures may be made to the courts of a Member State, as these are available under the law of that Member State:

- a) only if the courts of this Member State have jurisdiction as to the substance of the matter;
- b) even if the courts of another Member State have jurisdiction as to the substance of the matter;
- c) only if the courts of this Member State have exclusive jurisdiction as to the substance of the matter;



2. Art.35 of Regulation 1215/2012:

- a) is applicable in the case, because the defendant entered into appearance and did not challenge the jurisdiction;
- b) is not applicable in the case, because the courts having exclusive jurisdiction on the substance of the matter actions related to “intellectual property” have exclusive jurisdiction on interim measures, too;
- c) is applicable in the case, because Article 24 of Regulation No 1215/2012 must be interpreted as not precluding the application of art.35 of the same Regulation.

**III. Fill in with the appropriate words or phrases:**

to rule, to derogate, to have jurisdiction, independent, validity, substance, to disapply, regardless, special, general, to ascertain, to preclude, exclusive, registration, to refer, to regard

The question seeks ..... essentially whether Article 24 (4) of Regulation No 1215/2012 must be interpreted as ....., in circumstances such as those at issue in the case in the main proceedings, the application of Article 35 of that regulation. It is apparent from Article 31 of Regulation No 44/2001 that the court of a Member State is authorised ..... on a claim for a provisional, including a protective, measure even if, under that regulation, the courts of another Member State ...as to the substance of the matter. Article 24 (4) of Regulation No 44/2001 lays down for a rule of ..... jurisdiction according to which, in proceedings concerned with the ..... or ..... of patents, the courts of the Member State in which the deposit or registration has been applied for, has taken place or is under the terms of a Community instrument or an international convention deemed to have taken place, have ..... jurisdiction. Whilst Article 24 (4) concerns the attribution of jurisdiction to rule on the ... in proceedings relating to a clearly defined area, Article 35 is designed



to apply ..... of any jurisdiction as to the substance. Moreover, those two provisions do not ..... to one another. Those provisions are included under Chapter II of Regulation No 1215/2012, entitled ‘Jurisdiction’, and constitute ‘... provisions’ as opposed to the ‘..... provisions’ in Section 1 of that chapter. There is nothing to indicate that either of the provisions at issue can be ..... as general or special in relation to the other. Article 35 is ..... in scope from Article 24(4) of that regulation. Article 24(4), which concerns the jurisdiction as to substance, cannot, as a rule, be interpreted so as ..... from Article 35 and, consequently, cause it to be.....

**IV. Rephrase or explain the following sentences or phrases, using your own words.**

- (1) JPM also lodged an interim claim against the HW companies, seeking provisional relief in the form of a cross-border prohibition against infringement
- (2) declared their intention of bringing proceedings for the annulment of the national parts of that patent
- (3) the defendant entered into appearance and did not challenge the jurisdiction