

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

GARMIN CORPORATION,

Plaintiff,

v.

TOMTOM, INC.,

Defendant.

TOMTOM, INC., BALDIVI B.V.,

Counter plaintiffs,

v.

GARMIN LTD., GARMIN CORPORATION
and GARMIN INTERNATIONAL, INC.,

Counter defendants,

GARMIN, LTD.

Plaintiff,

v.

TOMTOM, INC.,

Defendant.

ORDER

06-C-0062-C

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(Consolidated with Case No.
06-C-0062)

TOMTOM, INC., BALDIVI B.V.,

Counter plaintiffs,

v.

GARMIN LTD., GARMIN CORPORATION
and GARMIN INTERNATIONAL, INC.,

Counter defendants.

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Baldivi B.V. has moved to intervene in these consolidated cases, pursuant to Federal Rule of Civil Procedure 24. The motion will be granted.

Plaintiff Garmin, Ltd., opposes the motion to intervene, contending that the newly-added claims in which the intervenor has an interest will be the subject of a motion to dismiss that plaintiff intends to file. Plaintiff's position is that the court should delay decision on the motion to intervene until after it has ruled on the motion to dismiss the third, fourth and fifth counterclaims asserted by defendant and counter plaintiff TomTom, Inc. In my view, it makes more sense to deal with the motions as they present themselves. If in fact plaintiff files a motion to dismiss the third, fourth and fifth counterclaims and the motion is granted, Baldivi B.V. will no longer be a party to the case. In the interim, however Baldivi B.V. should be allowed to contest the motion to dismiss, because it has a interest relating to the property that is the subject of the action and is so situated that the disposition of the action may as a practical matter impair or impede its ability to protect the interest.

Fed. R. Civ. P. 24(a). As Baldivi points out, it is possible that defendant TomTom, Inc., will not adequately represent Baldivi's interests. Although I have some doubt about this matter, I cannot say that it is beyond question that defendant TomTom will represent Baldivi's interests adequately.

ORDER

IT IS ORDERED that Baldivi B.V.'s motion to intervene as a counter claimant so that it may join the third, fourth and fifth counterclaims is GRANTED.

Entered this 11th day of May, 2006.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge