Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Düsseldorf Local Division
UPC_CFI_347/2024

Procedural Order
of the Court of First Instance of the Unified Patent Court
issued on 21 August 2024
concerning EP 3 320 602 B1

APPLICANT:

Valeo Electrification, 14 avenue des Béguines, 95800 Cergy, France, represented by the President Thierry Kalanquin, with the same address,

Represented by:	Attorney-at-law Felix Rödiger, Attorney-at-law Jonas Smeets, Attorney-at-law Fabian Saupe, Bird & Bird LLP, Carl-Theodor-Straße 6, 40213 Düsseldorf, Germany,
Electronic address for service:	felix.roediger@twobirds.com
Contributing European patent attorneys:	Nicolas Cardon, Amandine Ricard, Florian Saadi, Valeo Electrification, Cergy

DEFENDANTS:

1. **Magna PT B.V. & Co. KG,** Herrmann-Hagenmeyer-Str. 1, 74199 Untergruppenbach, Germany, represented by its general partner, Magna PT Management B.V., with the same address, which is jointly represented by the managing directors Thomas Klett and Sandro Gildo Morandini, with the same address,

2. **Magna PT s.r.o.,** Perinska cesta 282, Kechnec 044 58, Slovakia, represented by its managing directors Martin Hluchý und Katarína Vaškovičová, with the same address,

3. **Magna International France, SARL,** 4 route de Gisy Bâtiment 26, Biévres 91570, France, represented by its managing directors Thierry Servouse and Franz Trummer, with the same address,

All Defendants represented by:	Attorney-at-law Klaus Haft, Attorney-at-law Sabine Agé, Attorney-at-law Sebastian Kratzer, Hoyng, ROKH, Monegier, Steinstraße 20, 40213 Düsseldorf, Germany,

Collaboratoring attorney:	Attorney-at-law Dr Wolfgang Kellenter, Hengeler Müller, Benrather Straße 18-20, 40213 Düsseldorf, Germany,
Collaboratoring European Patent attorney:	European Patent Attorney Jan Ackermann, Cohausz & Florack, Bleichstraße 14, 40211 Düsseldorf, Germany

PATENT IN SUIT:

EUROPEAN PATENT NO. EP 3 320 602 B1

PANEL/DIVISION:

Panel of the Düsseldorf Local Division

DECIDING JUDGES:

This Order was issued by Presiding Judge Thomas acting as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT: R. 262A RoP – Protection of confidential information

GROUNDS FOR THE ORDER:

1.
Art. 9(1) and (2)(a) of Directive (EU) 2016/943 provides that, in judicial proceedings, access to documents submitted by the parties or third parties containing trade secrets or alleged trade secrets may, upon request, be restricted in whole or in part to a limited number of persons. The protection of confidential information is provided for in Art. 58 UPCA and implemented in R. 262A RoP (see UPC_CFI_54/2023 (LD Hamburg), Order of 3 November 2023, ORD_577703/2023 - Avago Technologies International v. Tesla Germany; UPC_CFI_463/2023 (LD Düsseldorf), Order of 11 March 2024, ORD_8550/2024 - 10x Genomics v. Curio Bioscience).

2.
The formal requirements of R. 262A.2 and .3 RoP were complied with. The Applicant's representatives were also heard before the confidentiality order was issued, as required by R. 262A.4 RoP. It made use of the opportunity to submit observations.

3.
The fact that the information classified as confidential by the Defendants is confidential information within the meaning of Art. 58 UPCA was explained in detail by the Defendants with reference to the contracts concluded with their customer. Furthermore, the Defendants have stated that the data and information in question have a commercial value, are not generally known and are not visible to third parties. The Defendants have also stated that they have taken appropriate confidentiality measures to protect the confidentiality of this information.

To the extent that the Applicant has objected to a confidentiality order on the basis that the Defendants allegedly submitted the information claimed to be confidential in the proceedings before the Stuttgart Regional Court in 2023, the Court cannot establish that this is the same information. The comparison set out on page 6 of the Applicant's brief of 16 August 2024 clearly shows that the

information submitted in the Stuttgart proceedings and the information now claimed to be confidential are different. The fact that the affidavits were submitted by the same persons does not change this. What matters is not who submitted the affidavits, but their content. The fact that precisely the information now classified as confidential by the Defendants was publicly discussed in the Stuttgart proceedings has not been sufficiently demonstrated by the Applicant, nor is it apparent.

4.
The definition of the group of authorised users follows the rules set out in the Order of 8 August 2024 (UPC_CFI_140/2024 (LD Düsseldorf), Curio Bioscience v. 10x Genomics). This question is also not disputed and therefore does not require further explanation.

ORDER:

I. The information contained in the Objection (dated 12 August 2024 and uploaded 13 August 2024) including Exhibits HRM 18b and HRM 18d and listed in more detail in the following table (and which are highlighted in grey in the briefs and in case of exhibits are named correspondingly) are classified as confidential within the meaning of Art. 58 UPCA, R. 262.2 RoP:

Para./Exhibit	Description
Para. 307 - 309, 312 - 314, 363 - 364	manufacturing and production data, expectations of damages, data regarding Defendants' customers, data and information regarding Defendants' personnel and material costs and possible compensation payments and consequences and costs of production stop.
Exhibit HRM 18b	Affidavit re sales figures manufacturing and production data and consequences and costs of a production stop.
Exhibit HRM 18d	Affidavit regarding expected customer and supplier compensation, manufacturing and production data, personnel and material costs.

II. Access to the unredacted version of the Objection (dated 12 August 2024 and uploaded 13 August 2024) including exhibits HRM 18b and HRM 18d shall be restricted, on part of the Applicant, to the following representatives of the Applicant

1. the following representatives of the Applicant:

- Attorney-at-law **Felix Rödiger**
- Attorney-at-law **Jonas Smeets**
- Attorney-at-law **Fabian Saupe**
- Patent Attorney **Nicolas Cardon**
- Patent Attorney **Amandine Ricard**
- Patent Attorney **Florian Saadi**

and their teams, actively involved in these proceedings, including other attorneys-at-law, patent attorneys and support staff;

2. the following natural reliable persons of the Applicant:

   […]

3. the following attorneys-at-law:

   - Attorney-at-law **Kristina Maria Weiler,** Freshfields Bruckhaus Deringer, Hamburg
   - Attorney-at-law **Dr. Michael Rohls,** Freshfields Bruckhaus Deringer, Munich.

III. Information classified as confidential in paragraph I. shall be treated as such by the Applicants' representatives and their teams and by the Applicant's natural reliable persons until further notice and shall not be used or disclosed outside of these court proceedings, except to the extent that it has come to the knowledge of the receiving party outside of these proceedings, provided that the receiving party has obtained it on a non-confidential basis from a source other than the Defendants or their affiliates, provided that such source is not bound by a confidentiality agreement with or other obligation of secrecy with the Defendants or their affiliates.

IV. In the event of a culpable breach of this Order, the Court may impose a penalty payment for each breach, to be determined having regard to the circumstances of each case.

V. If the Applicant's representatives named in paragraph II. 1. above make use of the possibility of giving access to confidential information to other members of their team, it is their responsibility to ensure that their team maintains the confidentiality of the information. In the event of a culpable breach of the confidentiality obligations, Felix Rödiger, Jonas Smeets, Fabian Saupe, Nicolas Cardon, Amedine Ricard and Florian Saadi would therefore be liable. This also applies to any breach of the duty of confidentiality by any member of their team to whom they have granted access.

VI. The Applicant's request to lift the preliminary procedural order for confidentiality is dismissed.

DETAILS OF THE ORDER:

App_46219/2024 under main file reference ACT_37931/2024

UPC number: UPC_CFI_347/2024

Type of procedure: Application for provisional measures

Issued in Düsseldorf on 21 August 2024
NAMES AND SIGNATURES
Presiding Judge Thomas

Ronny Thomas

Digital unterschrieben von Ronny Thomas
Datum: 2024.08.21 20:01:55 +02'00'