



Local division Munich

**UPC\_CFI\_62/2023**

**ACT\_463961/2023**

**CC\_584134/2023**

**APP\_598024/2023**

**Order of the Court of First Instance of the Unified Patent Court in the  
infringement proceedings  
relating to European patent 2 628 233 of  
03/01/2024**

Statement of claim filed on: 14/06/2023

Plaintiff

- 1) **Koninklijke Philips N.V.**  
High Tech Campus 52 - 5656 AE - Eindhoven - NL

Represent  
ed by  
Tilman Mueller

defendant

- 1) **Stephen George Edrich**  
Otto-Hahn-Str. 20 - 85609 - Aschheim - DE

Represented by  
Markus Gamp

- 2) **Belkin GmbH**  
(Party to the main proceedings - Not provided) - Otto-Hahn-Str. 20 -  
85609 - Aschheim - DE
- 3) **Belkin International, Inc**  
555 Aviation Boulevard, Suite 180 - 90245 - El Segundo - US
- 4) **Belkin Limited**  
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6GR - Wellingborough, Northamptonshire - UK
- 5) **Marc Gary Cooper**  
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- Represented by  
Markus Gampp
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## Patent in suit

<i>Patent no.</i>	<i>Owner</i>
<b>EP2628233</b>	Koninklijke Philips N.V.

## Deciding judges

### COMPOSITION OF THE PANEL

Presiding judge	<b>Matthias Zigann</b>
Judge-rapporteur	<b>Tobias Pichlmaier</b>
Legally qualified judge Edger	<b>EdgerBrinkman</b>
Technically qualified judge	<b>Anders Hansson</b>

This order was issued by presiding judge Matthias Zigann, deputising for the judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: German

### SUBJECT OF THE PROCEEDINGS:

Patent infringement;

Here: Application by the applicant for an extension of the time limit for reply by one week

### FACTS OF THE CASE

The plaintiff is suing the defendants for infringement of European patent 2 628 233 in the Federal Republic of Germany (DE), Belgium (BE), France (FR), Finland (FI), Italy (IT), Luxembourg (LU), the Netherlands (NL), Austria (AT) and Sweden (SE). The defendants are defending themselves, inter alia, with an action for annulment (CC\_584134/2023).

Insofar as the action also concerned claims for infringement of European patent 2 867 997, the proceedings were severed (ACT\_583273/2023 UPC\_CFI\_390/2023).

The Federal Patent Court declared the German part of the patent in suit invalid in the first instance in its judgement of 9 August 2023. The written grounds for the judgement were served on the parties on 22 December 2023.

The judge-rapporteur has already provisionally agreed with the parties on 14 May 2023 as the main date.

### APPLICATIONS BY THE PARTIES

The plaintiff is requesting an extension of the deadline to reply, which expires on 8 January 2024, by one week.

Due to the written grounds for the judgement not being delivered until 22 December 2023 and the Christmas holidays, it needs one week more time. In return, it is offering to shorten the nullity duplication period by one week.

The defendants oppose the plaintiff's request for an extension of the deadline of 29 December 2023 and instead refer to their request for a stay filed as part of the statement of defence and counterclaim.

They argue that the Federal Patent Court had already expressed doubts about the legal validity of the German part of the patent in suit in the qualified reference of March 2023. Following the oral hearing on 9 August 2023, it destroyed this part by way of a judgement. The plaintiff therefore had sufficient time to deal with these events in the Reply. Furthermore, on 29 December 2023, the plaintiff applied for a stay of proceedings in the parallel pending appeal proceedings before the Düsseldorf Higher Regional Court with regard to the judgment of the Federal Patent Court. Consequently, no extension of the deadline was required in the present case, but rather a stay as well.

### REASONS

The extension of the time limit is to be granted because the written reasons for the judgment of the Federal Patent Court of 9 August 2023 were only served on 22 December 2023 and a precise analysis of the reasons for the judgment was made more difficult due to the Christmas holidays. Furthermore, the shortening of the nullity duplication period by one week offered by the plaintiff will not result in any overall delay in the proceedings. The judge-rapporteur has already provisionally agreed with the parties on 14 May 2023 as the main date.

### ORDER

1. At the application of the plaintiff, the deadline for reply, which expires on 8 January 2024, is extended by one week until 15 January 2024.
2. Insofar as the plaintiff utilises the extension of the time limit, the nullity duplication period is shortened to this extent.

### INSTRUCTIONS TO THE PARTIES AND THE LAW FIRM

The plaintiff must submit the Reply by 15 January 2024 at the latest. Insofar as it does not also submit an application for a stay, it should explain in view of its application for a stay submitted to the Düsseldorf Higher Regional Court to what extent and why a different approach is required.

Any nullity duplication period of the plaintiff is shortened by the period of the extension utilised.

Following the submission of the Reply, the Chamber will discuss the next steps with the parties.

INFORMATION ABOUT THE APPOINTMENT

This order may be appealed against either

- an appeal against the final decision of the Court of First Instance on the substance of the case may be lodged by any party who has been unsuccessful in whole or in part in its applications, or
- after the Court of First Instance has granted leave to appeal, an appeal may be lodged within 15 days of service of the decision by any party whose applications were unsuccessful in whole or in part (Art. 73 (2) (b) UPCA, R. 220.2, 224.1 (b) RP)

Dr Zigann Presiding  
judge

Matthias ZIGANN

Digitally signed by Matthias  
ZIGANN  
Date: 2024.01.03 10:35:09 +01'00'