



Paris Local Division

UPC_CFI_440/2023

Procedural order on an application for forced intervention by the Court of First Instance of the Unified Patent Jurisdiction issued on **12/02/2024**

APPLICANT for forced intervention

- 1) **Laser Components SAS** Represented by Helge von Hirschhausen
45B Route des Gardes - 92190 - Meudon - FR

DEFENDANT to the application for forced intervention

- 1) **Seoul Viosys Co, Ltd** Represented by Pauline Debré
65-16, Sandan-ro 163beon-gil, Danwon-gu -
15429 - Ansan-si, Gyeonggi-do - KR

PATENT IN DISPUTE

<i>Patent no.</i>	<i>Owner</i>
EP3404726	Seoul Viosys Co, Ltd

Decision-making judge

Judge-Rapporteur: **Camille Lignieres**

LANGUAGE OF PROCEDURE: French

ORDER

Having regard to the statement of claim filed on 5 December 2023 by SEOUL VIOSYS Co. Ltd, against SAS LASER COMPONENTS, a French company,

Having regard to the memorandum of SAS LASER COMPONENTS of 17 January 2024, requesting that the Korean company PHOTON WAVE Co. Ltd,

Having regard to the observations of SEOUL VIOSYS Co. Ltd made on 29 January 2024.

SAS LASER COMPONENTS is seeking compulsory injunctive relief from PHOTON WAVE Co. Ltd, which it designates as the supplier of the allegedly infringing UV LED chips, claiming that if it were found guilty of infringement, it would have the right to be guaranteed by its supplier and would be able to bring an action in warranty against the company for damages and costs.

SEOUL VIOSYS Co. Ltd responds that granting the application would be likely to prejudice its legitimate interests, in that it would have the effect of prolonging the proceedings, preventing it from obtaining a judgment within the one-year time limit and allowing the defendant company to continue to sell the allegedly infringing products. Nor is it necessary, as the Unified Patent Court does not rule on the liability of third parties and the statutory guarantee does not require the seller to be a party to the main proceedings, but only to be notified of them within a reasonable time.

Reasons for the decision

Having regard to Rule (R.) 316A of the Rules of Procedure of the Unified Patent Jurisdiction (RoP) governing compulsory intervention before the Unified Patent Jurisdiction,

SAS LASER COMPONENTS, the defendant in the initial lawsuit, has a warranty claim against its supplier, pursuant to Article 43 of the United Nations Convention on Contracts for the International Sale of Goods (CISG). It has a direct interest in challenging PHOTON WAVE Co. Ltd in the context of the decision to be handed down in the infringement action brought against it by SEOUL VIOSYS Co. Ltd, PHOTON WAVE Co. Ltd is liable to indemnify PHOTON WAVE Co. Ltd in respect of any judgment that may be entered against it.

It is therefore justified, in accordance with R.316A.1 RoP, that PHOTON WAVE Co. Ltd, the supplier of the allegedly infringing product, even if it refuses to intervene in the case, to be bound by the decision handed down in the infringement action brought against LASER COMPONENTS.

SEOUL VIOSYS Co. Ltd's argument that compulsory intervention would inevitably extend the duration of the proceedings is not decisive in that the time limits set for the intervener to file a statement of case are strictly governed by the provisions of R.316A.2 RdP. Nor can SEOUL VIOSYS Co. Ltd cannot rely on the risk of continuation of the alleged acts of infringement, even though it has not made any application for interim measures. Finally, even if the Unified Patent Jurisdiction

does not have to hear the dispute between the defendant and its supplier, it seems useful and necessary for the latter to be involved in the case, so that it is bound by the decision to be made.

PHOTON WAVE Co. Ltd.

For these reasons,

Declare admissible the application for forced intervention by PHOTON WAVE Co. Ltd,


Invite the applicant for compulsory intervention to provide the Registry with a valid contact e-mail address for notification to PHOTON WAVE Co. Ltd no later than 4 p.m. on Friday, 16 February 2024;

Let us say that the court clerk's office should notify PHOTON WAVE Co. Ltd as soon as possible, Let us say that in the absence of a brief from the forced intervener within the period of one month provided for in R. 316.2 RoP, to oppose the forced intervention, or in the absence of its intervention, PHOTON WAVE Co. Ltd will be bound by the decision reached between the original parties in accordance with R. 316A.2 RoP ;

This decision is not subject to appeal in accordance with R. 317 RdP.

Rendered in Paris on 12 February 2024.

CAMILLE CLEO
GARROS

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Date : 2024.02.12 19:35:32 +01'00'

Camille Lignières, Judge-Rapporteur

ORDER DETAILS

Order no. 3311 in ACTION NUMBER: ACT_588685/2023

UPC number: UPC_CFI_440/2023

Action type: Infringement Action

Related proceeding no. Application No.: 1826/2024

Application Type: Forced intervention R. 316A RoP