



**procedural order**  
**of the Court of First Instance of the Unified Patent Court**  
**in the main proceedings concerning European patent 1 838 002 issued on**  
**16/06/2024**

DISPUTE PARTIES

- 1) **Avago Technologies International Sales Pte. Limited**      Represented by Bernd Allekotte  
(plaintiff and defendant) - 1 Yishun Avenue  
7 - 768923 - Singapore - SG
  
- 2) **Tesla Germany GmbH**      Represented by Dr Marcus Grosch  
(defendant and counterclaimant) -  
Ludwig- Prandtl-Straße 27-29 - 12526  
Berlin - DE
  
- 3) **Tesla Manufacturing Brandenburg SE**      Represented by Dr Marcus Grosch  
(defendant and counterclaimant) - Tesla  
Str. 1 - 15537 Grünheide (Mark) - DE

ORDERING JUDGE

Presiding judge Matthias Zigann as judge-rapporteur.

APPLICATIONS BY THE PARTIES

The defendants submitted a further written statement on 24 May 2024, outside the time limit (App\_30368/2024) and in this respect seek confidentiality protection under Rule 262A EPG RoP (30430/2024):

*1. It is ordered that the internal group information contained in the defendant's statement of 24 May 2024 (all shaded in grey) is confidential information that must be treated as strictly confidential and may not be used or disclosed outside the present legal dispute, even after its conclusion. The plaintiff may only make the designated information accessible to such representatives and internally only to such employees who have a legitimate interest in it. Internal access is to be limited to a maximum of three reliable persons who are to be named to the court and the defendants.*

*2. In the event that the plaintiff violates an Order to this effect, the local division may, at the defendant's application, impose a recurring penalty payment of up to*

*EUR 250,000.00 for each individual case of infringement and enforce it immediately.*

The plaintiff left the issuance of the Order to the discretion of the court.

However, the plaintiff points out that it is largely incomprehensible where the information came from (or on what basis it was calculated) and whether this information is not publicly accessible or based on publicly accessible figures. The secret nature appears at least doubtful in view of the fact that the sales prices of Tesla models and information on the number of vehicles produced and sold by the defendants are readily available to the public.

The plaintiff has named the following persons:

- [REDACTED]
- [REDACTED]
- [REDACTED]

#### REASONS FOR THE ORDER

Even if the document dated 24 May 2024 was filed outside the time limit and the submission contained therein can probably be rejected in accordance with Rule 9.2 RoP, the application for protection of secrecy must be processed. This is because it cannot be ruled out that the panel or the court of appeal will nevertheless admit the submission.

The defendants seek confidentiality protection for the following information:

- Amount of the requested enforcement security
- Number of vehicles that will be in the defendant's possession on 25 June 2024
- Number of vehicles intended for sale
- Period of the planned sale
- Number of vehicles intended for internal use
- average selling price on which the defendants base their application
- Amount of lost profit in relation to these vehicles
- Number of hours and costs for converting the vehicles
- Amount of damages in the event of delayed payment of the purchase price due to delayed delivery

In this respect, it is credible that this information is not publicly accessible. The plaintiff may concede that the total number of vehicles produced and their sales prices are not secret but publicly known. However, the number of vehicles and their average sales price, which the defendants have based their application on, are not publicly known.

#### ORDER

1. It is ordered that the information contained in the defendant's statement of 24 May 2024 (all shaded in grey) is confidential information that must be treated as strictly confidential and may not be used or disclosed outside the present litigation, even after its conclusion. The plaintiff may only make the designated information accessible to the following employees

make: [REDACTED]

2. In the event that the plaintiff violates an Order to this effect, the local division may, at the defendant's application, impose a recurring penalty payment of up to EUR 250,000.00 for each individual case of infringement and enforce it immediately.

**Matthias  
ZIGANN**

Digitally signed by  
Matthias ZIGANN  
Date: 2024.06.16  
13:11:46 +02'00'

Dr Zigann  
Presiding judge and judge-rapporteur

ORDER DETAILS:

Application number: APP\_30430/2024 to APP\_30368/2024

Procedure number: ACT\_462984/2023

UPC number:

UPC\_CFI\_52/2023

Type of operation: Rule 262A