



**Procedural order**  
**of the Court of First Instance of the Unified Patent Court local division**  
**Düsseldorf**  
**issued on 20 June 2024**  
**concerning EP 2 011 218 B1**

Plaintiff:

**Tridonic GmbH & Co KG**, Färbergasse 15, 6851 Dornbirn, Austria, represented by its managing directors Hugo Rohner, Alexander Stieger and Alexander Jankovsky, *ibid*,

represented by: Attorney Dr Bölling, patent attorney Dr Kraeh, law firm Mitscherlich PartmbB, Karlstraße 7, 80333 Munich,

electronic Zustelladresse: markus.boelling@mitscherlich.de

defendant:

- 1. CUPOWER Shenzhen Xiezhen Electronics Co, Ltd**, Floor 2, Building E, Taohuayuan Smart & Innovation Park, Bao'an District, Shenzhen, 518000 People's Republic of China,
- 2. CUPOWER Europe GmbH**, Ahornweg 5a, 58675 Hemer, Germany, represented by its Managing Director Dirk Politowski, *ibid*,

STREITPATENT:

European Patent No. 2 011 218 B1

ADJUDICATING BODY/CHAMBER:

Judges of the Düsseldorf local division:

This Order was issued by presiding judge Thomas, legally qualified judge Agergaard and legally qualified judge Dr Schilling, deputising for legally qualified judge Dr Thom.

LANGUAGE OF THE PROCEEDINGS: German

SUBJECT: Art. 33(3)(a) UPCA in conjunction with R. 37.2 RP. R. 37.2 of the Implementing Regulation

REASONS FOR THE ORDER:

Since the parties did not raise any objections to such a procedure, the question of how to proceed with regard to Art. 33 para. 3 UPCA could already be decided before the conclusion of the written procedure and answered in the sense of a procedure according to Art. 33 para. 3 lit. a) UPCA.

Even if, according to R. 37.1 RP, the panel is to decide by Order on the procedure under Article 33(3) UPCA as soon as possible after the conclusion of the written procedure, it may, according to R. 37.2 RP, take an earlier decision if it takes into account the parties' submissions and grants them the right to be heard. In the present case, such an early decision is justified and necessary due to the current situation of the court, which is in its infancy. As parts of the panel are currently only employed on a part-time or case-by-case basis, it appears appropriate for reasons of procedural economy to obtain the allocation of the technical judge at an early stage in order to be able to take this into account as early as possible in the scheduling. Otherwise, there would be a considerable risk of delays if the technical judge is only called in during the interim proceedings and is already temporarily prevented from attending elsewhere.

The local division exercises its discretion to hear both the infringement action and the counterclaim for a declaration of invalidity (Art. 33(3)(a) UPCA). Such a joint hearing of infringement and nullity counterclaims appears to make sense for reasons of efficiency alone. It is also advantageous in terms of content, as it allows a decision to be made on both the legal status and the question of infringement on the basis of a uniform interpretation by the same panel of judges in the same composition. Such a uniform approach is all the more justified if the complexity of the technology at issue - as here - is rather moderate in the known spectrum of patent disputes and the number of attacks on the legal validity is also manageable.

ORDER:

For these reasons, the Düsseldorf local division orders, after hearing the parties, that it will hear both the infringement action and the counterclaim for a declaration of nullity.

Instructions to the judge-rapporteur:

The rapporteur shall request the President of the Court of First Instance to allocate a technically qualified judge to the panel.

ORDER DETAILS:

ORD\_36553/2024 for main file reference ACT\_590302/2023, CC\_16360/2023

UPC number: UPC\_CFI\_459/2023

Type of proceedings: Action for infringement; action for annulment

Issued in Düsseldorf on 20 June 2024

NAMES AND SIGNATURES

Presiding judge Thomas

**Ronny  
Thomas** Digitally signed by  
Ronny Thomas  
Date: 2024.06.20  
15:58:31 +02'00'

Legally qualified judge Agergaard

**Peter Juul  
Agergaard** Digitalt signeret  
af Peter Juul  
Agergaard  
Date: 2024.06.20  
16:36:33 +02'00'

Legally qualified judge Schilling

**Stefan  
Schilling** Digitally signed by  
Stefan Schilling  
Date: 2024.06.20  
16:56:50 +02'00'