



Copenhagen - Local Department
UPC_CFI_492/2024
ACT_47484/2024

Order

Delivered by the local division of the Unified Patent Court
in Copenhagen on 26 August 2024 regarding EP 4
238 202 B1

The order was made by a single judge, President Peter Juul Agergaard, in accordance with Rule 194(3) of the Rules of Procedure.

The ruling concerns European patent no. 4 238 202 B1 and concerns, among other things, whether the conditions for preservation of evidence under Article 60 of the UPC Agreement are met, including whether an order can be made without the opposing parties being heard.

Requester:

Hybridgenerator ApS, Nørrevang 15, Nørre Lyndelse, 5792 Årslev, Denmark.
(Attorney Mikkel Kleis and patent agent Lasse Rosenlund Lauridsen, Ceresbyen 75, 8000 Aarhus C, Denmark)

Props:

HGSystem ApS, Røjlevej 24, Nørre Søby, 5792 Årslev, Denmark

HGSystem Holding ApS, Røjlevej 24, Nørre Søby, 5792 Årslev,
Denmark

Infotech Concept ApS, Rajlevej 24, Norre Saby, 5792 Årslev, Denmark

Infotech Holding ApS, Rgjlvej 24, N6rre S6by, 5792 érslev, Denmark

Rune Eilertsen, Røjlevej 24, Nørre Søby, 5792 Årslev, Denmark

Language of proceedings

Danish

Claim

Hybridgenerator ApS (the applicant) claims the following:

1. It is requested that, pursuant to Article 60(1) and (2) of the UPC Agreement, a review of the address Røjlevej 24, Nørre Søby, 5792 Årslev, Denmark, with a view to securing evidence showing the existence and extent of infringements of the rights to European patent no. 4238202, including:

Inspection of the hybrid generators model MPU 1000, MPU 2000 and MPU 3000 and preparation of a detailed description of these products.

- . Inventory of any stock of hybrid generators model MPU 1000, MPU 2000 and MPU 3000.

Copying IT systems, electronic storage devices and physical material containing financial information and invoice material,

Copies of email correspondence and other documents, including those relating to product development, manufacturing, import, possible export, sales and marketing.

2. It is requested that the order for the above measures be issued without hearing the petitioner.
3. It is requested that measures to secure evidence should not be made conditional on the provision of security by the applicant.
4. It is requested that the petitioner's reasonable and proportionate legal costs and other expenses incurred by the petitioner be reimbursed.

The request was submitted on 16 August 2024.

On 19 August 2024, Judge Dr. Thorn ruled that the case was not of such urgency as to require an immediate decision pursuant to Article 194(4) of the Rules of Procedure. The case was then transferred to the President of the Copenhagen local division for further action.

The applicant has stated that, pursuant to Article 192(2) of the Rules of Procedure, it has not yet brought an action on the merits of the case. The petitioner will initiate proceedings on the merits of the case against the respondent at the local division of the Patent Court in Copenhagen when the material which is the subject of this request for disclosure of evidence has been handed over to the petitioner.

Presentation of the case

The case presentation below is based on the petitioner's request for preservation of evidence and the documents provided.

The petitioner is a Danish limited liability company founded on 16 March 2017.

The petitioner is engaged in the production of generators for the production of electricity.

The petitioner is wholly owned by HG Energy Group ApS ("HG Energy Group"), which also owns the subsidiary HG Rental ApS ("HG Rental"). The group of persons in HG Energy Group, HG Rental and the petitioner are the same.

The petitioner owns more than 270 generators that are rented out to customers all over the world via HG Rental. Customers use the generators in connection with the construction of real estate, installation or servicing of wind turbines and wind farms, etc. The generators are used extensively to produce power for cranes used to build and service wind turbines. The market price for a generator is between DKK 800,000 - DKK 1,000,000 ex. VAT.

The petitioner was founded by Infotech Concept ApS (petitioner 3), and Rune Eilertsen (petitioner 5) was appointed as director.

Rune Eilertsen was hired as CEO of the petitioner's sister company HG Rental on 1 September 2019.

On 2 June 2023, Rune Eilertsen was dismissed as CEO of the client and HG Rental. Rune Eilertsen was formally dismissed on 30 May 2023, whereby Ole Wamsler took over as interim CEO of both the client and HG Rental. Ole Wamsler was replaced on 1 January 2024 by current CEO Troels Jessen.

The petitioner is the holder of several patent and utility model rights in the EU and elsewhere.

The relevant patent (European Patent No 4 238 202 B1) covers a mobile hybrid generator system for the supply of electrical power.

The filing date of the patent is 28 October 2021 and has priority from 28 February 2020, EP 20204351. Rune Eilertsen is listed as inventor.

The patent was issued on 14 August 2024.

The invention in the patent relates to a mobile hybrid generator system for providing grid-like alternating current output that can be controlled so that a much reduced consumption of fossil fuel can be realised - resulting in better quality of the delivered electricity, reduced energy consumption and significantly less CO₂ emissions.

In general, a hybrid generator system comprises a rechargeable electrical energy storage device, such as a battery, typically configured to provide a DC power output, a primary energy source, such as a (combustion) engine, for charging the rechargeable energy storage device, and an inverter unit configured to convert the DC output of the rechargeable energy storage device into AC output for the load of the electrical appliances to be connected. These components can be located in a housing.

The efficiency of the petitioner's patented system is achieved, among other things, by configuring the primary energy source to the load requirements of normal operation, thereby ensuring that the energy source - typically a diesel engine - operates at the speeds at which it is most efficient.

Claim 1 of the Patent has decreasing content:

"A mobile hybrid generator system for providing gridlike AC power output to a load at off-grid locations, the hybrid generator system comprising a housing accommodating:

- a rechargeable electrical energy storage unit, such as a battery, configured to provide a DC power output,
- at least a first primary energy source, such as a combustion engine, for charging the rechargeable energy storage unit, and
- an inverter unit configured for converting the DC power output from the rechargeable energy storage unit to the grid-like AC power output, wherein the mobile hybrid generator is configured such that
 - 1) the grid-like AC power output is provided only from the rechargeable energy storage unit via the inverter unit, and
 - 2) the output from the primary energy source is only used to charge the rechargeable energy storage unit, both during normal mode operation, having normal mode power requirements, and during peak power operation, having peak power requirements, the mobile hybrid generator system characterised in that that at least first primary energy source is dimensioned to the normal mode power requirements,
i.e. much smaller than for the peak power requirements. "

Rune Eilertsen is the founder and former CEO of the petitioner. He is also the founder and CEO of the other requisitioners.

Rune Eilertsen lives at the address Røjlevej 24, Nørre Søby, 5792 Årslev.

It is stated in the request that Rune Eilertsen's cover image on his LinkedIn profile is an advertisement for HGSystem with a picture of one of the combat products, and that Rune Eilertsen's cover image on Facebook is an advertisement for HGSystem with pictures of the combat products.

HGSystem Holding ApS is a Danish private limited company that was founded on 1

August 2023. HGSystem Holding ApS is founded and 100% owned by InfoTech

Holding ApS, (prop 4). The CEO of HGSystem Holding ApS is Rune Eilertsen.

HGSystem ApS ("HGSystem") is a Danish limited liability company incorporated on 5 August 2023.

HGSystem is founded and 100% owned by HGSystem Holding ApS. The CEO of HGSystem is Rune

Eilertsen.

HGSystem states on their LinkedIn page that they are in the business of "Production of renewable energy", for "Hybrid, mobile power, generator, defence, windpower, aid, onshore, offshore".

On HGSystem's website, <https://hgsystem.dk/>, the company states that they offer "Green Mobile Power Solutions".

According to Punktum.dk (formerly DK Hostmaster), which is the administrator for domain names ending in ".dk", the domain www.hg_v_tem.dk was created on 2 August 2023, and the registrant behind the domain is Infotech Concept ApS (petitioner 3).

It appears from the CVR register and is stated on LinkedIn and Facebook that HGSystem is operated from the address Røjlevej 242 Nørre Søby, 5792 Årslev, which is the same address that Rune Eilertsen lives at privately.

HGSystem has a Norwegian subsidiary, HGSystem AS, company number 930 504 157.

InfoTech Holding ApS is a Danish limited liability company founded on 28 March 2014.

InfoTech Holding ApS is founded and 100% owned by Rune Eilertsen, who is also the CEO.

The latest annual report for the financial year 2023 states that the company has the subsidiaries InfoTech Concept ApS and HGSystem Holding ApS, and that the company should have a capital interest in HG Energy Group ApS. HG Energy Group ApS is the owner of the petitioner.

InfoTech Concept ApS ("InfoTech Concept") is a Danish limited liability company founded on 25 May 2009.

InfoTech Concept is founded and 100% owned by InfoTech Holding ApS. Director of InfoTech Concept is Rune Eilertsen.

The CVR register and the latest annual report state that the company's purpose is: "to operate consultancy, trading and hosting activities and any activities related thereto"

On the InfoTech Concept website, <https://infotechconcept.dk/>, the company states that they work with "Development workshop, green energy, hybrid generator, mobile power systems for various purposes".

It appears from the CVR register and is stated on LinkedIn that InfoTech Holding ApS and InfoTech Concept are both operated from the address Røjlevej 24, Nørre Søby, 5792 Årslev.

Rune Eilertsen made the request in 2017 and he is the inventor behind the patent.

On 9 May 2023, while Rune Eilertsen was still CEO of the client, Rune Eilertsen posted a

message on Facebook regarding the client's products for delivery to Vestas

Viking wind farm in the Shetland Islands. The post lists a number of product numbers for the requester, all beginning with HG followed by a number.

Rune Eilertsen was co-owner and CEO of the petitioner, HG Rental, and its parent company NG Energy Group until 2 June 2023, when Rune Eilertsen was dismissed from the companies with immediate effect due to material breach.

The material breach consisted of Rune Eilertsen filing bankruptcy petitions against the subsidiaries HG Rental and the petitioner without informing and involving the board and its other shareholder in HG Energy Group ApS, thereby acting significantly outside his authority and to the detriment of the companies HG Rental, the petitioner and their parent company HG Energy Group.

This led to a conflict between the petitioner, HG Rental and HG Energy Group on the one hand and Rune Eilertsen and InfoTech Holding ApS on the other. The dispute was that Rune Eilertsen and Infotech Holding ApS, via a VRM account with Victron, with access to Teltonica's RMS platform, a web hotel and other IT platforms, had established a system where they controlled and respectively opened and closed HG Rental's and/or the client's employees' email accounts, IT systems, VRM account with Victron and access to the IEI RMS platform etc. The IT platforms and all data therein belonged to HG Rental and the client without limitation.

On 28 June 2023, the petitioner and HG Rental filed a petition for immediate enforcement proceedings pursuant to Chapter 55 of the Danish Administration of Justice Act with the Bailiff Court in Svendborg, Denmark against Rune Eilertsen and InfoTech Concept.

The writ of execution was executed without prior notice on 29 June 2023, whereby Rune Eilertsen and InfoTech Concept were ordered to hand over specified main administrator passwords and hand over all data belonging to the petitioner and HG Rental, including data stored at InfoTech Concept and ensure immediate access to this data.

The parties subsequently entered into an agreement to sell Rune Eilertsen's shares in the petitioner, HG Rental and the parent company HG Energy Group to the current shareholders of the petitioner. As part of the sale, Rune Eilertsen purchased 4-5 hybrid generators from HG Rental and some components, including batteries.

As part of this agreement, Rune Eilertsen also took over ownership of the client's Norwegian company, formerly Hybridgenerator Norge AS, now HGSystem AS.

As part of the agreement, Rune Eilertsen also undertook a non-compete and non-solicitation clause, whereby Rune Eilertsen was not allowed to conduct competing business in the EU for 12 months (although Rune Eilertsen was allowed to conduct business in Norway for these 12 months). The non-compete clause expired on 8 August 2024.

On 27 June 2023, Rune Eilertsen posted a message on Facebook stating: "HG brothers

ready for battle".

On 26 August 2023, Rune Eilertsen posted a message on Facebook, which included: "The HG generators that are in HG Norge AS will now be HGSystem generators, and HG Norge will become HGSystem AS (Norway). A minor remodelling of the machines, and then it will be wrapped in a new company uniform before it goes back to Trondheim". With the post, Rune Eilertsen shared a picture of one of the requester's hybrid generators.

On 29 August 2023, Rune Eilertsen posted on Facebook with the title "HgSystem ApSfleet ready for rental in HGSystem Norway". With the post, Rune Eilertsen shared two pictures of a hybrid generator labelled with the HGSystem trademark.

On 8 September 2023, Rune Eilertsen made a post on Facebook with the title "Hybridgenerator Norge AS (HGsystem)".

In September 2023, Rune Eilertsen made a post on LinkedIn showcasing a mobile hybrid generator with HGSystems trademarks on it.

In September 2023, Rune Eilertsen made a post on LinkedIn stating, among other things: "HGSystem ApS prepares machines for use in Norway". Along with the post, several pictures of combat products with the HGSystem trademark were shared.

On 18 October 2023, Rune Eilertsen made a post on Facebook with a video showing Rune Eilertsen's "number one favourite office machine", a shredder. The comment track shows that a comment was made: "delete all traces".

In October 2023, Rune Eilertsen made a post on LinkedIn, which included the following:

"What can you expect from model programme improvements for 2024 models from HGSystem? (Compared to -23 and previous models hybrid generators.)

A leading product now offers even better. [...]

Efficiency: improve by 6 to 20% reduction in diesel consumption per kWh e/, depending on load.

[...]

All other advantages compared to other markets and previous models are retained as in the current model programme.

y..]

Launc

h it:

Norway: April -24

Denmark and others: August -24"

The post included an image of the combat product with the HGSystems trademark on

it. On 29 November 2023, the media Erhverv Fyn wrote an article about the combat product.

In November 2023, Rune Eilertsen made a post on LinkedIn where he showed a combat product produced and tested in Denmark before the combat product was sent to Norway. The combat product is pictured at the requisition address.

In November 2023, Rune Eilertsen made a post on LinkedIn where he showcased a contentious product with: "updated camera solution with smart light".

In December 2023, Rune Eilertsen posted a message on LinkedIn with information about the employees at HGSystem.

In January 2024, HGSystem and Rune Eilertsen made a post on LinkedIn presenting a new combat product called "2024 Hybrid Generator System". Along with the post, pictures of the combat products with the HGSystem trademark were shared.

In February 2024, Rune Eilertsen made a post on LinkedIn where he showcased a new CNC machine purchased for shared use of props. The post stated: "Used for product design in HGSystem and for signs in Infotech Concept". The same post was shared by Rune Eilertsen on 2 February on Facebook.

On 25 February 2024, Fyns Amts Avis wrote an article about the petitioner, where it was also mentioned that Rune Eilertsen was starting a new company that: "also produces hybrid generators".

In April 2024, Rune Eilertsen made a post on LinkedIn where he presented a new combat product, which included the following:

*"Development for the
Norwegian market. MPU
2000/300D series.
[...]
Coming to other markets from mid-August -24"*

The dispute product was pictured at the prop address.

On 29 April 2024, Rune Eilertsen made a post on Facebook where he presented a new combat product with: "144 kVa inverter power and 215 kW peak". The combat product is pictured at the requisitioners' address.

In May 2024, Rune Eilertsen made a post on LinkedIn where he presented the above-mentioned new product with "144 kva inverter power and 215 kW peak".

In May 2024, Rune Eilertsen made a post on LinkedIn with pictures of the combat product with "144 kva inverter power and 215 kW peak".

In June 2024, Rune Eilertsen made a post on LinkedIn highlighting the features of the combat products and comparing the specifications of the combat product with previous hybrid generators. The combat product is pictured on the requisitioners' address.

In June 2024, Rune Eilertsen made a post on LinkedIn about the combat products, focusing

on the colours of the products.

In June 2024, Rune Eilertsen made a post on LinkedIn where he showcased a combat product, the "MPU 1000" in Denmark, which would later be delivered to Norway.

In July 2024, Rune Eilertsen made a post on LinkedIn where he presented a new combat product called "MPU 1000 series Hybrid Generator System". In the post, Rune Eilertsen provided detailed technical specifications of the combat product. The post states that the combat product: "is now offered to the Norwegian market, but will be available to other markets in August".

In July 2024, Rune Eilertsen made a post on LinkedIn where he showcased 5 combat products pictured at the prop address.

In July 2024, Rune Eilertsen made a post on LinkedIn where he showcased several of the battle products. The combat product is pictured on the prop address.

On 2 July 2024, Rune Eilertsen made a post on Facebook where he showcased the combat product called MPU1000. The combat product is pictured at the prop address.

On 9 August 2024, Rune Eilertsen made a post on LinkedIn where he presented new combat products for the European market.

The petitioner has most recently been able to establish that on 15 August 2024 there were at least 4 copies of the combat products and 8 trailers at the address Røjlevej 24, Nørre Søby, 5792 Årslev, where the petitioner all have addresses.

The territory owner's requestor

Conditions for securing evidence

According to Article 25(a) of the UPC Agreement, a patent gives the patentee the right to prevent third parties who do not have the patentee's consent from making, offering, putting on the market or using a product covered by the patent, or importing or possessing the product for such purposes.

Article 60 of the UPC Agreement provides that the UPC may, even before the commencement of substantive proceedings, issue an order for immediate and effective provisional measures to be taken to secure the relevant evidence in connection with an alleged infringement, provided that the applicant provides reasonably available evidence to support its claim that the patent has been infringed or will be infringed.

The disputed products are the subject of European patent no. 4238202.

The petitioner claims that the infringing products infringe the petitioner's patent rights as there is a substantially substantiated presumption that the infringing products contain all technical features of independent claim I of the Patent.

In addition, it is the petitioners' assumption that the contested products at least also contain the features of sub-claim 5 (fuel tank and combustion engine), sub-claim 6 (LTO battery see reference 2), sub-claim 7 (solar cells - see reference 2), sub-claim 13 (hybrid system is mounted on a trailer). It cannot be denied that securing evidence will shed light on the fact that the infringing products also infringe other claims in the Patent.

For the sake of clarity, the petitioner will in the following only illustrate that the combat systems are the subject of independent claim 1 of the Patent. Reference is made to the matrix below with a juxtaposition of each feature of claim 1 of the Patent against the corresponding technical features of the combat products:

Feature in claim 1 of EP 4238202	MPU 1000/2000/3000 combat products	Drag t1lsted e?
A mobile hybrid generator system for providing gridlike AC power output to a load at off-grid locations,	<p>Reference 1* and 3" shows a hybrid generator system pulled by a car. Reference 2" mentions that the MPU 1000 is "Super Mobile, Lifting points for crane, fork channels, fork channels, or trailer tow with B driving code". Thus, the hybrid generator system is clearly mobile.</p> <p>Reference 2 mentions "24 kVA AC out" which is a grid-like AC output.</p> <p>A network-like AC output is technically necessary to power all standard electric devices, since electrical devices are designed for specific AC output.</p>	Yes, you can
the hybrid generator system comprising a housing accommodating:	Reference 2 refers to "the design follows the MPU 2000/3000 family". Reference 4" shows in the first row of the table that each MPU has a trailer and a housing as shown in the picture and "Unit size".	Yes, you can
a rechargeable electrical energy storage unit, such as a battery, configured to provide a DC power output,	Reference 2 mentions a 24 kWh LTO battery. LTO batteries are specifically mentioned several times in EP4238202, see [0026) [0031), [0049) and claim 6 (lithium titanate battery unit)].	Yes, you can

<p>at least a first primary energy source, such as a combustion engine, for charging the rechargeable energy storage unit, and</p>	<p>Reference 2 mentions 380 L diesel tank.</p> <p>In addition, the "compact Stage V" engine from Cat[erpillar] is mentioned. Cat is a well-known manufacturer of diesel engines. See the link below for an example of a Stage V diesel engine from CAT:</p> <p>https://www.cat.com/en_US/products/new/powersystems/industrial/industrial-diesel-power-units/118940.html (Transcript from this page is provided as Appendix 59).</p>	<p>Yes, you can</p>
<p>to inverter unit 144 kW configured for converting the DC power output from 144 kW rechargeable energy storage unit to The gridlike AC power and 45 output,</p>	<p>Reference 1 - mentions a 144 kVA inverter nominal output and 215 kW for peak performance.</p> <p>Reference 4 states that the MPU 3000 has a nominal kVA of 24 kVA and a peak performance of 216 kW. Thus, reference 1 shows a rechargeable MPU 3000.</p> <p>Reference 2 is MPU 1000 and the mentioned values 24 kVA AC output and 45 kW corresponds to the table in reference 4.</p>	<p>Yes, you can</p>
<p>wherein the mobile hybrid generator is configured such that</p>		
<p>1) the grid-like AC power output is provided only from the rechargeable energy storage unit via the inverter unit, and</p>	<p>According to reference 2, "24 kVA AC out" is delivered, i.e. MPU 1000 delivers 24 kVA AC power.</p> <p>It is highly likely that the grid-like AC power is only provided by the battery and inverter, because an alternative where the diesel engine also contributes to the grid-like AC power would require the diesel engine to operate at the correct rpm AND in phase with the inverter. This will be a complicated solution but it will also lower the efficiency of the diesel engine against the wishes of HGsystems.</p>	<p>The</p>

<p>2) the output from the primary energy source is only used to charge the rechargeable energy storage unit,</p>	<p>Reference 2 mentions that the Stage V engine from Cat[erpillar] is responsible for charging. It is clear from the references that the hybrid system is particularly efficient. It is only possible for a diesel engine to be efficient at certain engine speeds. If the diesel engine (primary energy source) is used to directly supply grid-like AC power, a 4-cylinder diesel engine should operate at 1500 rpm, but a typical diesel engine is not efficient there. See EP4238202 - [0022], line engine + generator is connected to the load, 50 Hz requires an engine speed of around 1500 RPM with a four pole generator. But a typical diesel engine does not operate efficiently at 1500 RPM." Any other configuration will result in a less efficient mobile hybrid generator.</p> <p>The principle of the patent was developed by Rune Eilertsen when he was employed at Hybridgenerator ApS, and Rune Eilertsen is the inventor of EP4238202. It is therefore highly likely that it has been transferred to Rune Eilertsen's new companies as the only way to improve fuel efficiency is by ensuring that the engine operates at the the most energy-saving rotation speeds.</p>	<p>Yes, you can</p>
<p>- both during normal mode operation, having normal mode power requirements, and during peak power operation, having peak power requirements,</p>	<p>It is clear from reference 4 row three that each MPU has a peak KW [Peak power] and a Nom, kVA [Nominal], which correspond to peak power operation and normal mode operation respectively.</p>	<p>Yes, you can</p>
<p>the mobile hybrid generator system characterised in that the at least hrst primary energy source is dimensioned to the normal mode power requirements, much smaller than for the peak power requirements.</p>	<p>The MPU 1000 has a charging power of 12.5 kW according to reference 4 and peak power is 45 kW. This makes the peak power 3.6 times greater than charging power of 12.5 kW.</p>	<p>Yes, you can</p>

Reference 1-4



Rune Eilertsen • 3rd+
Iværksætter med glimt i øjet (-)
1 mo • 🌐

fOflOW

When you see our hybrid generator system like this, you can for sure feel how very compact its size is
The model in picture is equipped with the following specs:

Weight on boggy axles: 2300kg
700l diesel tank
14d. kVA inverter nominal output
215 kW peak performance
50 kW charging power





Rune Eilertsen c-

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Iværksætter med glimt i øjet :-)
1w • Edited • 🌐

The family is growing.

A little brother is coming :-)

It is currently available for the Norwegian market, but will be available for other markets in August,

This will be the MPU 1000 series Hybrid Generator System.

Super mobile, Lifting points for crane, fork channels, or trailer towing with B driving licence.

This can be towed by (almost) all cars. So with a B driving licence.

24 kVA AC out, 45 kW peak.

380 litre diesel tank

1600 kg total trailer weight (including full tank of diesel)

Super compass.

Alternative versions are: 30kVA/54kW peak or a 1B kVA/27kW peak and 1500kg total weight.

Over 20 kWh LTO battery, S3 volt. You will never experience derating at low battery or temperature with this one. (Nor for any of our other models... :-))

Small stage V super compact moter package from CAT takes care of charging.

Possibility of 6 x 450 volt solar panel inputs. Yes, it can be equipped with 6 mppt pullers. (As well as supporting external solar inverters/plants.)

DeSi9net follows the MPU 2000/3000 family, with a compact, lightweight chassis and the same 45 degree corners.



Rune Eilertsen - 3r-

Follow

Iværksætter med glimt i øjet
10mo • Edited •

What can you expect from model programme improvements for 2024 models from HGSystem? (Compared to -23 and previous models hybrid generators).

An already leading product is now even better. Weight:

Weight reduction: minus 400kg,

Efficiency: improve by 6 to 20a reduction in diesel consumption per kWh of electricity, depending on load.

Idle consumption: Halved.

All other advantages over other markets and previous models are retained as in the current model programme.

Model programme for new models in the portfolio. More on this in the autumn.

To be launched:

Norway: April -24

Denmark and others: August -24

We look forward to what the new year brings. See translation



! @ https://t'qsystem.dk

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EU marked; from 10. August 2024
+45 35 43 00 00

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12,5 kW **40 kW** 50 kW **40 kW**

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On the above basis, it is claimed that it has been established or at least made probable that the contested products are the subject of the Patent and that the contested products have at least been manufactured and offered for sale in violation of the petitioner's patent rights.

It also appears from the appendices that one or more of the petitioners plan to infringe the petitioner's patent rights in the future.

HGSystem ApS and Rune Eilertsen market the hybrid generators model MPU 1000, MPU 2000 and MPU 3000 in Denmark on the Danish website <https://hgsvstem.dk> owned by Infotech Concept ApS, and they market the combat products via their profiles on LinkedIn.com.

As the evidence presented shows, the combat products were either manufactured in Denmark or imported into Denmark and transported to the requisitioner's place of business. There is no consent from the requisitioner to these actions.

It also appears from the article in Appendix 39 and Appendix 40 that HGSystems intends to sell the MPU Series 1000 hybrid generator in Denmark to companies, offshore, military and other public institutions.

As Rune Eilertsen is the inventor of the Patent and has been involved in filing the application for the Patent, the petitioner has been aware of the Patent and the claims for which the petitioner has applied for protection. There is therefore a presumption that the infringements were committed in bad faith.

As the address Røjlevej 24, Nørre Søby, 5792 Årslev, Denmark is the only address provided for all requisites, it is likely that documentation of the infringement and its extent can be found at the address.

A request is therefore made to carry out the preservation procedure at the premises and on the land at the address Røjlevej 24, Nørre Søby 5792 Årslev, Denmark.

The petitioner requests that the preservation of evidence shall include all material that can be assumed to be of importance in order to establish whether and to what extent infringements of the petitioner's patent rights have taken place, are taking place and can be assumed to take place in the future.

Specifically, it is requested that proof of the existence and extent of the infringement of the Petitioner's rights to the Patent in the form of the acts listed in the Petitioner's claim 1 is secured at the evidence preservation hearing. In this connection, reference is made to Rule 170(2)(b)(c) and (f) of the Rules of Procedure.

It is requested that UPC allows an independent expert to assist it in conducting the investigation and prepare a description of the investigation and its results, cf. Rule 170(2)(e) and (g) of the Rules of Procedure.

The client's representatives will bring a document with an overview of search terms that the client wants UPC and its experts to use when reviewing the secured material in connection with the preservation of evidence.

The applicant's representatives wish to be present during the evidence collection in order to be able to assist UPC with information and identification of products etc.

Subjects of the protection business

As shown in Appendix 53, Appendix 55, Appendix 56 and Appendix 58, HGSystem ApS' trade mark is printed on the dispute products. In addition, the products are marketed on the website <https://hgvtm.dk>, which appears as a company website for the company.

The LinkedIn and Facebook posts in Appendices 31-38, Appendices 41-45 and Appendices 47-59 originate from Rune Eilertsen's personal LinkedIn profile and personal Facebook profile. In addition, Rune Eilertsen is the inventor of the invention that is the subject of the Patent. It is therefore likely that Rune Eilertsen has utilised the knowledge he has from his employment in the petitioner's company to develop the combat products.

Infotech Concept ApS is the registrant of the domain <https://hgssystem.dk>. According to

the CVR register, the company's purpose is to run a trading company, and according to the company's

website <https://infotechconcept.dk>, the company works with development workshops, green energy, hybrid generator, mobile power systems for various purposes." The company also has the same address as both HGSystem ApS and Rune Eilertsen. In addition, based on the above, it must be assumed that Infotech Concept ApS is directly involved in the infringements.

HGSystem Holding ApS and Infotech Holding ApS are holding companies for HGSystem ApS and Infotech Concept ApS respectively. Rune Eilertsen is the ultimate sole owner of both holding companies, and the holding companies have the same address as Rune Eilertsen, HGSystem ApS and Infotech Concept ApS. The two holding companies are therefore included to counter the not unlikely event that Rune Eilertsen has placed relevant evidence in the holding companies.

Performing evidence preservation without prior notice

It is assumed that a large part of the relevant documents are in electronic form, which is why they are fragile and easy to destroy or change, and there is a risk that the documentation will be transferred to Rune Eilertsen's Norwegian company if it is not secured.

It is argued that there is a significant risk that evidence will be destroyed if the requisitioner receives notice, and that the preservation of evidence must therefore be carried out without prior notice.

Securing evidence without the need for collateral

It is argued that the applicant is not required to provide security in connection with the preservation of evidence, the infringements must be considered obvious and, in any case, the applicant will not suffer a loss worthy of protection by carrying out the operation.

The petitioner's claim for legal costs

Pursuant to Article 69 of the UPC Agreement, the successful party is entitled to recover its reasonable and proportionate legal costs and other expenses incurred by the applicant.

Host country

The present request is filed with the Danish local branch of the UPC in Copenhagen, Denmark in accordance with Article 33(1)(a) of the UPC Agreement with reference to the actual or threatened infringement taking place or likely to take place in Denmark and Article 33(1)(b) with reference to the defendants being domiciled in Denmark.

Pursuant to Article 32(1)(a) of the UPC Agreement, the UPC has jurisdiction to hear the case as the case concerns an actual or threatened infringement of a European patent, the exclusive jurisdiction of the UPC is not waived for the Patent, cf. Article 83(3) of the UPC Agreement.

It is submitted that the present application can be directed against all the requisites, since it is proven that they have a commercial connection and since the application concerns the same infringement.

Reasons given by the Court of Justice

The patent relevant to the case is a valid European patent (European Patent No. 4 238 202 B1) and the proprietor has not waived the exclusive jurisdiction of the court in accordance with Article 83(3) of the UPC Agreement.

This is an action for provisional, including protective, measures pursuant to Article 32(1)(c) of the UPC Agreement.

The local division of the Court in Copenhagen has jurisdiction to hear the case as the threat of infringement takes place in Denmark, just as the respondent is domiciled and has its principal place of business in Denmark, cf. Article 33(1)(a) and (b) of the UPC Agreement.

According to Article 60(1) of the UPC Agreement, the court may, at the request of the petitioner even before the commencement of the substantive proceedings, order that effective provisional measures be taken immediately to preserve relevant evidence relating to the alleged infringement, provided that confidential information is protected. This requires that the requester has provided reasonably available evidence to support that the patent has been infringed or will be infringed.

Such measures may include a detailed description of the products in question, with or without the taking of samples or their seizure, and, where appropriate, of the materials and implements used in the production and/or distribution of the products and the related documents referred to in Article 60(2).

Pursuant to Article 60(3), the court may, even before the commencement of proceedings on the merits of the case, on application by the applicant who has adduced evidence in support of his claim that the patent has been or will be infringed, order an inspection of the premises. A site inspection shall be carried out by a person appointed by the court in accordance with the Rules of Procedure. At the inspection of the premises, the applicant may not be present in person but may be represented by an independent professional whose name shall be mentioned in the court order referred to in Article 60(4).

Where necessary, the order for action shall be made without the other party being heard, in particular where delay may cause irreparable harm to the patent proprietor or where there is a demonstrable risk of destruction of evidence in accordance with Article 60(5).

According to Article 80 of the UPC Agreement, the Court's order may be enforced in any Contracting Member State. The enforcement procedure is governed by the law of the Contracting Member State where enforcement takes place. A judgement of the Court shall be enforced under the same conditions as a judgement given in the Contracting Member State in which enforcement takes place.

The Court finds that the petitioner has, on the present basis, presented reasonably available evidence to support that European patent no. 4 238 202 B1 is or will be infringed in Denmark at premises owned by the petitioner at Røjlevej 24, Nørre Søby, 5792 Årslev, Denmark.

In this assessment, the Court particularly emphasises that there is a well-founded presumption that the contested products from the requisition (MPU 1000/2000/3000) must be assumed to contain all technical features in independent claim 1 of the patent, just as it must be assumed that the contested products contain features in subclaims 5, 6, 7 and 13. The presented examples of posts on the social media Facebook and LinkedIn from Rune Eilertsen, which have been reproduced by the petitioner, also support the presumption that infringement is taking place or will take place. There is thus a well-founded presumption that offences have taken place or will take place at the address.

The Court further finds that the order may be made without the requisiti being heard, given the risk of destruction or transfer of the evidence in electronic form to other companies controlled by the requisiti if the requisiti receives prior notice of the preservation of the evidence.

The petitioner has requested that an independent IT expert be appointed to assist during The evidence protection business.

Pursuant to Rule 196(4) and (5) of the Rules of Procedure, the Court shall appoint an independent IT expert to assist the Bailiff Court in Svendborg in carrying out the preservation of evidence. The assistance shall be provided in accordance with section 653 b of the Danish Administration of Justice Act. This expert shall prepare a report on the investigation and send this report to the local division of the court in Copenhagen no later than 14 days after completion of the evidence collection.

The petitioner must provide security for the costs of this in the amount of EUR 7,000 no later than Friday 30.

August 2024.

The applicant must also, **no later than Friday 30 August 2024**, in accordance with Rule 196(4), second sentence, of the Rules of Procedure, provide security of EUR 7,000 for the damage and inconvenience that may be caused to the respondent by the taking of evidence.

Decision of the Court of Justice

Against the above background, the Local Division of the Court of Justice in Copenhagen grants the petitioner's request regarding European patent no. 4 23a 202 B1 for immediate preservation of evidence and inspection of property without prior notice of requisition pursuant to Article 60 of the UPC Agreement and Rule 196 of the Rules of Procedure.

The applicant is thus authorised to immediately secure evidence showing the existence and extent of infringements of the rights to European patent no. 4 238 202 B1

by accessing the address Røjlevej 24, Nørre Søby, 5792 Årslev through the Bailiff Court in Svendborg, Denmark, in order to:

Inspect the hybrid generators model MPU 1000, MPU 2000 and MPU 3000 and prepare a detailed description of these products.

Inventory any stock of hybrid generators model MPU 1000, MPU 2000 and MPU 3000.

Copying IT systems, electronic storage devices and physical material that contains financial information and invoice material,

Copy email correspondence and other documents, including those related to product development, manufacturing, import, possible export, sales and marketing.

When inspecting the address and carrying out the preservation of evidence, the applicant may not be present himself, but must be represented by attorney Mikkel Kleis and patent agent Lasse Rosenlund Lauridsen.

The representatives are obliged to keep secret any trade secrets and other confidential information that may come to their knowledge during the conduct of the business.

The court appoints John Nielsen from NielcoIT, Mølagervej 6, 8382 Hinnerup, Denmark, as an independent IT expert to assist the bailiff court in conducting the investigation and to prepare a report on the investigation and send this report to the court's local division in Copenhagen no later than 14 days after the evidence has been secured. The court will subsequently send a copy to the parties.

This report can only be used as evidence in the main proceedings.

The petitioner must allow the bailiff, the appointed IT expert and the representatives of the petitioner access to the address Røjlevej 24, Nørre Søby, 5792 Årslev, Denmark, in accordance with the content of this order, including handing over the relevant passwords to the IT systems so that evidence can be secured.

If Requisiti fails to comply with the terms of this Order, Requisiti may be subject to penalty fines payable to the Court.

The petitioner must provisionally pay the fees of the independent expert.

No later than Friday 30 August 2024, the petitioner must provide security of EUR 7,000 to UPC for the fees of the independent expert.

By Friday 30 August 2024 at the latest, the petitioner must provide security of EUR 7,000 for the damage and inconvenience that may be caused to the petitioner.

The collateral must be provided either by bank guarantee or by cash payment to UPC.

This order will be revoked or otherwise cease to have effect if the petitioner does not file an action on the merits within 31 calendar days of the execution of this order.

The decision on costs is postponed until the main proceedings.

This order can be enforced when the applicant has provided the required security.

The petitioner shall first receive notification of this order in connection with the enforcement proceedings at the address Røjlevej 24, Nørre Søby, 5792 Årslev, Denmark, together with a copy of the petitioner's request and the attached documents.

The respondent may, within 30 days of the execution of the order, file an application for review of the order in accordance with Rule 197(3) of the Rules of Procedure.

Furthermore, pursuant to Article 73 of the UPC Agreement and Rule 220 of the Rules of Procedure, the Respondent may appeal to the Court of Appeal within 15 calendar days of being served with the order.

Details of the order:

Main file reference: ACT 47484/2024

UPC number: UPC CFI 492/2024

Type of procedure: Application for preserving evidence pursuant to RoP 192

Issued in København on 26 August 2024

Peter
Juul
Agergaard
Digitally signed
by Peter Juul
Agergaard
Date:
2024.08.26

rd 13:35:50 +02'00'

Peter Juul Agergaard

