



UPC Court of Appeal
UPC_CoA_691/2024
App_61002/2024

ORDER
of the Court of Appeal of the Unified Patent Court
issued on 14 November 2024
concerning an application for suspensive effect (R.223.4 RoP)

APPLICANTS AND DEFENDANTS IN THE MAIN PROCEEDINGS BEFORE THE CFI

1. **Magna PT B.V. & Co. KG**, Untergruppenbach, Germany
2. **Magna PT s.r.o.**, Kechnec, Slovak Republic
3. **Magna International France, SARL**, Biévres, France

hereinafter also referred to as “Magna”

all represented by: Klaus Haft, Attorney-at-law, Hoyng ROKH Monegier, Munich, Germany

Sabine Agé, Caroline Levesque, Lonni Bas, Laurène Borey, Attorneys-at-laws, Hoyng ROKH Monegier, Paris, France

Sebastian Kratzer, Sven Krause, Max von Leitner, Elisa In den Birken, Chiara Prinz, Attorneys-at-laws, Hoyng, ROKH, Monegier, Düsseldorf, Germany

Dr. Wolfgang Kellenter, Dr. Matthias Rothkopf, David Rüther, Nina Mackenstedt, Attorneys-at-laws Hengeler Mueller, Düsseldorf

RESPONDENT AND APPLICANT IN THE MAIN PROCEEDINGS BEFORE THE CFI

Valeo Electrification, Cergy, France

hereinafter also referred to as “Valeo”

represented by: Tilmann Felix Roediger, Jonas Smeets, and Fabian Saupe, Attorneys-at-law, Bird & Bird LLP, Düsseldorf, Germany

PATENT AT ISSUE

EP 3 320 602

LANGUAGE OF THE PROCEEDINGS

English

DECIDING JUDGE

This order was issued by Rian Kalden, Standing judge

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

ORD_56545/2024 in the main proceedings concerning provisional measures in ACT_37931/2024 UPC_CFI_347/2024, issued by the Local Division Düsseldorf on 31 October 2024.

PARTY'S REQUEST

Magna applies for suspensive effect of the impugned order.

PARTY SUBMISSIONS

Magna, in short and insofar as relevant states as follows:

- In weighing interests, the CFI found that a preliminary injunction covering Magna's supply obligations existing on 8 October 2024 regarding several BMW models would result in significant harm. For that reason, in the impugned order several existing BMW models equipped with the accused embodiments were excepted from the injunction, such that the provisional measures would only prevent Magna from equipping further models with the accused embodiments.
- The impugned order thus intended to list all models currently equipped with the accused embodiments for which delivery obligations existed on 8 October 2024, but forgot to mention BMW 2 Series Gran Coupé. The incomplete exception of BMW models in the impugned order is in clear contradiction to the Courts reasoning and therefore constitutes an "obvious slip" that needs to be rectified according to R. 353 RoP.
- On 6 November 2024, Magna filed an application for correction in that respect (R.353 RoP). By order of 7 November 2024, Valeo was granted an opportunity to comment by 19 November 2024. Valeo already commented on 12 November 2024. It served bank guarantees for enforcement securities on Magna's representatives on 13 November 2024, i.e. prior to a decision of the CFI on the application for correction.
- Until and unless the obvious slip is rectified, the impugned order as it stands is manifestly wrong.
- Since Valeo has indicated its intention to execute this order, Magna has an urgent interest that the order be suspended.

REASONS

Under the circumstances stated by Magna, the Standing judge of the Court of Appeal considers that Magna's interest in maintaining the status quo until the decision on the request for correction is rendered exceptionally outweighs Valeo's interest in immediate enforcement and that it is appropriate that the impugned order is granted suspensive effect until the Court of First instance has decided on the request for correction, insofar as the exception to the injunction issued therein does not include the "BMW 2 Series Gran Coupé" model.

ORDER

The effect of the impugned order is suspended until the Court of First instance has decided on the request for correction, insofar as the exception to the injunction issued therein does not include the "BMW 2 Series Gran Coupé" model.

Issued on 14 November 2024,

Rian Kalden
Standing Judge