



## Hamburg - Local Chamber

### UPC\_CFI\_54/2023 Procedural order of the Court of First Instance of the Unified Patent Court issued on August 22, 2023

Date of receipt of the lawsuit: June 1, 2023

#### DISPUTING PARTIES

- 1) **Avago Technologies International Sales Pte. Limited**  
(Plaintiff) - 1 Yishun Avenue 7 - 768923 - Singapore - SG  
Represented by Florian Schmidt Bogatzky
  
- 2) **Tesla Germany GmbH**  
(Defendant) - Ludwig-Prandtl-Straße 27-29 - 12526 Berlin – DE  
Represented by Dr. Marcus Grosch
  
- 3) **Tesla Manufacturing Brandenburg SE**  
(Defendant) - Tesla Str. 1 - 15537 Grünheide (Mark) - EN  
Represented by Dr. Marcus Grosch

PATENT IN DISPUTE

Patent number	Owner
EP1612910	Avago Technologies International Sales Pte. Limited

APPLICANTS

- 1) Tesla Manufacturing Brandenburg SE Tesla  
Str. 1 - 15537 Grünheide (Mark) - DE  
Represented by Dr. Marcus Grosch
- 2) Tesla Germany GmbH  
Ludwig-Prandtl-Straße 27-29 - 12526 Berlin - DE  
Represented by Dr. Marcus Grosch

ORDERING JUDGE:

Rapporteur (judge rapporteur)

PROCEDURAL LANGUAGE:

German

SUBJECT OF THE PROCEDURE:

Patent infringement lawsuit

REQUESTS OF THE PARTIES:

The defendants request that the deadlines for filing a defense for defendant 1) and defendant 2) be extended uniformly up to and including October 30, 2023.

They argue that the extensions of the deadline are necessary for the necessary clarification of the facts and coordination, especially with their suppliers located outside Europe, whose components are at the core of the infringement allegation. Adequate clarification and coordination within the current deadlines is particularly difficult because the central contact persons at the defendants and also at the suppliers cannot be reached in the coming weeks due to their vacation absence.

The plaintiff objected to the request for an extension of the deadline. She believes that the defendants have not given any particular reasons for an extension of the deadline. Otherwise, she asks that the deadline be extended by a maximum of two weeks.

REASONS FOR THE ARRANGEMENT:

The request for an extension of the deadline could not be granted. The rules of procedure of the Unified Patent Court (VerfO) contain a balanced time limit regime with sufficient deadlines according to R. 23 and 29 VerfO for the written procedure of an infringement action according to R. 12 VerfO. According to R. 23 VerfO, the longest deadline for filing a defense is three months.

The defendants have not put forward any convincing reasons that would allow an extension of the deadline in accordance with R. 9.3 (a) VerfO in deviation from the proposed deadline regime.

To the extent that the defendants refer to the fact that coordination with suppliers based in non-European countries, whose components are at the core of the infringement allegation, is necessary, this circumstance as such does not constitute a convincing reason for an extension of the deadline to be granted as an exception. The deadline for filing a complaint according to R. 23 VerfO is designed in such a way that it enables clarification of the facts and internal coordination, even beyond vacation periods, for international patent disputes that fall within the jurisdiction of the Unified Patent Court. In the present legal dispute, the deadline for filing a complaint is actually three months and six days for defendant 1) and three months and for defendant 2) even without the requested extension of the deadline due to the calculation of the deadline in accordance with R. 271.6 (b) in conjunction with 271.4 (a) VerfO eight days. Reference is made to the deadline calculation communicated by the rapporteur in the order dated August 10, 2023. It is neither apparent nor claimed by the defendants that certain central contact persons at the defendants and the suppliers were unavailable due to vacation during the vast majority of the deadline period.

The responsibility for the order by the rapporteur follows from R. 331.1 in conjunction with 334 (a) VerfO.

ARRANGEMENT:

The defendant's application for an extension of the time limit for filing a complaint is rejected.

DETAILS OF ARRANGEMENT:

Order no. 560542 in ACTION NUMBER: ACT\_463258/2023

UPC number: UPC\_CFI\_54/2023

Action type: Infringement Action

Related proceeding no. Application No.: 560414/2023

Application Type: Generic procedural application

Issued in Hamburg on August 22, 2023

Legally qualified judge Dr. Shilling

- Rapporteur -