



## Order

of the Court of First Instance of the Unified Patent Court  
in the main proceedings concerning European patent 1 838 002 issued on:  
03/04/2024

### KLÄGERIN

- 1) **Avago Technologies International Sales Pte. limited** Represented by:  
Bernd Allekotte  
(Plaintiff) - 1 Yishun Avenue 7 - 768923 -  
Singapore - SG

### DEFENDANTS

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

## PATENT IN DISPUTE

*Patent no.*

*Owner*

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**EP1838002**

Avago Technologies International Sales Pte. Limited

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## DECIDING JUDGES

### COMPOSITION OF THE PANEL - COMPLETE COMPOSITION

Presiding judge and  
judge-rapporteur

Legally qualified judge

Legally qualified judge

Technically qualified judge

**Matthias Zigann**

**Tatyana Zhilova**

**Tobias Pichlmaier**

**Klaus Loibner**

This order was issued by the full panel. LANGUAGE OF THE PROCEEDINGS: German

### SUBJECT MATTER OF THE CASE:

Patent infringement;

here: Question of the separation of the actions for annulment

### BRIEF PRESENTATION OF THE FACTS

The plaintiff is suing the defendants for infringement of European patent 1 838 002. The defendants have each filed a counterclaim for revocation.

The plaintiff defends itself, inter alia, with a limited combination of characteristics as an auxiliary request (see Annex K 24).

On 06/03/2024, the full composition of the panel deliberated on the handling pursuant to Rule 37 of the Rules of Procedure.

By order dated 26/03/2024, the parties were invited to comment on the application of Article 33.3 UPCA.

Both parties have agreed that the action and the counterclaims should be heard together before the same panel. The defendants have also agreed that everything should be referred to the central chamber.

REASONS FOR THE ORDER

Pursuant to Rule 37.1 RP, the panel shall decide by order as soon as possible after the conclusion of the written procedure how to proceed with regard to the application of Article 33(3) of the Agreement on a Unified Patent Court (UPCA). The parties shall be granted the right to be heard. Pursuant to Rule 37.2 RP, a decision may also be taken at an earlier stage.

Both parties have agreed that the action and the counterclaims should be heard together before the same panel. The defendants have also agreed that everything should be referred to the central division. The plaintiff has not agreed to this, so that this option has been ruled out.

In principle, the claim and counterclaim should be heard together, especially as both parties are in favour. No weighty counterarguments have been presented or are otherwise apparent. The claim and the two counterclaims will therefore be heard together before the Munich local division.

ORDER

The action and the two counterclaims will be heard together before the Munich local division.

Dr Zigann Presiding judge and judge-rapporteur	Matthias ZIGANN  Digitally signed by Matthias ZIGANN Date: 2024.04.03 14:21:39 +02'00'
Pichlmaier Legally qualified judge	Tobias Günther Pichlmaier  Digitally signed by Tobias Günther Pichlmaier Date: 2024.04.03 14:25:41 +02'00'
Zhilova Legally qualified judge	Tatyana Zhilova  Digitally signed by Tatyana Zhilova Date: 2024.04.03 16:06:46 +03'00'
Loibner Technically qualified judge	Klaus Loibner  Digitally signed by Klaus Loibner Date: 2024.04.03 15:52:58 +02'00'

DETAILS OF THE ORDER

Order no.	ORD_16076/2024
Proceeding no:	ACT_462984/2023
UPC number:	UPC_CFI_52/2023
Counterclaim numbers:	CC_581179/2023;CC_581177/2023
Type of case:	37