



Reference no.:
UPC_COA_900/2025

Order
of the Court of Appeal of the Unified Patent Court
issued on 7 November 2025
concerning an application for suspensive effect

APPLICANTS (APPELLANTS AND DEFENDANTS IN THE PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

1. **Lepu Medical (Europe) Cooperatief U.A.**, Heerenveen, The Netherlands
2. **Lepu Medical Technology (Beijing) Co., Ltd.**, Beijing, China

hereinafter "**Lepu**"

represented by attorney-at-law Dr. Ralph Nack, Noerr Partnerschaftsgesellschaft mbB, and other representatives of that firm

RESPONDENT (RESPONDENT AND CLAIMANT IN THE PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

Occlutech GmbH, Jena, Germany

(hereinafter "**Occlutech**")

represented by Dr. Peter Koch, attorney-at-law, PENFORCE

PATENT AT ISSUE
EP 2 387 951

DECIDING JUDGE
Peter Blok, Legally qualified judge and judge-rapporteur

LANGUAGE OF THE PROCEEDINGS
English

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

- ☐ Order of the Court of First Instance of the Unified Patent Court, Local Division Hamburg, dated 21 October 2025
- ☐ Reference number: UPC_CFI_553/2025

SUMMARY OF FACTS AND REQUESTS OF THE PARTIES

1. On 18 June 2025, Occlutech lodged an application for provisional measures against Lepu with the Hamburg Local Division, requesting *inter alia* that the Hamburg Local Division order Lepu to cease and desist from – in summary – infringing the patent at issue.
2. By order of 21 October 2025, the Hamburg Local Division granted the provisional injunction against Lepu (“the impugned order”).
3. On 5 November 2025, Lepu lodged an appeal against the impugned order. Its Statement of appeal and Grounds of appeal includes an application for suspensive effect under R. 223 RoP. Lepu requests that the Court of Appeal decide the application for suspensive effect on an expedited basis and, if necessary, permit the standing judge to decide the application without delay under R. 223.4 RoP.

REASONS FOR THE ORDER

4. Pursuant to Article 74(1) UPCA, an appeal shall not have suspensive effect unless the Court of Appeal decides otherwise at the motivated request of one of the parties. The Court of Appeal may therefore grant the application only if the circumstances of the case justify an exception to the principle that an appeal shall have no suspensive effect. It must be examined whether, on the basis of these circumstances, the appellant's interest in maintaining the status quo until the decision on its appeal exceptionally outweighs the respondent's interest. An exception to the principle that an appeal has no suspensive effect may apply, for instance, if the appealed order or decision is manifestly erroneous, or if the appeal becomes devoid of purpose in the absence of suspensive effect (Court of Appeal 19 June 2024, UPC_CoA_301/2024 APL_33746/2024 App_35055/2024 - ICPillar vs. ARM).
5. Lepu submits that the impugned order contains apparent legal errors. To substantiate this complaint, it refers to the grounds of its appeal. Whether these grounds of appeal have merit is a matter for the Court of Appeal to decide in its order in the main appeal proceedings. In any event, Lepu has failed to demonstrate that the Hamburg Local Division's findings and considerations constitute *manifest* errors, i.e. factual findings or legal considerations that are clearly untenable even on the basis of a summary assessment (UPC_CoA_549/2024, order of 29 October 2024, Belkin v. Philips).
6. In addition, Lepu argues that enforcing the provisional injunction would cause damage to its reputation. However, it failed to demonstrate that its interests in preventing such damage outweigh Occlutech's interests in preventing the imminent patent infringement, as established by the Hamburg Local Division.
7. As the application for suspensive effect is decided by the judge-rapporteur expeditiously, there is no need to refer it to the standing judge.

ORDER

The application for suspensive effect is rejected.

This order was issued on 7 November 2025.

Peter Blok
Legally qualified judge and judge-rapporteur