



Appeal n° : UPC_CoA_4/2026

ORDER
of the Court of Appeal of the Unified Patent Court
on the admissibility of the appeal against an order ruling on a preliminary objection
issued on 11 February 2026

EN-TETE

An order of the Judge-Rapporteur which upholds the preliminary objection but does not terminate the proceedings as regards one of the parties is neither a "decision" upholding the preliminary objection within the meaning of the first sentence of Rule 21.1 RoP nor an order "rejecting" the preliminary objection within the meaning of the second sentence of Rule 21.1 RoP. In the case of such an order, which does not fall within any of the cases of appeal referred to in Articles 73(1) and 73(2)(a) UPCA or Rule 220.1 RoP, the provisions of the second sentence of Rule 21.1 RoP must apply by analogy.

MOTS-CLES

Appeal against an order of the judge-rapporteur ruling on a preliminary objection; R. 19, R. 21, R. 220 RoP; Art. 73 UPCA.

APPELLANT AND PLAINTIFF IN THE INFRINGEMENT ACTION BEFORE THE COURT OF FIRST INSTANCE

Valeo Systemes D'essuyage, 34, Rue Saint-Andre 93012 Bobigny Cedex, France

(hereinafter referred to as "**Appellant**" or "**VALEO**")

represented by Mr Lionel Martin, Avocat at the Paris Bar, representing VALEO before the UPC, and other representatives of Cabinet August Debouzy, Paris, France

RESPONDENTS, DEFENDANTS TO THE INFRINGEMENT ACTION BEFORE THE COURT OF FIRST INSTANCE AND PLAINTIFFS TO THE PRELIMINARY OBJECTION

- **ROBERT BOSCH FRANCE SAS**, 32 avenue Michelet, 93400, Saint-Ouen-Sur-Seine, France
- **ROBERT BOSCH GmbH**, 1 Robert-Bosch-Platz, 70839 Gerlingen, Germany
- **ROBERT BOSCH S.A**, 1 rue Henri-Joseph Genesse, 1070 Anderlecht, Belgium
- **ROBERT BOSCH PRODUKTIE S.A**, Hamelendreef 80, 3300 Tienen, Belgium

RESPONDENTS TO THE INFRINGEMENT ACTION BEFORE THE COURT OF FIRST INSTANCE

- **ROBERT BOSCH DOO**, Beograd, 90E/IV Omladinskih brigada, 11070, Beograd, Serbia
- **BOSCH AUTOMOTIVE PRODUCTS (CHANGSHA) CO. LTD**, 26, Lixiangzhong Road, Economic and Technological Development Zone, Changsha County, Hunan Province, 410100 Changsha, China

hereinafter together referred to as the "**Respondents**

represented by Mr Johannes Heselberger, representative before the UPC, Bardehle Pagenberg, Munich, Germany

LITIGIOUS PATENT

EP 2671766

COMPOSITION OF THE CHAMBER

Chamber 1, composed as follows

Klaus Grabinski, President of the Court of Appeal,
Emmanuel Gougé, legally qualified Judge and Judge-Rapporteur, Ingeborg Simonsson, legally qualified Judge.

LANGUAGE OF PROCEEDINGS

French

CONTESTED ORDER OF THE COURT OF FIRST INSTANCE

- Order of the Central Division (Paris section) of 23 December 2025, UPC_CFI_809/2025

FACTS AND PROCEDURE

Proceedings before the CFI

1. The Appellant brought an action for infringement of the contested patent against the Respondents before the Central Division (Paris Section) of the Court of First Instance of the Unified Patent Court (hereinafter the "Paris CD").
2. Four of the Respondent companies - Robert Bosch France SAS, Robert Bosch GmbH, Robert Bosch SA, and Robert Bosch Produktie SA - filed a preliminary objection (R. 19 RoP) concerning the jurisdiction of the Paris CD and the language of the proceedings.
3. The Paris DC ruled that it did not have jurisdiction to deal with the infringement claim and, granting VALEO's alternative request, ordered that the infringement action be transferred to the local division in Düsseldorf and ruled that the language of proceedings would be English (procedural order of the judge-rapporteur of 23 December 2025, hereinafter "the contested order").

The appeal proceedings

4. The Appellant has appealed the Impugned Order on the basis of Rule 220.2 RoP. In particular, the Appellant is asking the Court of Appeal to rule that the Paris DC has jurisdiction to hear the action for

infringement action (UPC_CFI_809/2025), to order the referral of the infringement action to the Paris DC and to rule that the language of proceedings shall be French.

5. Following observations made by the Registry as part of the formal examination of the statement of appeal (R. 229 RoP), the Appellant remedied the formal deficiencies and filed additional observations concerning the basis on which it had appealed the contested order.
6. The Judge-Rapporteur invited the Respondents to submit their comments on the admissibility of the appeal and, pending the decision to be taken on the admissibility of the appeal, ordered the suspension of the time limit referred to in Rule 235 RoP for the Respondents to file their statement of defence.
7. The Respondents submit that the appeal is inadmissible and, in the alternative, request that, in accordance with the provisions of Rule 21.2 RoP, the first instance proceedings be stayed until the Court has ruled on the appeal (submission of 28 January 2026).
8. The Appellant seeks the dismissal of the alternative request on the grounds, inter alia, that the Respondents limit their arguments to the possible translation costs that would be incurred by them if the proceedings on the merits were to be referred to the Paris DC and that they do not justify any exceptional circumstances in support of their request.

The parties' arguments on the admissibility of the appeal proceedings

9. The Appellant submits in particular that the impugned order is neither a decision on the merits nor a decision terminating the proceedings, nor is it included in the list of orders restrictively enumerated by Rule 220(1)(c), so that the appeal against the order of the DC Paris cannot be brought under the conditions of Rule 220.1 RoP and must therefore be brought on the basis of Rule 220.2 RoP, notwithstanding the provisions of Rule 21.1 RoP which do not exclude the possibility for the respondent to the preliminary objection to have recourse to the appeal procedure provided for in Rule 220.2 RoP.
10. The Respondents consider that, in the case of a decision by the Judge-Rapporteur upholding the preliminary objection, the specific appeal regime provided for in the first sentence of Rule 21.1 RoP applies, which expressly refers to the provisions of Rule 220.1(a) RoP applicable to decisions on the merits, even if the decision under appeal is not a decision on the merits. They point out that the fact that the impugned decision is entitled "Procedural Order" cannot be taken into consideration. They further submit that even if the Appellant had chosen the - correct, in their view - route of appeal set out in Rule 220.1(a) RoP by reference to Rule 21.1 RoP, its appeal would still not have been admissible, insofar as that route of appeal would only be open to the Appellant if it had been "affected" by the impugned decision, which it was not.

REASONS

Admissibility of the appeal

11. An appeal against a decision or order of the Court of First Instance ("CFI") may be brought before the Court of Appeal under the conditions set out in Article 73 of the UPCA Agreement ("UPCA").
12. If the appeal is against a decision of the CFI, it may be lodged by any party which has been unsuccessful, in whole or in part, in its submissions, within two months of the date of notification of the decision (Art. 73(1) UPCA).
13. If the appeal is against an order, it may be lodged by any party that has been partly or wholly unsuccessful in its submissions in accordance with the provisions of Article 73(2) UPCA, which provides for two distinct regimes.

14. The first system for appealing against orders of the CFI set out in Article 73 UPCA relates to the orders referred to in Article 49(5) and Articles 59 to 62 and 67 UPCA and provides that the appeal must be lodged within fifteen calendar days of notification of the order to the appellant (Article 73(2)(a) UPCA).
15. The second system for appealing against orders of the CFI referred to in Article 73 UPCA relates to orders other than those referred to in Article 73(2)(a) UPCA and provides that, for those orders, the appeal may be lodged at the same time as the appeal against the decision or, if the Court grants leave to appeal, within fifteen days of notification of the Court's decision to that effect (Art. 73(2)(a)(ii) UPCA).
16. The provisions of the UPC Agreement are supplemented by those of the Rules of Procedure ("RoP") which, in accordance with the provisions of Article 41 UPCA, set out the procedure before the Court and provide that in the event of a conflict between the provisions of the Agreement or the Statutes on the one hand, and the Rules on the other, the provisions of the Agreement or the Statutes shall prevail (Art. 41(1) UPCA and RoP, preamble, first recital).
17. Rule 220 RoP, on appealable decisions, distinguishes between, on the one hand, decisions and orders that may be appealed immediately and without prior leave of the CFI (R. 220.1 RoP) and, on the other hand, orders, other than those referred to in Rule 221.1 RoP, that may be appealed either at the same time as the appeal against the decision or with leave of the CFI (R. 220.2 RoP).
 18. For an appeal to be lodged under the conditions set out in Rule 220.1 RoP, it must relate to (a) a decision on the merits, (b) a decision terminating proceedings in respect of one of the parties, or (c) one of the cases of orders listed exhaustively (R. 220.1 RoP). With regard to orders other than those listed above, an appeal may only be lodged under the conditions set out in paragraph 2 of Rule 220 RoP.
19. In the particular case of preliminary objections under Rule 19 RoP, Rule 21.1 RoP provides that a decision of the judge-rapporteur upholding the preliminary objection may be appealed under Rule 220.1 (a) RoP (Rule 21.1 RoP, first sentence), whereas an order of the Judge-Rapporteur overruling the preliminary objection can only be appealed under Rule 220.2 RoP (Rule 21.1 RoP, second sentence).
20. An order of the judge-rapporteur which upholds the preliminary objection but does not terminate the proceedings in respect of one of the parties is neither a "decision" upholding the preliminary objection within the meaning of the first sentence of Rule 21.1 RoP nor an order "rejecting" the preliminary objection within the meaning of the second sentence of Rule 21.1 RoP. In the case of such an order, which does not fall within any of the appeal cases referred to in Articles 73(1) and 73(2)(a) UPCA or Rule 220.1 RoP, the provisions of the second sentence of Rule 21.1 RoP must be applied by analogy.
21. In the present case, the impugned order relates to a question of jurisdiction internal to the Court and orders the referral of the action to another division, without terminating the proceedings against any of the parties.
22. The Appellant was therefore entitled to appeal under Rule 220.2 RoP.
23. It follows that the Respondents' additional argument that the appeal should be declared inadmissible pursuant to the provisions of Rule 229.4 RoP on the grounds that the Appellant wrongly paid the reduced appeal fee provided for appeals under Rule 220.2 RoP instead of the appeal fee corresponding to the appeal provided for in Rule 220.1 (a) RoP, cannot succeed either and that the Respondents' request in this respect must be rejected.

24. Finally, the Respondents' argument that the Appellant is not affected by the impugned order must also be rejected. The impugned order, insofar as it rejected VALEO's main request to confirm the jurisdiction of the Paris DC, affects the latter, whether the appeal is brought under Rule 220.1(a) or Rule 220.2 RoP.

Suspensive effect

25. The Respondents' alternative request for an order staying the first instance proceedings is rejected for the following reasons.
26. In the specific case of an appeal against a decision or order on a preliminary objection, Rule 21.2 RoP provides that, if an appeal is lodged, the first instance proceedings may be stayed by the Judge-Rapporteur or the Court of Appeal on a reasoned application by a party.
27. As a general rule, the main proceedings are not stayed during the appeal proceedings, as the principle is that proceedings before the Court of First Instance should, subject to the cases provided for in Article 74(2) UPCA, proceed without being delayed by the appeal proceedings (R. 223 RoP, Art. 74 UPCA). However, a stay may be ordered in exceptional circumstances, taking into account the circumstances of the case, such as the progress of the proceedings before the CFI, the stage of the appeal proceedings and the interests of the parties (UPC_CoA 227/2024, APL_26889/2024, 21 June 2024, Mala v. Nokia).
28. In the present case, the Respondents justify their request for suspensive effect by the risk they run of working in vain on drafting their statement of defence in English, on the grounds that, if the appeal succeeds and the case is referred back to the Paris DC, they would have to translate it into French.
29. However, the risk thus put forward by the Respondents is not such as to constitute an exceptional circumstance justifying an order staying the proceedings at first instance.
30. The translation of their statement of defence by the Respondents is, at this stage of the proceedings, a mere possibility and is not, moreover, requested by the Appellant in its statement of appeal, which, on the contrary, expressly requests that, with regard to the pleadings and documents filed by the parties before the date of the judgment of appeal to be delivered in the proceedings on the merits before the Local Division of Düsseldorf, the parties be exempted from producing translations into French.
31. In the light of the circumstances of the case, and having regard to the need to organise the proceedings in the most efficient and economical manner (RoP, preamble, recital 4), the Respondents' request to stay the proceedings at first instance must therefore be rejected.

Defence

32. Considering that the Respondents have been aware of the statement of appeal and the statement of appeal since 20 January 2026 and that, by order of 21 January 2026, the Judge-Rapporteur ordered the suspension of the time limit referred to in Rule 235 RoP for the Respondents to file their statement of defence pending the decision to be taken on the admissibility of the appeal, the Respondents are called upon to file their statement of defence within 15 days of the date of this order.

ORDER

The Court of Appeal

- ruling on the admissibility of the appeal lodged by the Appellant, declares the appeal admissible ;
- orders the Respondents to file their statement of defence within 15 days of the date of this order.

Delivered in Luxembourg on 11 February 2026.

(KLAUS) (STEFAN)
MARTIN
Grabinski


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Klaus Grabinski, President of the Court of Appeal,

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