

Procedural Order
of the Court of First Instance of the Unified Patent Court
issued on 12 February 2026
concerning EP 2 563 695 B1
Preliminary Objection

CLAIMANT:

Honeywell Control Systems Ltd., Honeywell House, Skimped Hill Lane, Bracknell Berkshire, RG12 1EB, England (hereinafter: Honeywell),

Represented by: O.V. Lamme LLM, MSc, Simmons & Simmons LLP

Electronic address for service: honeywell-solvest-upc-litigation@simmons-simmons.com

DEFENDANTS:

1. Sovex Systems B.V., Zonnebaan 11, 3542EA, Utrecht, the Netherlands (hereinafter: Sovex)

2. Solvest Participatie V B.V., Zonnebaan 11, 3542EA, Utrecht, the Netherlands
(hereinafter: Solvest V)

3. Solvest Participatie VI B.V., Zonnebaan 11, 3542EA, Utrecht, the Netherlands
(hereinafter: Solvest VI)

4. Solvest Participatie VII B.V., Zonnebaan 11, 3542EA, Utrecht, the Netherlands
(hereinafter: Solvest VII)

5. Solvink B.V., Zonnebaan 11, 3542EA, Utrecht, the Netherlands (hereinafter: Solvink)

6. De Kleine Beuk B.V., Beekstraat 30, 5673NA, Nuenen, the Netherlands
(hereinafter: De Kleine Beuk)

7. Hemtech d.o.o., Krasevo b.b. 74266 Tesanjka, Bosnia and Herzegovina (hereinafter: Hemtech)

All defendants represented by:

Prof. Dr. Dick van Engelen, Ventoux Advocaten,
and Mr. Ir. Jacques van Breda, Los & Stigter,

Electronic address for service: dick.vanengelen@ventouxlaw.com

PATENT AT ISSUE: EP 2 563 695 B1

DECIDING JUDGES: This order was issued by the Presiding Judge Tochtermann, legally qualified Judge Sender, as substitute under the substation scheme according to the decision of the President of the CFI of 18 March 2025 for legally qualified Judge Böttcher and legally qualified Judge Visser acting as Judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT: R. 19 RoP - Preliminary objection
R. 333 RoP - Review

SUMMARY OF FACTS AND REQUESTS

1. By Statement of claim (SoC) dated 25 June 2025, Honeywell initiated an infringement action against the Defendants. On 12 August 2025, Defendants filed a Preliminary objection. Honeywell submitted written comments to the Preliminary objection on 27 August 2025.

2. The Defendants requested:

a) *Regarding Defendant 1 – Sovex Systems:*

(i) to transfer the case to the Local Division at The Hague pursuant to Article 33(1) UPCA.

b) *Regarding defendants 2 through to 6 – Solvest Participatie V, Solvest Participatie VI, Solvest Participatie VII, Solvink and De Kleine Beuk:*

(i) (primarily) to dismiss the case against these defendants for lack of competence of the Court under Article 32 UPCA, or

(ii) (alternatively) to transfer the case to the Local Division at The Hague pursuant to Article 33(1) UPCA.

c) *Regarding defendant 7 – Hemtech:*

(i) (primarily) to dismiss the case for lack of international jurisdiction under article 31 UPCA and/or lack of competence of the Court under Article 32 UPCA, or

(ii) (alternatively) to transfer the case to the Local Division at The Hague pursuant to Article 33(1) UPCA.

d) *Regarding all defendants:*

(i) to order that Claimant has to bear and pay the reasonable and proportionate legal costs and other expenses incurred by the defendants in connection with the drafting of and further proceedings related to this Preliminary objection.

3. In its comments, Honeywell requested to dismiss all the Preliminary objections of all Defendants and to order that the proceedings remain in its entirety before the Local Division Mannheim, and that the Defendants should pay the costs related to these Preliminary objections.
4. By order of 22 October 2025, the judge-rapporteur rejected the Preliminary objections.
5. On 5 November 2025, the Defendants filed an Application for a panel review pursuant to R. 333 RoP of the order of 22 October 2025.
6. The arguments of the Defendants in the Application for review can be summarised as follows.
 - The Statement of claim must contain all the facts and evidence that may allow a finding of patent infringement.
 - Art. 71a(1) and (2) and 71b(1) of the Brussels I recast Regulation limit the jurisdiction of the common court to the instrument establishing it. Jurisdiction and competence of the UPC is therefore to be interpreted narrowly.
 - It is the jurisdiction of the Court of Justice of the European Union (CJEU) to determine whether the competence of the UPC remains within the confines of the Brussels I recast Regulation (and the EU Charter).
 - Honeywell did not invoke Art. 71b(2) Brussels I recast regulation with regard to Hemtech, nor did it state the facts relevant for that ground of jurisdiction, for instance why it would be appropriate to apply Chapter II of the Regulation. Honeywell can therefore not rely on this paragraph and the Court is not authorised to add such grounds of its own motion. Using the fact that Hemtech is aware of Art 71(b)(2) Brussels I recast Regulation as a potential ground for jurisdiction is therefore incorrect and a violation of due process and fair trial.
 - R. 20 RoP provides that the parties shall be given the opportunity to be heard. As only Honeywell has been given this opportunity, R. 20 RoP is violated.
 - With regard to Hemtech no (specific and precise) infringing acts within Germany or any other UPC Member States where the patent is valid have been alleged.
 - Delivery is not one of the acts mentioned in Art. 25 UPCA and Hemtech itself does not deliver, ship or transport the products but such is done by third party companies.
 - The competence of the UPC does not encompass all actions relating to patents, but only those explicitly mentioned in Art. 32(1) UPCA. An infringement can only be made by actually performing the acts stated in Art. 25 UPCA. Any claims of liability regarding (attribution of) infringing acts committed by a third party are a matter of corporate liability or tort law, which is outside of the jurisdiction of the UPC as this is not an action under 32(1) UPCA.
 - Interpretation of Art. 25 in conjunction with Art. 63 UPCA cannot be done autonomously. Art. 25 UPCA is an implementation of Art. 28 of the Agreement on

Trade-Related Aspects of Intellectual Property Rights (TRIPs). TRIPs Law is EU Law and the interpretation thereof, including the question whether Art. 25 UPCA is in conformity with TRIPs, is the exclusive domain of the CJEU. Art. 63 UPCA is an implementation of Art. 11 Enforcement Directive. The interpretation thereof is also the exclusive domain of the CJEU.

- The general rule of international jurisdiction and competence is laid down in Art. 4 Brussels I recast Regulation relating to the court of domicile.
- Art 7(2) Brussels I recast Regulation and therefore also Art 33 (1)(b) UPCA requires a "connection" between the subject matter and the court or division. The distinction between the main rule and the exception is important for legal certainty.
- For purposes of determining jurisdiction and competence, a UPC division of first instance is to be regarded as the equivalent of a national court. This warrants that Art. 33(1)(a) and (b) are in conformity with the Brussels I recast Regulation.
- Honeywell did not assert and prove that there is a(n) (threat of) infringement in Germany for each of the Defendants. There is no reason to derogate from the main rule that defendants are to be sued before the LD of its domicile.
- With regard to Sovex there is no sufficient connection to Germany stated. For Hemtech there is no (actual or threatened) infringement in Germany asserted. With regard to Solvest V, Solvest VI, Solvest VII, Solvink and De Kleine Beuk there are no acts alleged that amount to infringement. Directing, facilitating or embodying does not amount to infringement.

7. In their Reply of 22 December 2025, Honeywell responded to the Application for panel review.

GROUND FOR THE ORDER

8. The application for panel review is admissible and in accordance with R. 333 RoP. It has been filed within 15 days of service of the order.
9. The application is unfounded. The panel confirms the Order of the Judge-rapporteur of 22 October 2025 on the basis of the same considerations as in the Order. The following considerations are added.

International jurisdiction (Art. 31 UPCA)

10. The Court has international jurisdiction with regard to Hemtech based on Art. 31 UPCA in conjunction with Art. 71b(1) and (2) and Art. 7(2) of the Brussels I recast Regulation. The Court establishes (international) jurisdiction and competence based on the facts brought forward. That Honeywell did not explicitly mention the second paragraph of Art. 71b Brussels I recast Regulation in the Statement of Claim does not mean that the Court cannot apply this. According to Art. 28 Brussels I recast regulation, the court has to decide on its jurisdiction under Regulation ex officio (ECJ Decision 28 October 2004 – C 148/03 Nürnberger Allgemeine Versicherungs AG/Portbridge Transport International BV). It follows from the facts and

statements brought forward in the briefs that Hemtech is not domiciled in the EU and that for international jurisdiction, Art. 31 UPCA and Art. 7(2), 71a and 71b Brussels I recast regulation were at issue. It was furthermore clear that Hemtech was aware of paragraph (2) of Art. 71b and has had the opportunity to comment on its applicability.

11. The Defendants have given their view on jurisdiction and competence in their extensive Preliminary objection document. Other than the Defendants seem to assert, R. 20(1) RoP does not require that a defendant has to be given another opportunity to be heard. Moreover, the Defendants were able to present their arguments in their application for review.
12. As stated in the order of 22 October 2025, in the Statement of Claim, Honeywell has sufficiently substantiated that Hemtech allegedly infringes the patent in a Contracting Member State where the patent is valid. Such an allegation can be done either by stating infringing acts of defendants jointly and individually. Both has been done by Honeywell. Whether Hemtech is in fact involved in infringing activities is to be decided in the case on the merits (CoA 3 September 2024, UPC_CoA_188/2024, Aylo v Dish, para 18).

Competence of the Court (Art. 32 UPCA)

13. As stated in the order of 22 October 2025, in the Statement of Claim, Honeywell has asserted that all Defendants commit infringing acts themselves. Such an allegation can be done either by stating infringing acts of defendants jointly and individually. It has furthermore stated that given the specific circumstances, Solvest V, Solvest VI, Solvest VII, Solvink and De Kleine Beuk can be held responsible for alleged infringing acts by other entities. The Court therefore has competence with regard to Solvest V, Solvest VI, Solvest VII, Solvink and De Kleine Beuk since the action against them can be identified as an alleged action for actual or threatened infringement within the meaning of Art. 32(1)(a) UPCA. Whether these Defendants in fact carried out acts stated in Art. 25 UPCA and/or whether (lack of) other actions lead to the conclusion that they are an infringer within the meaning of Art. 63 UPCA in conjunction with Art. 25 UPCA, is a question to be addressed in the case on the merits (CoA 3 September 2024, UPC_CoA_188/2024, Aylo v Dish, para 18).
14. Reference is made to, CoA 3 October 2025 (UPC_CoA_534/2024, UPC_CoA_683/2024, UPC_CoA_19/2025, Belkin v Philips). With regard to Art. 32 UPCA and Art. 71a and 71b of the Brussels I recast Regulation, reference is further made to CoA 16 January 2025 (UPC_CoA_30/2024, Fives v REEL), CoA 2 June 2025 (UPC_CoA_156/2025 – XSYS v Esko), CoA 20 August 2025 (UPC_CoA_380/2025, expert v Viosys), CoA 6 October 2025 (UPC_UPC_CoA_288/2025, UPC_CoA_290/2025 UPC_CoA_291/2025, Roku v Dolby and Sun) and CoA 28 November 2025 (UPC_CoA_317/2025, UPC CoA376/2025, Barco v Yealink) and the therein cited case-law. Against this background, the panel does not see reasons to refer questions to the CJEU, as the Defendants have requested.

Competence of the Local Division Mannheim (Art. 33 UPCA)

15. As ruled by the Court of Appeal, competence of the divisions of the Court of First Instance, regulated in Art. 33 UPCA, is a UPC internal matter. Internal competence is not governed by the Brussels I Recast Regulation. For the purpose of establishing the competence of a local division, there is no hierarchy between competence based on the place where the actual or threatened infringement has occurred or may occur in Art. 33(1)(a) UPCA, and competence

based on the residence or principal place of business of the defendant in Art. 33(1)(b) UPCA. There is no need to look for connecting factors in the territory of the local division seized in relation to each defendant to establish competence. To determine competence under Art. 33(1)(a) UPCA, the existence of infringing activities, for example an offer or the possibility to obtain the allegedly infringing devices through a website accessible in the Contracting Member State hosting the local division, needs to be established. The establishment of whether a first instance division is competent should not be based on a comprehensive evaluation of the evidence in relation to disputed facts that are relevant both to the question of competence and to the existence of the claim, since such an assessment would improperly anticipate the outcome. Rather, the Court will take a cursory look at the parties' allegations and evidence as provided, if any (CoA 28 November 2025, UPC_CoA_317/2025, UPC CoA376/2025, Barco – Yealink, headnotes 3-5).

16. As stated in the order of 22 October 2025, in the Statement of Claim, Honeywell has sufficiently asserted that infringement has occurred or may occur in - inter alia - Germany. For example, it has stated that the website where the allegedly infringing products are offered is directed at the whole of Europe, so also Germany and that in a brochure in which the products are offered clients from across Europe and in particular Germany are named. Whether or not the alleged acts amount to an actual or threatened infringement in Germany by (each of) the Defendants, is to be decided in the case on the merits (CoA 3 September 2024, UPC_CoA_188/2024, Aylo v Dish, para 18).

Appeal

17. If a Preliminary objection is rejected, as an exception to the general principle, leave to appeal may be given by the judge-rapporteur and the order may be appealed against without prior panel review under R.333.1 RoP being required. If leave is granted, the unsuccessful party thus has the choice to either file an appeal or an application for review under R.333.1 RoP. If the judge-rapporteur did not grant leave to appeal, as it is the case here, a party may apply for a panel review. The resulting panel decision may then subsequently be appealed, if leave has been granted by the panel under R.220.2 RoP, or it may be subject to a request for discretionary review under R.220.3 RoP (see UPC_CoA_486/2023 Order of 21 March 2024 Headnote 3). Against the background of the arguments by the Defendants contained in the application for review, leave to appeal is granted in this order.

ORDER

1. The Application for review is rejected.
2. Leave to appeal is granted.

Issued in Mannheim on 12 February 2026

NAMES AND SIGNATURES

Presiding Judge Tochtermann	
Legally qualified Judge Sender substituting for legally qualified judge Böttcher	
Legally qualified Judge and Judge-rapporteur Visser	