



**Düsseldorf Local Division**  
**UPC\_CFI\_541/2025**  
**UPC\_CFI\_1313/2025**

**Order**  
**of the Court of First Instance of the Unified Patent Court**  
**issued on 19 February 2026**  
**concerning EP 3 859 566**

CLAIMANT:

**Leap Tools Inc.**, represented by its CEO Pawel Rajszel, 1255 Bay St., Unit 200A, Toronto, ON M5R 249, Canada

represented by: Attorney-at-law Dr Henrik Timmann, Attorney-at-law Dr Melanie Strobel, rospatt Rechtsanwälte PartGmbH, Emanuel-Leutze-Straße 11, 40547 Düsseldorf, Germany

contributing: Patent attorney Dr Manuel Schrader, Patent attorney Dr Volker Mergel, Blumbach Zinngrebe Patentanwälte PartG mbB

electronic address for service: UPC-LeapTools-EP566@rospatt.de

DEFENDANT:

**Wizart Inc.**, represented by its CEO Vasili Yavarchuk, 919 North Market St, Suite 950, Wilmington, 19801-3036, DE, United States of America

represented by: Patent attorney Oskar Gińko, Czerniakowska 36a/66, 00-714, Warsaw, Poland

electronic address for service: oskarginko@gmail.com

PATENT IN SUIT:

European Patent n° 3 859 566

PANEL/DIVISION:

Panel of the Local Division in Düsseldorf

DECIDING JUDGES:

This order was issued by legally qualified judge Dr Thom on behalf of Presiding Judge Thomas, legally qualified judge Dr Schumacher acting as judge-rapporteur and legally qualified judge Johansson.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT: R. 158 RoP – Request for security of legal costs

SUMMARY OF FACTS AND SUBMISSIONS OF THE PARTIES

1. In its statement of defence and counterclaim for revocation, the Defendant requested an order for security for costs.
2. The Defendant points out that the Claimant is a Canadian company with no presence in the UPC territory, either in the form of a location, office or subsidiary. It also argues that the Claimant's annual revenue is estimated to be less than EUR 20 million in 2025 (CDN \$ 31 million, which amounts to approximately EUR 19 million). According to the Defendant, a minimum security of EUR 300,000 for infringement action and counterclaim for revocation seems adequate, given that the value of the dispute is currently set at EUR 1,000,000. This results in an upper ceiling of EUR 150,000 for attorney costs.
3. The Claimant states that the Defendant has not presented any evidence or reservations that could give rise to concerns that enforcing a cost order in Canada would be unduly burdensome. In any case, foreign judgments are routinely recognised and enforced in Canada in accordance with the common law principles established in *Beals v. Saldanha*, 2003 SCC 72, and *Morguard Investments Ltd. v. De Savoye*, 3 SCR 1077. Therefore, there is no basis for imposing security for costs on the grounds of the Claimant's nationality.
4. According to the Claimant, its finances are more than sufficient to cover a possible reimbursement of costs. With an annual revenue of approximately EUR 19 million, as stated by the Defendant, the Claimant generates more than enough income to meet a possible one-time payment obligation in the amount of EUR 300,000 for the costs of the proceedings.
5. The Claimant also asserts that it supplies its Roomvo visualisation solution to over 7,000 retailers in more than 180 countries, including numerous market leaders such as the hardware store Home Depot, and that it has stable financial resources. No other impediments to payment have been identified or brought forward.

PARTIES' REQUESTS

6. The Defendant requests:

The Claimant is ordered to provide security for legal costs of the Defendant in an amount set by the Court but of at least EUR 300,000.

7. The Claimant requests:

The request for security for legal costs is to be dismissed.

GROUND OF THE ORDER

8. The request is admissible, but unfounded.

### *Legal framework*

9. Based on Art. 69(4) UPCA, at the request of the defendant, the Court may order the applicant to provide adequate security for the legal costs and other expenses incurred by the defendant which the applicant may be liable to bear, in particular in the cases referred to in Art. 59 to 62 UPCA.
10. According to R. 158.1 RoP, at any time during proceedings, following a reasoned request by one party, the Court may order the other party to provide, within a specified time period, adequate security for the legal costs and other expenses incurred and/or to be incurred by the requesting party, which the other party may be liable to bear. Where the Court decides to order such security, it shall decide whether it is appropriate to order the security by deposit or bank guarantee.
11. When exercising its discretion under Art. 69(4) UPCA and R. 158 RoP, the Court must determine, in the light of the facts and arguments brought forward by the parties, whether the financial position of the claimant gives rise to a legitimate and real concern that a possible order for costs may not be recoverable and/or how likely it is that a possible order for costs may not be enforceable, or that enforcement may be unduly burdensome. The burden of substantiation and proof of why an order for security for costs is appropriate in a particular case is on the party applying for security for costs (UPC\_CoA\_218/2024, Order of 17 September 2024, para. 7 f. – Volkswagen v. NST; UPC\_CoA\_431/2025, Order of 9 July 2025, para. 10 – Chint New Energy v. Jingao Solar). To this end, the applicant shall not only provide evidence as to the foreign law applicable in the territory where the order is to be enforced, but also on its application (UPC\_CoA\_548/2025, Order of 29 November 2024, para. 24 – Aarke v. SodaStream; UPC\_CoA\_431/2025, Order of 9 July 2025, para. 10 – Chint New Energy v. Jingao Solar). Once the reasons and facts in the request have been presented in a credible manner, it is up to the claimant to challenge these reasons and facts in a substantiated manner, especially since that party will normally have knowledge and evidence of its financial situation (UPC\_CoA\_218/2024, Order of 17 September 2024, para. 8 – Volkswagen v. NST).

### *Assessment*

12. Applying these principles, the Defendant has failed to present sufficient reasons and facts to justify an order for security for costs.
13. Simply referring to the Claimant's registered office in Canada does not demonstrate that enforcing a cost order would be unduly burdensome. Generally, the fact that the Claimant has its registered office in a country that is not a Member State of the European Union or the European Economic Area is a relevant factor. Whereas Union law guarantees the recognition and enforcement of judgements of courts of Member States, including this Court, in other states, similar guarantees may not be in place for recognition and enforcement in non-member states (UPC\_CoA\_431/2025, Order of 9 July 2025, para. 14 – Chint New Energy v. Jingao Solar). However, according to the above-outlined principles, merely referring to this aspect is insufficient to demonstrate that enforcing a cost decision would be unduly burdensome. Rather, it is the Defendant's responsibility to provide evidence of the applicable foreign law in the territory where the order is to be enforced and of how this law is to be applied. The Defendant has not complied with this requirement. Its application does not address the applicable Canadian law and does not provide any relevant evidence.

14. The Defendant has also failed to demonstrate that the financial position of the Claimant gives rise to legitimate concerns that costs may not be recoverable. The fact that the Claimant's annual revenue is estimated to be less than EUR 20 million in 2025 does not indicate that it is in a financially unstable situation. The Claimant's annual revenue, as stated by the Defendant, is not so low that one could assume, without further explanation, that a cost order may not be enforceable.
15. As the Defendant failed to provide sufficient reasons and facts to justify an order for security for costs, it was not the Claimant's responsibility to challenge these reasons and facts in a substantiated manner. Therefore, the Claimant's submissions in the response are irrelevant to the decision, and it was unnecessary to hear the Defendant once again after the Claimant had submitted its response.

ORDER

The request for security for costs is dismissed.

Issued in Düsseldorf on 19 February 2026

NAMES AND SIGNATURES

Legally qualified Judge Dr Thom	
Legally qualified Judge Dr Schumacher	
Legally qualified Judge Johansson	