



Paris Local Division

UPC_CFI_1963/2025
Procedural order
of the Court of First Instance of the Unified Patent Court
issued on 23 March 2026
(R333 RoP revision of an order)

ENTETE

The condition laid down in Article 33.1(b) UPCA relating to the commercial connection between the defendants does not require a direct commercial connection between the so-called anchor defendant and each of the defendants but a commercial connection between all the defendants.

The condition laid down in Article 33.1(b) UPCA relating to "the action concerns the same infringement", in order to justify the internal jurisdiction of a Local Division in the event of multiple defendants, refers to the infringement of the same patent by all the defendants, and does not require the identity of the allegedly infringing products between all the defendants.

KEY WORDS

Internal jurisdiction of the UPC- Art. 33.1(b) UPCA- - plurality of defendants- double condition

PLAINTIFF

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PATENT IN SUIT

Patent no. Owner

EP4144599 Valeo Wiper Systems

COMPOSITION OF THE CHAMBER

Presiding judge
Judge-Rapporteur
Legally qualified judge

Camille Lignieres
Carine Gillet
Rute Lopes

LANGUAGE OF PROCEEDINGS: French

ORDER

On February 17, 2026, the Judge-Rapporteur dismissed the preliminary objections filed respectively on January 27, 2026 by five of the Bosch companies and on February 6, 2026 by Bosch Automotive Products (Changsa) Co Ltd, in the context of the infringement action initiated by Valéo Systèmes d'Essuyage against the Bosch companies, on the basis of patent EP 4144599 belonging to it, before the Paris Local Division. The order concerns the internal jurisdiction of the Paris Local Division and the language of the proceedings, which were disputed.

The Judge-Rapporteur refused to grant leave to appeal the decision.

On 04 March 2026, the Bosch companies applied for a review of this order, under R 333 RoP, asking the court to :

- I. Review and revoke the procedural order of the Judge-Rapporteur of 17 February 2026,
- II. Ruling again on the Preliminary Objection, hold that the Paris Local Division does not have jurisdiction to hear the infringement action,

- III. Find that the Claimant has not designated a competent referral division or a new language of proceedings within the 14-day period provided for in Rule 19.5 RoP,
Consequently, dismiss the infringement action,
IV. In the alternative, in the event of dismissal of one or more of the Defendants' claims referred to in points I to III above, grant the Defendants leave to appeal.

In reply on 19 March 2026, Valéo seeks dismissal of the application for review of the order of 17 February 2026, confirmation of the order of 17 February 2026 and dismissal of the Defendants' application for leave to appeal.

REASONS FOR THE DECISION

Where the judge-rapporteur has not granted leave to appeal, as in this case, a party may seek a review of the order dismissing the preliminary objection.

In this case, the panel's application for review of the order of 17 February 2026 on the grounds of R.333 RoP was filed on 04 March 2026, within fifteen days of service of the order. The application for review is therefore admissible.

Arguments of the parties

The Bosch companies challenged the decision with regard to the conditions set out in Article 33.1(b) of the UPCA, arguing that the Paris Local Division lacked jurisdiction, taking the view that the commercial link between the defendants referred to in Article 33.1(b) of the UPCA, must be assessed for each defendant in relation to the so-called "anchor" defendant, taking the view that otherwise the internal jurisdiction of the division within whose jurisdiction one of the defendants is domiciled could be extended ad infinitum, which would be likely to pervert the mechanism provided for.

They also consider that the judge-rapporteur misinterpreted the second condition, relating to "the action relates to the same alleged infringement" and that, in reality, it is necessary for the anchor defendant and each of the other defendants summoned to have committed at least one of the acts referred to in Articles 25 and 26 UPCA, in relation to the same patent and the same product or process. Failing that, it is up to the right holder to divide his action and choose another anchor defendant who will be concerned by the same alleged infringement as that alleged against each of the other defendants. Furthermore, at the preliminary objection stage, the actual commercial activities of each of the defendants and the allegedly infringing products or processes cannot be completely disregarded.

In the present case, however, the defendants are not being sued for the same products and Robert Bosch France SAS (defendant 2) cannot serve as an anchor defendant for the infringement action against defendant 6), because these defendants have no commercial connection with each other and the infringement alleged against them is not the same. The only defendant that meets the two conditions set out in Article 33(1)(b) UPCA is Robert Bosch GmbH, domiciled in Germany, which Valeo cannot be unaware of since it has designated the local division in Düsseldorf in parallel proceedings.

Finally, the Bosch companies submit that the applicant deliberately failed to remedy the deficiencies in its statement of case within the 14-day time limit and failed to designate a competent local division on the territory of Germany or a language of proceedings, with the result that the infringement action must be dismissed.

In the alternative, the Bosch companies seek leave to appeal, arguing that it is in the interest of the Court of Appeal to determine the conditions laid down in Article 33.1(b) UPCA.

Valeo submits that :

-the first condition for the application of Article 33§1(b) UPCA (the commercial connection) requires only that the defendants have a commercial relationship with each other, and not that each defendant has an individual and direct relationship with the defendant who serves as the so-called "anchor" defendant.

-the second condition of "same alleged infringement" set out in Article 33(1)(b) of the UPCA refers to the identity of the alleged infringement of the same claims of the same patent, and not to the formal identity of the infringing products or acts.

Valeo submits that, in the present case, BOSCH GmbH, as the parent company, has a commercial relationship with all the defendants (its subsidiaries), so that all the defendants necessarily have a commercial relationship with each other within the meaning of Article 33(1)(b) of the UPCA. The BOSCH companies contest the sufficiency of the commercial link between the defendants, which should be direct, while mixing in the notion of "same product". However, an overly narrow assessment of the first condition, as suggested by the Bosch companies, would lead to a multiplication of proceedings, whereas an interpretation considering commercial links within the same group of companies is limited to that group and does not provide unlimited jurisdiction.

The second criterion of "same infringement" does not refer to the formal identity of the products and acts of infringement, but to the identity of the alleged infringement of the claims of the same patent, unless conditions that are not provided for in the text are added. According to Valeo, this condition must be assessed from a legal standpoint, with regard to the rights infringed, even when different products are involved that reproduce the same characteristics of the same patent. The condition must not be assessed commercially in relation to the name of the products. Otherwise, it would be impossible for the patent owner to sue jointly several defendants belonging to the same group committing acts of infringement of the same patent for the sole reason that they were committing acts of exploitation on products with different trade names or differing slightly in form. In addition, the court of first instance must take a quick look at the allegations and evidence provided in order to assess jurisdiction.

Response to the parties' arguments

1- On the internal jurisdiction of the Paris Local Division

As was stated in the contested Order and is not disputed, Article 33.1(b) of the UPCA provides that where there is more than one defendant, an infringement action may be brought before the local division of the Member State in which one of them is domiciled, on the twofold condition, according to the aforementioned text, that the defendants have a commercial connection with each other and that the action relates to the same alleged infringement.

This is a modification of the principle that defendants must be sued in the court of the jurisdiction in which they have their domicile or principal place of business, where there are multiple defendants. In this case, the close link between the court and the defendant is no longer relevant. The rights-holder has an option, which he or she may exercise as he or she sees fit, provided that the two aforementioned conditions are met.

In this case, as indicated in the contested order, the commercial connection is assessed flexibly in order to avoid the multiplication of parallel proceedings and the risk of conflicting decisions. It is established in particular, as in this case, when all the defendants belong to the same group of companies, when the respective activities of each of the defendants are related and have the same objective, namely the research and development, manufacture, sale and distribution of the same products or the same range of products.

There is no need, as the defendants maintain, for each of the other defendants to have a privileged commercial link with the anchor defendant, unless one considers that all litigation should be systematically brought before the division at the headquarters of the parent company, which in no way follows either from the wording of the aforementioned text, or from its spirit, or even from the objectives of the Unified Patent Court.

Furthermore, the panel adopts the assessment of the judge-rapporteur with regard to the interpretation of the second condition, relating to "an action which relates to the same infringement", which is analysed as infringement of a patent and not of allegedly infringing products or processes.

Indeed, even though the text refers to "the same infringement" and not "the same patent", as indicated by the BOSCH companies, the reference is not to the identity of the alleged products or commercial channels, but to the identity of the infringing rights, due to the infringement of the claims of the same patent, regardless of whether the products have a different commercial designation or different shapes, as long as it is alleged that the same patent claims are reproduced by each of the products at issue. Thus, it does not matter that all the defendants are not involved in strictly identical products, as long as those products are from the same range and are claimed to infringe the patent belonging to the plaintiff. On this point, and as stated in the order under appeal, Valeo has provided sufficient allegations and evidence to justify at this stage the involvement of the defendant companies in the alleged infringement.

Lastly, the analysis proposed by the Bosch companies is contrary to the objectives of the Unified Patent Court, which authorises a patent right holder to sue, in the context of the same proceedings, several defendants who are each participating, for their part, in the infringement of the same patent.

In the light of these factors, and without any relevant reliance being placed on the plaintiff's previous procedural choices in separate proceedings, the panel considers that the two conditions for justifying the internal jurisdiction of the Paris Local Division are met and that there is no need to review the contested order on this point.

2- Dismissal of the infringement action

As the preliminary objection has been dismissed, the motion to dismiss the infringement action, in the absence of a rectification of the plaintiff's brief, is moot.

Moreover, it has no legal basis whatsoever, as the provisions of R.19.5 are in no way applicable, since they allow the applicant to rectify its statement of case within 14 days or, alternatively, to submit observations on the preliminary objection, as in the present case. Moreover, failure to rectify does not, in any event, carry any penalty, and even less so that of dismissal of the infringement claim.

Consequently, there are no legitimate grounds for reviewing the order of the reporting judge.

3- Leave to appeal

The issue in dispute is of legal interest in relation to the requirements of Article 33.1(b) UPCA, which justifies granting leave to appeal.

This application will be granted.

For all these reasons,

The Panel, having heard the parties,

-Dismisses the application for review of the order of 17 February 2026,

-Dismisses the application to dismiss the infringement action,

-Grants leave to appeal. Paris, 23 March 2026

Camille Lignières, Presiding Judge

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Carine Gillet, Judge-Rapporteur

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Rute Lopes, legally qualified judge

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Information about the appeal

This decision may be appealed in accordance with R.220.2 RoP.

DETAILS OF THE ORDER

Case number: UPC-CFI-0001963/2025

Type of action: Infringement action

*Type of request: R333 RoP review of an order on preliminary objection Date of order:
23 March 2026*