



The Hague - Local Division
UPC-CFI-2228/2025
UPC-CFI-1546/2026

Order
of the Court of First Instance of the Unified Patent Court
issued on 27/05/2026
Regarding: R.158 RoP

Claimant:

BMS Innovations, LLC
1900 K Street, NW, Suite 725
Washington, D.C 20006
United States of America,
“**BMSI**”

represented by Christian Dekoninck,
Christopher Thornham, Thomas Witte and
Laura Coucke (Taylor Wessing)

Defendants:

- 1) BYD Company Ltd
No. 3009, BYD Road, Pingshan
518100 Shenzhen, Guangdong Province
People's Republic of China
- 2) BYD Auto Co., Ltd
No.1 Qinling Avenue West, Caotang
Science and Technology Industry Base
710311 Xi'an, Shaanxi
People's Republic of China
- 3) BYD Europe B.V.
's-Gravelandseweg 256
3125 BK Schiedam
The Netherlands
- 4) BYD France SAS
8 rue Leonard de Vinci
60000 Beauvais
France

- 5) BYD Automotive GmbH
Albert-Dulk-Str. 9
70327 Stuttgart
Germany
- 6) BYD Mobility GmbH
Albert-Dulk-Str. 9
70327 Stuttgart
Germany
- 7) BYD Sweden AB
c/o United Spaces
Elektrogatan 10
171 54 Solna
Sweden
- 8) BYD (U.K.) Co., Ltd.
Building 5, Arc Uxbridge Sanderson Road
Denham, Uxbridge UB8 1DH
United Kingdom
- 9) BYD POLSKA SPÓŁKA Z OGRANICZONĄ
ODPOWIEDZIALNOŚCIĄ
ul. Domaniewska 48
02-672 Warszawa
Poland

Defendants 1-9, collectively “**BYD**”, are represented by Rien Broekstra, Elard Schenck zu Schweinsberg, Rik Lambers, Chia-Jung Hu and Eveline Lots (Brinkhof)

PATENT AT ISSUE: EP3393001

DECIDING JUDGE

This order is issued by the judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: English

Subject-matter of the proceedings: Infringement action

Summary of facts and procedure

1. Claimant filed a statement of claim on 23 December 2025 at the LD The Hague of the UPC to initiate an infringement action against BYD. By order of 3 February 2026, the date of service on all Defendants was aligned on 5 February 2026, the deadline for filing the Preliminary Objection (“PO”) on 5 March 2026 and the deadline for filing the Statement of Defence (“SoD”) on 5 May 2026, at the request

of the parties.

2. Defendants filed a preliminary objection (“PO”), which was partly successful. The court decided (by order of 19 May 2026) does not have jurisdiction to hear the case against BYD UK, defendant 8.
3. By application of 14 April 2026, BYD filed a “R.158 Application”, to which BMSI responded.

REQUESTS

4. BYD requests the Court to:
 - i. order BMSI, within three weeks of the date of service of the order, to provide security for legal costs and other expenses incurred and to be incurred by BYD in the amount of at least EUR 400,000, or an amount to be determined by the Court in good justice;
 - ii. issue a decision by default against BMSI if BMSI fails to provide the ordered security within the time set by the Court, dismissing all of BMSI’s claims and holding BMSI liable for BYD’s legal costs.
5. BMSI does not oppose the provision of security for costs, but it submits that it is reasonable and appropriate to order:
 - (a) EUR 300.000 security (not EUR 400.000); and
 - (b) provided by BMSI within 7 weeks (not 3 weeks) of the date of service of the order of the Court

GROUNDS

6. The application is admissible and well-founded. BMSI is right not to oppose the provision of security for legal costs pursuant to R.158 RoP.
7. The amount of the security to be provided will be set at 50% of the value of the proceedings. The values of the infringement and counterclaim actions have not yet been determined. The difference between the amount of security requested by BYD (EUR 400,000) and that suggested by BMSI (EUR 300,000), is due to different assessments of the value of the counterclaim action (the parties agree on the value of the infringement action). As the Court cannot currently determine the correct value, it will set the value at EUR 350,000.
8. BMSI requests seven instead of three weeks to provide the security. As some time has elapsed since BMSI responded to the R.158 application on 28 April 2026, and BMSI could have been expected to prepare to provide security from that date, it is considered reasonable to order BMSI to provide security within four weeks of this order.

ORDER

Having heard the parties, the Court

- I. Orders BMSI to provide security for the legal costs and other expenses of BYD relating to the infringement action and counterclaim for revocation in the amount of **EUR 350,000** (three hundred and fifty thousand euros).
- II. The security must be provided by either depositing the required amount into the UPC account dedicated to security deposits (listed on the UPC website), or by providing a bank guarantee issued by a bank licensed in the European Union, chosen by BMSI.
- III. The security must be provided **within four weeks** of the date of service of this order.
- IV. BMSI is informed that, if it fails to provide the aforementioned security within the stated timeframe, a default decision may be issued in accordance with Rule 355 RoP.

On behalf of the Registry:

The JR: