



Appeal No.:
UPC-CoA-50/2026

ORDER
of the Court of Appeal of the Unified Patent Court
on the appeal against an order ruling on a preliminary objection (Rule 19 RoP)
issued on 22 June 2026

HEADING

- (i) The criterion of a commercial link, within the meaning of Article 33(1)(b) of the UPCA, implies the existence of relations between the defendants concerning commercial activities relating to the product or range of products alleged to be subject to infringement, such as research and development, manufacture, sale and distribution of those products.
- (ii) Belonging to the same group of companies may constitute such a commercial link, provided that it can be established that the activity of each defendant belonging to that same group relates to the product or range of products alleged to be subject to infringement.
- (iii) The commercial link may be direct or indirect. It may exist through other companies within the same group of companies or even through third-party intermediaries, provided that all the defendants are pursuing the same objective and that the activities in question relate to the product or range of products alleged to be subject to infringement. In this sense, it is not necessary, in order to establish the existence of a commercial link, for the defendants to be part of the same supply chain or for the anchor defendant to be involved in the various supply chains.
- (iv) According to the second condition set out in the second sentence of Article 33(1)(b) of the UPCA, the action must relate to the same alleged infringement.
- (v) In order to satisfy this condition, the acts alleged to constitute infringement must relate to the same patent and to the same product or the same range of products, provided that, on the basis of a preliminary assessment at the stage of examining a preliminary objection, the products at issue appear to be substantially the same, irrespective of their trade names and without it being necessary to establish that these products are marketed through the same supply and distribution channels.

KEYWORDS

Preliminary objection; jurisdiction of the divisions of the Court of First Instance.

APPELLANTS, DEFENDANTS IN THE INFRINGEMENT PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE AND APPLICANTS IN THE PRELIMINARY OBJECTION PROCEEDINGS

- (1) **ROBERT BOSCH DOO BEOGRAD**, 90E/IV Omladinskih brigada, 11070, Belgrade, Serbia
 - (2) **ROBERT BOSCH FRANCE SAS**, 32 avenue Michelet, 93400, Saint-Ouen-Sur-Seine, France
 - (3) **ROBERT BOSCH GMBH**, 1 Robert-Bosch-Platz, 70839 Gerlingen, Germany
 - (4) **ROBERT BOSCH S.A.**, 1 rue Henri-Joseph Genesse, 1070 Anderlecht, Belgium
 - (5) **ROBERT BOSCH PRODUKTIE S.A.**, Hamelendreef 80, 3300 Tienen, Belgium
 - (6) **BOSCH AUTOMOTIVE PRODUCTS (CHANGSHA) CO., LTD.**, 26, Lixiangzhong Road, Economic and Technological Development Zone, Changsha County, Hunan Province, 410100 Changsha, China
- hereinafter collectively referred to as **'the Appellants'** or **'BOSCH'**
- represented by Mr Johannes Heselberger, representative before the UPC, Bardehle Pagenberg, Munich, Germany

RESPONDENT AND CLAIMANT IN THE INFRINGEMENT PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE

VALEO SYSTEMES D'ESSUYAGE, 34, rue Saint-André, 93012 Bobigny Cedex, France

hereinafter referred to as **'the Respondent'** or **'VALEO'**

represented by Mr Lionel Martin, representative before the UPC, together with other representatives from the law firm August Debouzy, Paris, France

PATENT IN DISPUTE

EP 4 144 599

COMPOSITION OF THE CHAMBER

First Chamber, 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 THE PROCEEDINGS

French

CONTESTED ORDER OF THE COURT OF FIRST INSTANCE

- Order of the Paris Local Division of 23 March 2026, UPC_CFI_1963/2025

DATE OF THE HEARING

26 May 2026

SUMMARY OF THE FACTS AND PROCEEDINGS

Proceedings before the Court of First Instance

1. On 12 December 2025, VALEO brought an action for infringement of the patent in dispute, relating to a windscreen wiper system adapter, against the BOSCH companies before the Paris Local Division of the Court of First Instance of the Unified Patent Court (hereinafter the 'Paris Local Division') in respect of alleged acts of infringement committed in Germany, Belgium and France concerning several models of windscreen wiper blades manufactured by BOSCH and marketed under the trade names (i) MOPAR, a trade mark of the STELLANTIS group, (ii) BYD, for fitting the disputed products to the Z9 vehicle models in the DENZA range manufactured by BYD Auto, and (iii) AEROTWIN, a trade mark of the BOSCH group.
2. Five of the appellant companies – Robert Bosch Doo Beograd, Robert Bosch France SAS (hereinafter 'Bosch France'), Robert Bosch GmbH, Robert Bosch SA, and Robert Bosch Produktie SA – lodged a preliminary objection on 27 January 2026 (Rule 19 of the RoP) concerning the jurisdiction of the Paris Local Division and the language of the proceedings (hereinafter the 'First Preliminary Objection') on the grounds, in particular, that the conditions relating to the requirement of a commercial link and a single alleged infringement, as set out in Article 33(1) (b) of the UPCA Agreement (hereinafter the 'UPCA Agreement') to justify the jurisdiction of a local division in cases involving multiple defendants, were not met.
3. On 6 February 2026, Bosch Automotive Products (Changsha) (hereinafter 'Bosch China') filed a second preliminary objection in accordance with the provisions of Rule 19 of the RoP, in the same terms as the First preliminary objection.
4. The reporting judge, having ordered the joinder of the two preliminary objections, dismissed them, on the grounds, in particular, that the requirement of a commercial link must be assessed in relation to all the defendants and not solely to the defendant whose domicile is relied upon to determine the division's jurisdiction pursuant to Article 33(1) (b) UPCA (hereinafter the 'anchor defendant') and that, with regard to the criterion of the same alleged infringement, it must be understood as relating to infringement of the same patent, and that it is immaterial that not all the defendants are concerned with products alleged to be strictly identical infringements, provided that they are alleged to infringe the same patent (Paris Commercial Court, order of 17 February 2026).
5. Having been seized of an application for review (Rule 333 of the RoP), the Paris Commercial Court, adopting the substance of the reporting judge's reasoning, dismissed the application for review as well as the application to dismiss the infringement action (order of 23 March 2026, hereinafter 'the contested order') and authorised an appeal to be lodged against its order.

The appeal proceedings

6. On 7 April 2026, the Appellants lodged an appeal against the contested order. They request the Court of Appeal to
 - (i) set aside the contested order in so far as it dismisses the application for review of the order of 17 February 2026 and dismisses the application to strike out the infringement claim;
 - (ii) set aside the procedural order of the reporting judge (DL Paris) of 17 February 2026 in so far as it dismissed the preliminary objections and declared BOSCH's ancillary claims to be without merit;
 - (iii) ruling again on the preliminary objections, hold that the DL Paris does not have jurisdiction to hear the infringement action;
 - (iv) dismiss the infringement action.

7. BOSCH argues, in particular, that the condition relating to the existence of a commercial link between the defendants referred to in Article 33(1)(b) of the UPCA must be interpreted strictly and that, where there are two different supply chains for the same products, the 'anchor' defendant can only be the defendant involved in both supply chains. With regard to the second condition set out in Article 33(1) (b) of the UPCA, relating to the same alleged infringement, BOSCH considers that this is not limited to an infringement of the same patent, but requires that each defendant commit at least one of the acts referred to in Articles 25 and 26 of the UPCA in relation to the same patent and the same product or process. This condition would not be met in the present case in so far as, according to the Appellants, Bosch France is not involved in the supply chain for 'BYD' products in China and, conversely, Bosch China is in no way involved in the supply chain for the disputed products marketed under the names 'MOPAR' and 'AEROTWIN' in Europe.
8. VALEO seeks
 - (i) that the contested order be upheld in so far as it dismissed the preliminary objections and declared BOSCH's ancillary claims to be without merit, as well as
 - (ii) the dismissal of all other claims brought by BOSCH.
9. It argues that the condition of a commercial link set out in Article 33(1)(b) UPCA must be assessed in relation to all the defendants and does not require the existence of a direct commercial relationship between each defendant and the anchor defendant; furthermore, to require, as BOSCH contends, that the anchor defendant be part of the same supply chain as all the defendants would add a condition not provided for by the legislature. As regards the condition relating to an action concerning the same alleged infringement, this must be assessed, according to VALEO, not by reference to the formal identity of the products and acts of infringement, but by the identity of the alleged infringement of the same claims of the same patent. Furthermore, the products alleged to be subject to infringement are structurally and materially identical and differ only in their trade name, which varies according to the product's target market (the original equipment market, or 'OEM' (Original Equipment Manufacturer) market and the manufacturer-branded aftermarket, or 'OES' (Original Equipment Supplier) market, for the disputed MOPAR and BYD products; and the market for the sale of spare parts under the BOSCH trade name or the 'IAM' (Independent Aftermarket) market for the disputed products in the AEROTWIN range).

REASONS

Admissibility of the appeal

10. The appeal, authorised by the Paris Regional Court, was lodged within the 15-day time limit referred to in Rule 220.2 of the RoP, and is therefore admissible.

The jurisdiction of the divisions of the Court of First Instance under the UPCA

11. Article 33(1) of the UPCA determines the jurisdiction of the divisions of the Court of First Instance (hereinafter 'CFI') to hear an action for infringement based on the criterion of the place of infringement, or of a threat thereof, or on the criterion of the domicile of the defendant or one of the defendants.
12. Where the criterion of the defendant's domicile is applied, jurisdiction is conferred on the local division situated within the territory of the contracting Member State in which the defendant or, where there are several defendants, one of the defendants has their domicile or principal place of business or, in the absence of a domicile or principal place of business, their establishment, or before the regional division in which that contracting Member State participates (Article 33(1)(b), first sentence, UPCA). Where there are several defendants, an action may be brought against several defendants only if they have a commercial connection and if the action relates to the same alleged infringement (second sentence of the aforementioned provision).

The criterion of a commercial link

13. The criterion of a commercial link, within the meaning of Article 33(1)(b) of the UPCA, implies the existence of relations between the defendants concerning commercial activities relating to the product or range of products alleged to be subject to infringement, such as research and development, manufacture, sale and distribution of those products.
14. Belonging to the same group of companies may constitute such a commercial link, provided that it can be established that the activity of each defendant belonging to that same group relates to the product or range of products alleged to be subject to infringement.
15. The commercial link may be direct or indirect. It may exist through other companies within the same group of companies or even through third-party intermediaries, provided that all the defendants are pursuing the same objective and that the activities in question relate to the product or range of products alleged to be subject to infringement. In this regard, it is not necessary, in order to establish the existence of a commercial link, for the defendants to be part of the same supply chain or for the anchor defendant to be involved in the various supply chains.
16. It should also be noted that, at the stage of examining a preliminary objection, the jurisdiction of a division of the General Court must not be determined by an exhaustive assessment of the evidence and facts relevant both to the determination of jurisdiction and to the assessment of the merits of the claim, but must be determined by the Court on the basis of a summary assessment of the facts before it, without considering the substantive arguments of the case (see, to that effect, the Order of this Court, CoA_317/2025 and 376/2025, 28 November 2025, Barco v Yealink, para. 65).
17. In the present case, the BOSCH companies do not dispute that the products alleged to be subject to infringement, as referred to in paragraph 1 above, are manufactured and/or marketed by one or more of them. However, they dispute the involvement of Bosch France in the supply chain for BYD products in China, as well as the involvement of Bosch China in the supply chain for MOPAR and AEROTWIN products in Europe.
18. It is not disputed, at the stage of examining the preliminary objection, that the products alleged to be subject to infringement, whilst differing in their trade names, are the result of a coordinated organisation of the design and development, production and marketing stages of all or part of these products amongst all the Appellants, in which each of them, including Bosch France and Bosch China, is involved in at least one of these stages. The mere fact that the latter two are not directly involved in the supply chain for each product alleged to be subject to infringement is irrelevant to the assessment of whether a commercial link exists between all the Appellants, given that, at the stage of the preliminary objection, and without prejudice to the decision on the merits to be given, Bosch France's involvement in the marketing of MOPAR and AEROTWIN products, and that of Bosch China in the marketing of the windscreen wiper blade systems alleged to be subject to infringement, intended for BYD's Denza models – the announcement of the marketing of which in Europe (Germany, France, Belgium) has been sufficiently established by VALEO and is not contested by BOSCH.

The action relates to the same alleged infringement

19. According to the second condition set out in the second sentence of Article 33(1)(b) of the UPCA, the action must relate to the same alleged infringement.
20. To satisfy this condition, the acts alleged to constitute infringement must relate to the same patent and to the same product or the same range of products, provided that, on the basis of a preliminary assessment at the stage of examining a preliminary objection, the products at issue appear to be

substantially the same, irrespective of their trade names and without it being necessary to establish that these products are marketed through the same supply and distribution channels.

21. In the present case, VALEO's claims against the BOSCH companies relate to the infringement of the patent in question by BOSCH windscreen wipers from the AEROTWIN range, reference numbers A010J, APX16, APX 17, APX 19, APX 20, APX 24, APX 26 and APX 28, intended for the IAM market segment, and MOPAR-branded wiper blades intended for the OEM/OES segments, as well as BOSCH wiper blades for the Denza Z9 model manufactured by BYD, intended for direct or potential supply to France, Belgium and Germany (Statement of Claim, para. 447).
22. In its statement of claim, VALEO describes the MOPAR, BYD and AEROTWIN products alleged to be subject to infringement, sets out the grounds for their 'structural' and 'perfect' identity, 'right down to their dimensions', between these products, notably by reproducing photographs of the products alleged to engage in infringement, taken from samples submitted as exhibits in support of its statement of claim, and sets out the grounds on which the disputed MOPAR and BYD products, as well as those in the AEROTWIN range, all infringe the disputed patent.
23. For its part, BOSCH has not demonstrated, at the stage of the preliminary objection, that the products alleged to be infringing exhibit such material or structural differences that the infringement of the patent in question should be assessed in a substantially different manner for each of them. BOSCH merely refers to the BYD and MOPAR products and to the photographs produced by VALEO in support of its claims (Figures 72 and 73, pages 80–81 of VALEO's statement of claim, reproduced below). The sole reference to these photographs, whilst merely asserting that at the preliminary objection stage 'it suffices to note that these are in any event two distinct products, which the Claimant indeed treats as such in its Statement of Claim', without specifying which material or structural aspects distinguish these products for the purposes of determining whether they infringe the patent in dispute, is nevertheless insufficient to conclude that there are two distinct products.

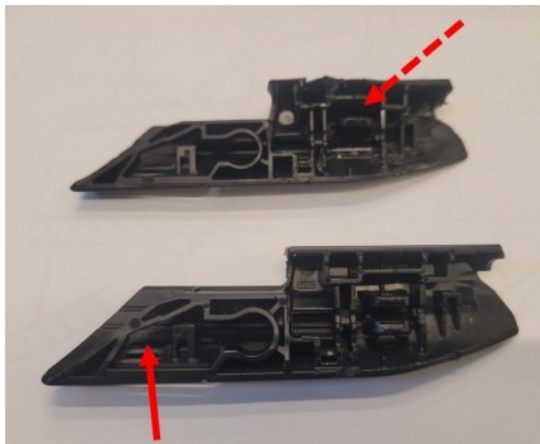


Figure 72 : adaptateur MOPAR (flèche rouge) et adaptateur BYD (flèche rouge pointillé) positionnés l'un à la suite de l'autre





Figure 73 : adaptateur MOPAR (flèche rouge, photo du haut) et adaptateur BYD (flèche orange, photo du bas) positionnés à côté d'une règle graduée de manière à faire apparaître leurs dimensions longitudinales identiques

24. On the contrary, these photographs reveal that these products have, at the very least, the same structure and apparently identical dimensions, and any possible minor differences, not described by BOSCH, do not serve to contradict this assessment.
25. It therefore appears, at the stage of examining the preliminary objections raised by BOSCH, and without prejudice to the subsequent examination of the merits of the case, that the action relates to the same alleged infringement, such that the two conditions set out in the second sentence of Article 33(1) (b) of the UPCA are satisfied and that the jurisdiction of the Paris Commercial Court on the basis of that article is established.

BOSCH's application to dismiss the infringement action

26. As the preliminary objections have been dismissed, the application to dismiss the infringement action is now moot.

ORDER

The Court of Appeal dismisses the appeal.

Delivered in Luxembourg on 22 June 2026.

Klaus Grabinski, President of the Court of Appeal,

Emmanuel Gougé, Legally Qualified Judge and Reporting Judge,

Ingeborg Simonsson, legally qualified judge.