Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Local Division Munich
UPC_CFI_2280/2025
CCfR UPC_CFI_3018/2026

Procedural order

of the Court of First Instance of the Unified Patent Court
issued on 2 September 2026
concerning EP 3 878 161 B1

CLAIMANT
IAGON LTD, Post Box 30099, Rakbank Headquarters, Ras Al Khaimah, United Arab Emirates

Claimant represented by:
Dr. Jan Phillip Rektorschek and Dipl.-Ing. Tobias Baus, LL.M., of PENTRAC Rechtsanwälte PartG mbB

DEFENDANTS
1. **Influx Technologies USA LLC,** Northwest Registered Agent Service, Inc., 8 The Green, STE B, Kent, 19901, Dover, Delaware, United States

2. **Influx Technologies Limited**, Formal House, 60 St. Georges Place, GL50 3PN, Cheltenham, Gloucestershire, United Kingdom

3. [redacted] Formal House, 60 St. Georges Place, GL50 3PN, Cheltenham, Gloucestershire, United Kingdom

4. [redacted] Formal House, 60 St. Georges Place, GL50 3PN, Cheltenham, Gloucestershire, United Kingdom

Defendants 1–4 represented by:
Sebastian Ochs of Grünecker Patent- & Rechtsanwälte PartG mbB

PATENT AT ISSUE

European patent no EP 3 878 161 B1

PANEL/DIVISION

Panel 1a of the Local Division Munich

DECIDING JUDGE

Daniel Severinsson acting as judge-rapporteur

LANGUAGE OF THE PROCEEDINGS

English

SUBJECT OF THE PROCEEDINGS

Patent infringement action – security for costs (R. 258 RoP)

BACKGROUND

1. IAGON LTD (Iagon) has initiated a patent infringement action against Influx Technologies USA LLC (Defendant 1), Influx Technologies Limited (Defendant 2) [redacted] (Defendant 3) and [redacted] (Defendant 4). Defendants 1–4 are jointly referred to as Defendants. The Defendants have requested that Iagon provides security for costs in the patent infringement action and have reserved the right to also request security for costs with respect to the Counterclaim for revocation, which was not filed at the time of the present request.

REQUESTS

2. The Defendants request that the Court orders Iagon to provide security for costs to the Defendants in an amount of EUR 112.000 either by deposit or by a bank guarantee issued by a bank licensed in the European Union, within one month from the date of service of the order.

3. Iagon requests that the Court rejects the Defendants' request for security for costs or, in the alternative, that any security ordered be reduced to an appropriate amount.

ARGUMENTS OF THE PARTIES

The Defendants

4. The Defendants have in summary held that a considerable risk exists that Iagon does not have sufficient liquidity, when it comes to the reimbursement of the costs of the present proceedings and that any enforcement of the cost order would be associated with disproportionate efforts, and the prospects of success are unclear.

5. Iagon's registered office is based in Ras al Khaimah in the United Arab Emirates which does not even provide a publicly accessible company register. The only available financial information is Iagon's "MiCA White Paper" which it has published on its website in accordance with the provisions of the Regulation (EU) 2023/1114 on markets in crypto-assets (Exhibit GRU1). The MiCA White Paper shows that Iagon was established in 2024 and has not yet undergone any audit or recorded any financial data. It also follows that revenues remain modest relative to expenditures. Further, the Norwegian company IAGON AS which was the initial owner of the patent in suit and has the same CEO as Iagon was in considerable financial distress in 2022 according to its annual account (see Exhibit GRU2).

6. There are no current agreements with the United Arab Emirates to simplify service or enforcement of court decisions. The Defendants may be forced to have the order recognized in the United Arab Emirates by a competent court there and then arrange its enforcement by the local authorities under national law. It is unclear which public body will be competent for this and how long the recognition and enforcement process will take. Against this background the Defendants would need to expose themselves to the unreasonable risk that Iagon might once again evade enforcement by relocating its registered office, as already done in the past.

7. The requested amount EUR 112.000 reflects the ceiling for recoverable costs based on the value of the case, which Iagon has estimated to EUR 1.000.000.

Iagon

8. Iagon has in summary held that there is no legitimate and real concern regarding the recoverability of any costs order, nor has an impediment to enforcement been demonstrated. In any event, the amount sought is disproportionate.

9. It follows from the MiCA White Paper, which was issued on 12 November 2025, that Iagon's financial resources are sufficient to sustain ongoing operations for a period of

36 months, and that the Company has no material outstanding liabilities, debts or financial obligations and is not exposed to any financial risks or uncertainties regarding its long-term viability. Iagon and IAGON AS are legally distinct companies and the financial information regarding IAGON AS which the Defendants refer to is from 2022 and thus outdated.

10. As regards enforcement there are numerous examples and reports confirming a steadily improving, and, particularly with respect to purely monetary claims (such as costs claims), a functioning enforcement of foreign judgments from various countries in the United Arab Emirates (see e.g. a report by Burford Capital of 1 July 2025, Exhibit PEN 19).

11. In any event the requested amount of security is excessive and should at least not exceed 50% of the amounts applicable under the recoverable costs table.

<u>GROUNDS FOR THE ORDER</u>

Legal framework

12. 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 (Art. 69(4) UPCA and R. 158.1 RoP). The purpose of security for costs is to protect the opposing party against the risk that a future order for costs may not be recoverable or may be enforceable only in an unduly burdensome manner.

13. The ordering of security is a discretionary decision of the Court. When exercising its discretion, 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 the likelihood that a possible order for costs by the UPC may not, or in an unduly burdensome way, be enforceable. The burden of substantiation and proof why an order for security for costs is appropriate in a particular case is on the applicant making such a request. However, once the reasons and facts in the request have been presented in a credible manner, it is up to the other party 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_889/2025, order of 18 February 2026, Syntorr v Arthrex, paras. 19 and 20).

14. It is for the respondent to argue that and why a security order would unduly interfere with its right to an effective remedy. In making that assessment, the Court must take into account all relevant circumstances and strike a fair balance between protecting the respondent against the risk of non-recovery and safeguarding the appellant's right of access to justice. While the mere fact that a party has its registered office in a country that is not a Member State of the EU or EEA, or that its financial situation is not fully known, is not in itself sufficient to justify an order for security for costs, proof of actual insolvency is not required. Nor is the Court required to establish that recovery of a future costs order will be impossible. It is sufficient that the circumstances objectively demonstrate a genuine risk affecting the practical recoverability or enforceability of such an order (UPC_CoA_935/2025, order of 2 July 2026, AMYCEL, paras. 12–14, and UPC_CoA_431/2025, order of 9 July 2025, Chint a.o. v Jingao, para. 14). To this end, the applicant must normally not only provide evidence as to the foreign law applicable in the territory where the order shall be enforced, but also its application (UPC_CoA_548/2024, order of 29 November 2024, Aarke v Sodastream, para. 24).

Assessment

15. In the present case the Defendants have argued both that the financial position of Iagon gives rise to a legitimate and real concern that a possible order for costs may not be recoverable and that a possible order for costs may not, or only in an unduly burdensome way, be enforceable.

16. As regards the financial position of Iagon the parties have referred to Iagon's MiCA White Paper of November 2025. According to this Iagon was recently established, had not undergone an audit and has modest revenues relative to expenditures, which could indeed indicate some concern regarding Iagon's financial standing. However, it also follows from the MiCA White Paper that Iagon's financial resources are sufficient to support its current operations and limited business activities for 36 months, and that it has no outstanding liabilities, debts or financial commitments. The Court therefore finds that the available financial information regarding Iagon, albeit limited, does not justify an order for security for costs. The Defendants have also referred to the financial distress of the Norwegian company IAGON AS according to the annual accounts of 2022. However, this information is outdated and does not relate directly to Iagon but to an affiliated company. Against this background the Court finds that the Defendants have not presented in a sufficiently credible manner that an order for security for costs is appropriate due to Iagon's financial position.

17. With respect to the enforceability of a cost order, the Defendants have rightly held that it is a relevant factor that Iagon has its registered office in the United Arab Emirates

which is not a Member State of the European Union or the European Economic Area (UPC_CoA_431/2025, order of 9 July 2025, Chint a.o. v Jingao, para. 14). However, the Defendants have not given any concrete examples of actual difficulties regarding enforcing cost orders in the United Arab Emirates. Iagon, on the other hand, has referred to several reports according to which at least monetary claims are generally enforceable in the United Arab Emirates. In light of the foregoing, the Court finds that the Defendants have not sufficiently substantiated that the enforcement of a cost decision would be unduly burdensome.

18. Against this background the Court finds that the Defendants have not presented in a sufficiently credible manner that an order for security for costs is appropriate due to Iagon's financial position or because the enforcement of a cost decision would be unduly burdensome. The Defendants' request for security for costs should therefore be rejected.

ORDER

The Defendants' request for security for costs is rejected.

INFORMATION ABOUT PANEL REVIEW

Any party may request that this order be referred to the panel for a review pursuant to R. 333 RoP.

Issued on 2 September 2026

Sven Daniel Severinsson

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Daniel Severinsson
Judge-rapporteur