



Local Division Munich
UPC_CFI_52/2026
UPC_CFI_2285/2026

Order
of the Court of First Instance of the Unified Patent Court
Local Division Munich
issued on 6 August 2026

CLAIMANT:

Avago Technologies International Sales Pte. Limited, 1 Yishun Avenue 7, Singapore 768923, Singapore, represented by its management,

represented by: CBH Rechtsanwälte PartG mbB, Ismaninger Straße 65a, 81675 Munich

assisted by: Dilg, Haeusler, Schindelmann – Patent Attorney Firm, LLC,
Leonrodstraße 58, 80636 Munich

DEFENDANTS:

1. Hyundai Motor Deutschland GmbH, Kaiserleipromenade 5, 63067 Offenbach, Federal Republic of Germany, represented by Managing Director Ulrich Mechau,

Defendant No. 1)

2. Hyundai Motor Company, Seoul, 12 Heolleung-ro, Seocho-gu, Republic of Korea, represented by its management,

Defendant No. 2)

3. Hyundai Motor Europe GmbH, Kaiserleipromenade 5, 63067 Offenbach, Federal Republic of Germany, represented by Managing Director Xavier Martinet,

Defendant No. 3)

4. Hyundai Motor Manufacturing Czech s.r.o., Hyundai 700/1, 739 51 Nižní Lhoty, Nošovice Industrial Zone, Czech Republic, represented by Managing Director Changki Lee

Defendant No. 4)

5. Hyundai Motor Europe Technical Center GmbH, Hyundai-Platz, 65428 Rüsselsheim, Federal Republic of Germany, represented by Managing Directors Tyrone Johnson and Lindlar Kenneth,

Defendant No. 5)

6. Hyundai Motor France S.A.S., Tour Nova, 71 Boulevard National, 92250 La Garenne-Colombes, French Republic, represented by President Lionel French Kieogh

Defendant No. 6)

7. Hyundai Motor Netherlands B.V., Huv van Doorneweg 14, 2171 KZ Sassenheim, Kingdom of the Netherlands, represented by board members Young Shin Cho and Minjeong Seo,

Defendant No. 7)

Defendants 1) through 7), represented by:

Hogan Lovells International LLP, Karl-Scharnagl-Ring 5, 80539 Munich

PATENT AT ISSUE:

European Patent No. 3 651 429

LANGUAGE OF PROCEEDINGS:

German

PANEL:

Panel 1b of the Local Division Munich

PRESIDING JUDGE:

This order was issued by Judge Dr. Schnurr, acting as the judge-rapporteur.

SUBJECT-MATTER:

Patent Infringement Proceedings — Suspension of Proceedings, Article 33(10) of the Agreement on a Unified Patent Court (UPCA), Rules 298 and 295(a) of the Rules of Procedure of the Unified Patent Court (RoP)

SUMMARY OF FACTS AND REQUESTS OF THE PARTIES

- 1 In response to the Claimant's infringement action filed on 7 January 2026 (UPC_CFI_52/2026), the Court, in consultation with the parties, set the date for the oral hearing for 15 April 2027, and the date for an interim conference by video conference for 5 March 2027. This was done in May 2026. In June 2026, Defendants 1) through 7) filed a counterclaim for revocation (UPC_CFI_2285/2026).
- 2 On 9 July 2026, European Patent No. 3 651 429 (the patent at issue), concerning a vehicle communication network, was revoked by the European Patent Office in opposition proceedings. The Claimant filed an appeal against this decision on 4 August 2026. Before the European Patent Office, the proceedings are conducted as accelerated proceedings within the meaning of Rule 298 of the RoP. According to the Defendant's forecast — which the Claimant has not contested — a decision on the appeal is expected in the summer of 2027.
- 3 As requested in their pleadings dated 22 and 27 July 2026, Defendants 1) through 7) request a stay of the infringement action and the related counterclaim for revocation pursuant to Rule 295(a) and (m) as well as Rule 118.2(b), alternatives 1 and 2 of the RoP, or, in the alternative, on the basis of Article 33(10) of the UPCA in conjunction with Rules 295(g) and 118.2(b), alternative 2 of the RoP. They request that the dates set for the oral hearing and the interim conference be cancelled.
- 4 The Defendants expect that the relevant Board of Appeal of the European Patent Office will uphold the revocation of the patent. According to the Defendants, the Claimant brought the infringement action without any need for urgency during the pending opposition proceedings, before the parties had entered into licensing negotiations. The patent at issue is said to have been impermissibly broadened and to not involve an inventive step. The Defendants argue, in essence, that it is unreasonable to expect them either to bear any losses arising from the provisional enforcement of the judgement at first instance or to continue the proceedings, at considerable expense, until the oral hearing.
- 5 The Claimant contests these arguments and the request for a stay in their entirety. In its statement of 4 August 2026, the Claimant argues that the decision of the Opposition Division is based on an incorrect interpretation and will not be upheld on appeal; claim group 1.8 in the granted version of the patent at issue has not been impermissibly broadened. Rule 295(a) of the RoP does not apply, as this rule does not provide for a stay of proceedings on the basis of a decision already issued by the European Patent Office. Article 33(10) of the UPCA and Rule 295(a) of the RoP are to be interpreted as being compatible with the Claimant's right to effective legal protection and to a fair trial with a public oral hearing within a reasonable time, in accordance with Article 6 of the ECHR. A stay of proceedings pursuant to Rules 295(g) and 118.2(b) of the RoP is not permissible as long as the case is not ready for decision. The Claimant argues, in

essence, that a stay of proceedings can only be considered under the conditions set out in Rule 295(a) of the RoP, which do not, however, apply in this case.

GROUND:

- 6 Rule 298(2), of the RoP, in conjunction with Article 33 (10) of the UPCA and Rule 295(a) of the RoP provide that the Court may stay its proceedings pursuant to Rule 295(a) of the RoP until a Decision has been rendered in accelerated proceedings before the European Patent Office. Under this provision, the Court may order a stay of proceedings until the European Patent Office has rendered a final decision, without making any determination regarding the validity of the patent. This is a reference to a provision by analogy; in this situation, it must additionally be examined, pursuant to Article 33(10) UPCA and Rule 295(a) of the RoP, whether a decision in the proceedings before the European Patent Office may be expected to be given rapidly (see the Order of the Court of Appeal of the Unified Patent Court of 28 May 2024, UPC_CoA_22/2024, GRUR-RS 2024, 16704, Carrier v. Bitzer, sixth headnote, para. 27).
- 7 The mere fact that the European Patent Office has granted a request to expedite the opposition proceedings is, in itself, insufficient to warrant a stay of infringement proceedings before the Unified Patent Court (see also the above-mentioned Order of 28 May 2024, UPC_CoA_22/2024, sixth headnote, para. 24). This is because the Convention on the Grant of European Patents and the UPCA make it possible to challenge the validity of a patent in both opposition and revocation proceedings, and they permit the initiation of revocation proceedings while opposition proceedings concerning the same patent are pending.
- 8 The requirement of a decision “expected to be given rapidly” within the meaning of Rule 295(a) is met in this case. Following the revocation of the patent, the European Patent Office will decide the matter in an expedited proceeding before the Board of Appeal. Taking 15 April 2027 as the starting point – the date set for the hearing before the Unified Patent Court before the end of the period for filing a response – a Decision by the Board of Appeal, which the parties anticipate will be issued in summer 2027, is expected to be given rapidly.
- 9 The fact that the opposition proceedings were concluded at the first instance by revocation of the patent at issue following the filing of the infringement action distinguishes the present case from those cases which concern proceedings conducted before the Opposition Division of the European Patent Office and the decisions of the Court of Appeal of the Unified Patent Court dated 28 May 2024, UPC_CoA_22/2024, GRUR-RS 2024, 16704, Carrier v. Bitzer, as well as the order of 21 November 2024, concerning a request to stay the proceedings, UPC_CoA_511/2024, Meril v. Edwards. In this case, following the revocation of the patent by the Opposition Division, a long-term suspension – which, by its very nature, covers a period of time required for

proceedings before the European Patent Office spanning more than one instance – is not to be expected.

- 10 In light of the more specific provisions of Rule 298, para. 2 of the RoP, in conjunction with Article 33(10) of the UPCA and Rule 295(a) of the RoP, this set of facts does not fall under the term “other case” within the meaning of Rule 295(m) of the RoP. Rule 295(g) and Rule 118.2(b) of the RoP, to which the parties also refer in their submissions, are currently not applicable during the written proceedings, which have not yet been concluded in this case (see *ibid.*, Order of 21 November 2024, UPC_CoA_511/2024, paras. 16–18.).
- 11 Rule 298(2) of the RoP, in conjunction with Article 33(10) of the UPCA and Rule 295(a) of the RoP, provide for a margin of discretion. The specific features of the individual case can be taken into account appropriately when weighing up the interests of the parties and the specific circumstances of the case. If these circumstances change, it is also possible to reopen proceedings that have been stayed.
- 12 In exercising its discretion to stay the proceedings, the Court took the following factors into account in favour of the Claimant:
- 13 Article 33 (10) of the UPCA and Rule 295(a) of the RoP must be interpreted in accordance with the fundamental right to an effective remedy and to a fair and public hearing, as guaranteed by Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and, insofar as it concerns European Union law, by Article 47 of the Charter of Fundamental Rights of the European Union. These provisions are also consistent with Articles 41(3), 42, and 52(1) of the UPCA, on the basis of the principles of proportionality, flexibility, fairness and equity as set out in Point 2 of the Preamble to the Rules of Procedure.
- 14 The Claimant rightly points out that, in accordance with these principles, proceedings before the Unified Patent Court must generally be conducted in a way which will normally allow the final oral hearing at first instance to take place within one year (see, in this regard and in relation to paragraph 13 above, the order of the Court of Appeal of the Unified Patent Court of 28 May 2024, UPC_CoA_22/2024 *Carrier v. Bitzer*, first headnote, para. 23). A stay of proceedings, which regularly runs counter to this objective, is therefore compatible with these principles only in exceptional circumstances.
- 15 The Claimant also points out that, even if the proceedings were expedited, it is currently not expected that a decision on the appeal filed with the European Patent Office in August 2026 will be rendered any sooner than a decision on the counterclaims for infringement and revocation in the proceedings before the Unified Patent Court. The Local Division requests that the competent Board of Appeal promptly notify it of any hearing scheduled there and of any procedural decisions.

- 16 By contrast, in the Defendant's favour, it must be taken into account that a conflict arises where, as in this case, a patent that has already been revoked at first instance forms the basis for a subsequent Decision by the Munich Local Division in the present infringement proceedings. Such conflicts should generally be avoided, even if the effects of the European Patent Office's decision are suspended pending a decision on the appeal (see the Court of Appeal of the Unified Patent Court, Order of 21 November 2024 concerning a request to stay the proceedings, Meril v. Edwards, fourth headnote).
- 17 For the Claimant, who filed the infringement action while aware that opposition proceedings were already underway, this conflict was foreseeable from the outset of the proceedings. The Claimant, when filing the action, knowingly accepted the risk that, depending on the outcome of the ongoing opposition proceedings, the oral hearing in the first instance might, in exceptional cases, not take place within one year.
- 18 None of the parties has alleged that the decision rendered by the European Patent Office could contain any serious obvious defects of a formal or substantive nature. The interpretation of feature 1.5, which the Claimant characterize as incorrect, and their objection, that feature group 1.8 in the granted version of the patent at issue has not been impermissibly broadened, do not meet this criterion.
- 19 Now that the parties have submitted their written grounds for the decision to the record, there are no other apparent grounds for such an assumption, which could, in principle, influence a decision on the stay of proceedings.
- 20 Since the Defendant's counterclaim for revocation is a response to the filing of the infringement action, there is no reason to hear the infringement action and the counterclaim for revocation separately before the Unified Patent Court. The parties have not put forward any reasons which, exceptionally, might justify such a Decision, nor are any such reasons apparent otherwise.
- 21 The same applies to any circumstances arising from the subject matter of the infringement action that might make a stay of proceedings appear inappropriate in this particular case, despite the conflict described above. The Claim is directed against the vehicle communication networks in the Defendant's vehicles. According to the submissions made in the Statement of Claim (para. 288), the Claimant is not aware of the extent to which the Defendants infringe the patent in suit.. The Defendants deny any infringement.
- 22 The interest in harmonising decisions concerning the validity of a European patent can, in principle, also be served by ensuring that the instance deciding last takes the decision of the instance deciding first into account in its own decision. However, following the revocation of the patent at first instance by a decision that, in itself, shows no obvious defects, a stay of the proceedings prevents the Unified Patent Court from

taking measures on the basis of the patent at issue that interfere with the alleged infringer's rights, only for such measures to prove, a few months later, to have been unjustified from the outset as a result of a decision of the Board of Appeal having *ex tunc* effect.

23 Having weighed these considerations, the Court is of the view that the infringement proceedings and the related counterclaim for revocation should be stayed pending a final decision by the European Patent Office in the parallel opposition appeal proceedings concerning European Patent No. 3 651 429.

24 For as long as the proceedings are stayed, the procedural deadlines do not run, in accordance with Rule 296(3) of the RoP. On the day on which the stay ends, the procedural time limits begin to run again pursuant to this provision.

ORDER

- I. The infringement proceedings UPC_CFI_52/2026 and the proceedings concerning the counterclaim for revocation, UPC_CFI_2285/2026, shall be stayed pending a final decision by the European Patent Office in the parallel appeal proceedings concerning European Patent No. 3 651 429.
- II. The competent Board of Appeal of the European Patent Office is requested to provide the Munich Local Division with a copy of the order summoning the parties to oral proceedings, under case numbers UPC_CFI_52/2026 and UPC_CFI_2285/2026, if a date for oral proceedings is scheduled, and to inform the Munich Local Division of any procedural decisions.
- III. A decision on the Defendants' request to cancel the date set for the oral hearing and the interim conference will be issued in a separate order.

INFORMATION ABOUT THE REVIEW BY THE PANEL

Any party may request that the panel review this order pursuant to Rule 333 of the RoP. The order shall remain in effect pending review (Rule 102.2 of the RoP).

INFORMATION FOR THE REGISTRY

The Registry is requested to forward the following letter to the Boards of Appeal of the European Patent Office: Dear Sir or Madam, proceedings concerning European Patent No. 3 651 429 are currently pending before the Munich Local Division under case numbers UPC_CFI_52/2026 and UPC_CFI_2285/2026. This patent was revoked by decision of the

European Patent Office dated 9 July 2026 (application number: 19 190 615.5; proprietor: Avago Technologies International Sales Pte. Limited). An appeal has been filed against that decision. In the interest of harmonising proceedings, you are kindly requested to provide the Local Division with a copy of the summons once a date for the oral hearing has been set. Please also inform the Munich Local Division of any procedural orders issued in this matter, so that the proceedings before the Local Division may be resumed as soon as possible, if necessary. Thank you very much.

Issued on 6 August 2026

Dr. Schnurr
Legally Qualified Judge