



Munich local division

**UPC_CFI245/2025
UPC_CFI_618/2025**

**Procedural order
of the Court of First Instance of the Unified Patent Court,
Munich local division
issued on 15 September 2026**

Claimant

SWARCO FUTURIT Traffic Signal Systems Ges.m.b.H.
Manfred Swarovski-Straße 1 – 7343 – Neutal – AT

represented by: Alexander Koller (NOMOS Attorney-at-law GmbH)

DEFENDANT

Yunex GmbH
Otto-Hahn-Ring 6 – 81739 – Munich – DE

represented by: Hosea Haag (AMPERSAND Partnership of Attorney-at-laws mbB)

INTERVENER

Shenzhen Dianming Technology Co., Ltd
Floor 6, 38, Liu Xian 1st Road, Bao'An District - 518100 - Shenzhen – CN

represented by: Martin Herzog (Herzog IP Patentanwalts GmbH)

PATENT AT ISSUE

European Patent No. 2 643 717

PANEL/Division

Panel 1a of the Munich local division

JUDGES INVOLVED

This order was issued by the presiding judge, Dr Matthias Zigann, acting as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS

German

SUBJECT

Orders following the interim hearing of 11 September 2026 (Rule 105.5 of the RoP)

COURSE OF PROCEEDINGS

1. The claimant (SWARCO FUTURIT Verkehrssysteme GmbH) initiated the main proceedings relating to the evidence preservation proceedings, reference number App_16855/2024, by filing the present infringement action on 20 March 2025. In the proceedings for the preservation of evidence, the defendant (Yunex GmbH) did not substantively dispute that the optics examined by the Claimant were structurally identical to those with the serial number 2023-GJ1-CP067 (1) manufactured by Shenzhen-Diaming Tech Co Ltd, which were supplied by the defendant to the City of Mönchengladbach.
2. Consequently, the Munich local division determined that the identity of the optics examined and those fitted in the display panels supplied by Yunex to the City of Mönchengladbach is deemed to be undisputed between the parties in accordance with Rule 171.2 of the RoP (cf. Order of 19 February 2025, ORD_24915/2024).
3. The written procedure was concluded on 20 January 2026.
4. As a result of the first interim hearing on 23 January 2026, the hearing date was set with regard to the hearing date of the parallel invalidity action brought before the Central Division in Paris by [REDACTED] (UPC_CFI_425/2025), supported by the intervener [REDACTED], and on the proposal [REDACTED] with the consent of the other parties, from 3 March 2026 to 2 February 2027. A further interim hearing was scheduled for 11 September 2026:

- 1. The in-person hearing scheduled for 3 March 2026 is adjourned to*
- 2. February 2027, 9.00 am, Room 212 and Overflow Room 220b, Denisstr. 3, Munich. The second date for a further interim hearing by video conference is set for 11 September 2026 at 10.00 am.*
- 3. The parties are summoned to attend these hearings.*
- 4. The defendant and the intervener are requested to provide further clarification, by 30 June 2026, of the simulations discussed in the defendant's document of 27 October 2025 on pages 36–47: The lens in question has two 'bumps' and an area between them – to which of these areas should the depicted ray paths relating to light refraction apply?*
- 5. The claimant may submit observations on the outcome of the parallel invalidity proceedings before the Paris Central Division by 31 July 2026. In doing so, she should also address the suggestions discussed today*

and respond to the document of 30 June 2026.

6. The defendant and the intervener may reply to this by 28 August 2026. In doing so, they should also address the suggestions discussed today.

7. All parties are requested to propose topics for the second interim hearing by 28 August 2026.

8. The value in dispute of the infringement claim is set at EUR 350,000.00. The value in dispute of the counterclaim for revocation is set at EUR 1,000,000.00. The total value in dispute is therefore EUR 1,350,000.00.

5. On 25 February 2026, Swarco filed a request for limitation with the European Patent Office. It requested that the word 'in particular' be deleted from the first line of claim 1. By decision of 6 March 2026, the request for limitation was granted. The limited version of the patent at issue was published on 8 April 2026 in the European Patent Bulletin (European Patent Bulletin 15/2026).
6. On 12 March 2026, Swarco filed a notice with the Court in this regard pursuant to Article 33(10) of the UPC Agreement.
7. The Paris Central Division dismissed the action for revocation (UPC_CFI_425/2025) by decision of 25 June 2026, taking into account the limitation proceedings. The decision is final.
8. On 7 July 2026, Yunex (following an extension of the deadline) submitted a 21-page explanation of the simulations discussed on pages 36–47 of the documents dated 27 October 2025. It also made further submissions regarding the non-infringement of feature 1.10.
9. On 31 July 2026, Swarco submitted a 14-page document as part of the infringement proceedings. In it, it commented on the outcome of the nullity proceedings before the Central Division in Paris and on Yunex's explanations. It also submitted amended applications relating to the infringement action and the counterclaim for revocation. These addressed the court's formal observations of 23 January 2026. Furthermore, the applications were amended to reflect the limitation ordered by the EPO.
10. On 14 August 2026, Swarco submitted a seven-page document as part of the infringement proceedings. In it, Swarco commented on the simulations discussed on pages 36 to 47 of Yunex's pleading dated 27 October 2025 on pages 36 to 47. The delay was due to the late provision of annexes (simulation data) to the document of 7 July 2026. At the time of submission, the court had not yet ruled on a request for an extension of time filed by Swarco in good time.
11. On 28 August 2026, Yunex submitted a 44-page document via the infringement proceedings workflow and a 78-page document via the counterclaim for nullity workflow. The document in the infringement proceedings addresses the following topics: Interpretation with partial reference to the decision of the

12. On 11 September 2026, the second interim meeting took place via video conference. The following attended:

_____, _____, _____, _____, _____

██████████ ███████████ ███████████

Patent Attorney Dr Shanshan Zou

TOPICS DISCUSSED AND DECISIONS

13. The following topics were discussed:

14. The judge-rapporteur subsequently granted Swarco's application for an extension of time dated 13 July 2026, as Yunex had already consented to it.

15. Yunex's application for confidentiality dated 28 August 2026, as well as its partial withdrawal of 2 September 2026, were discussed. The judge-rapporteur referred to the decision of the Court of Appeal dated 1 August 2025 (UPC-CoA_70/2025, para. 17, 4). Mr Haag explained that it was Yunex's request that the details of the cost estimate should not be made available to third parties by the other parties and that third parties should not be granted access to them. He partially withdrew the withdrawal in this respect. The confidential nature of the documents had been preserved because the court's interim order of 31 August 2026 was still in force.

The judge-rapporteur confirmed the confidentiality order subject to this condition. The UPC representatives may now pass on the unredacted pleadings to the respective party.

16. The suggestions regarding the claims made at the last hearing are discussed again, as it was not possible to record the interim hearing on

23 January 2026. Swarco amended the applications to the effect that the time limit in each case "begins to run six weeks after service of the notice within the meaning of Rule 118.8

para. 1 of the RoP". Mr Haag, acting for Yunex, requests that a time limit be granted for the submission of written pleadings setting out the amounts claimed in respect of the claims for reimbursement of costs, security for enforcement and security for the granting of a power to prevent. The intervener supports this application; Swarco raises no objections in this regard.

The judge-rapporteur grants this application. It should be made clear that quantified claims must be submitted within the time limit for filing pleadings. Further submissions are not permitted.

17. At the suggestion of Yunex, the judge-rapporteur clarifies that the contested embodiments are those optical components installed in the traffic light systems in Mönchengladbach. Based on the findings of the on-site inspection, it can be assumed that the test-purchase item acquired by Swarco is of the same design.

18. At the suggestion of Yunex, the judge-rapporteur clarifies that, for this reason, investigations into the optical properties of digital simulation models cannot constitute proof of non-infringement unless it is proven that they correspond to the optical components at issue. Counsel Haag subsequently moves that Yunex be granted the opportunity, as an alternative, to carry out investigations on the

optics at issue and to submit written pleadings on this matter. The intervener supports this application; Swarco objects to it.

The judge-rapporteur rejects this application. Since the service of the 20 March 2025, to examine the contested optics. The fact that Yunex chose not to do so, but instead examined digital simulation models, does not justify a further right to submit written pleadings. In this respect, there is also no need to take evidence at the oral hearing.

19. At Yunex's suggestion, the judge-rapporteur clarifies that a decision on the costs of the inspection proceedings will also have to be made in the main proceedings, as requested by Swarco.
20. The mutual allegations of having submitted applications late are discussed, as are the applications to admit or reject amended applications and the related applications.

The judge-rapporteur decides that the claimant's applications take account of the outcome of the limitation proceedings before the EPO. The amendments constitute merely revisions or editorial corrections, which are to be admitted in accordance with Rules 30.2 and 263.3 of the RoP. Accordingly, the Paris Central Division has also admitted the amended applications (para. 28). However, the other parties must be given the opportunity to submit written comments on this matter. Yunex has already done so in a total of 122 pages. Insofar as the two pleadings go beyond the issue of limitation and the subject matter of the order of 23 January 2026, the pleadings must, however, be rejected as out of time. The subject matter of the order of 23 January 2026 was the further explanation of the simulations and the notification of the outcome of the parallel invalidity proceedings. However, this right to submit written submissions did not open up the possibility of analysing the decision of the Paris Central Division comprehensively, as one would in grounds of appeal. The mere 22 pages submitted by Swarco in total illustrate this understanding. Also not included are submissions on the interpretation and the form of infringement, further non-infringement arguments and invalidity arguments that do not refer to the limitation in their reasoning, as well as submissions on the legal consequences.

Swarco was not granted a further right to submit written submissions commenting on the admissible content, as Swarco stated in response to a question at the second interim hearing that the opportunity to make oral submissions at the hearing was sufficient.

21. At the oral hearing, Yunex and the intervener will be given the opportunity to present their case for 60 minutes on the admissible content of the counterclaim for nullity as set out above. Yunex may then reply for a maximum of 60 minutes. Thereafter, each side will be granted a further 30 minutes to reply. The application by Mr Haag, the solicitor, for 90 minutes to present the arguments in support of the counterclaim for nullity was therefore granted. In the event that the validity of the patent in suit is to be assumed, each party will be granted a further

30 minutes to present their arguments on the remaining issues, as well as a further 15 minutes each to reply.

22. In view of the substantial legal costs already incurred, which far exceed the value in dispute of the infringement claim (EUR 350,000), the judge-rapporteur once again suggests making use of the services of the PMAC. Mediation would have a timeframe of three months and could therefore be conducted in the period leading up to the oral hearing.

ORDERS

1. The hearing scheduled for 2 February 2027 at 9.00 am in Room 212 and Overflow Room 220b, Denisstr. 3, Munich, is confirmed. The parties are summoned to attend this hearing.

Yunex and the intervener will have the opportunity during the oral hearing to present their arguments on the admissible content of the counterclaim for nullity for a period of 60 minutes. Schwarco may then reply for 60 minutes. Following this, each side will be granted a further maximum of 30 minutes each to present their rejoinders. In the event that the validity of the patent in suit is to be assumed, each party will be granted a further 30 minutes each to present their arguments on the remaining issues, as well as a further maximum of 15 minutes each to present their rejoinders.

2. If a party wishes to use PowerPoint presentations for illustrative purposes during the oral hearing, it must make these available to the other parties and the court one week before the hearing. The content is limited to the admissible content of the CMS file.

3. The parties are requested to provide the court with the names and roles of those attending the hearing one week before the hearing date. Any request to participate via video conference must also be made within this timeframe.

4. Swarco's application for an extension of time dated 13 July 2026 is hereby granted retrospectively.

5. The parties' amendments to their applications are admitted.

6. Yunex's submissions in the pleadings of 7 July 2026 and 28 August 2026 are dismissed insofar as they go beyond the content set out in paragraph 20. The court will not take these into account.

7. Yunex is permitted to submit, in written pleadings within two weeks, quantified applications for reimbursement of costs, security for enforcement and the provision of security. This does not include any further applications, including those relating to these applications.

8. The provisional confidentiality order of 31 August 2026 is set aside in respect of the third sentence of paragraph II and is otherwise confirmed as a final confidentiality order.

9. In all other respects, the parties' applications cited above are dismissed.

INFORMATION ON THE REVIEW BY THE PANEL

Any party may apply for a review of this order by the panel pursuant to Rule 333 of the RoP. The order remains in force pending the review (Rule 102.2 of the RoP).

INFORMATION ON THE ORAL HEARING IN COURT

The oral hearing is open to the public, unless the court decides, where necessary, to hold a hearing in camera in the interests of one of the parties or third parties, or in the general interest of justice or public order (Rule 115 of the RoP).

INFORMATION ON AUDIO RECORDING

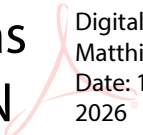
An audio recording of the hearing will be made. The recording will be made available to the parties or their representatives on the premises of the court following the hearing (Rule 115 of the RoP).

INFORMATION ON THE ABSENCE OR LATE ARRIVAL OF A REPRESENTATIVE

Upon application, a default judgement may be made against a party if a party who has been duly summoned fails to appear at an oral hearing. (Rule 355.1 (b) of the RoP).

INFORMATION REGARDING A DEFAULT JUDGMENT

If a party fails to comply with this order within the prescribed time limit, a default order may be made in accordance with Rule 355 of the RoP (Rule 103.1, last subparagraph, and .2 of the RoP).

**Matthias
ZIGANN**  Digitally signed by
Matthias ZIGANN
Date: 15 September
2026
12:50:35 +02'00'

Dr Zigann Presiding Judge