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Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Case No.: UPC 2296/2025

Revocation Action

Procedural order
of the Court of First Instance of the Unified Patent Court,
Central Division (Munich Section)
issued on 2 October 2026
(order pursuant to Rule 105.5 of the RoP)

APPLICANT

REEL International
69 rue de la Chaux, 69450, Saint-Cyr-au-Mont-d'Or, FR

Represented by Thomas BOUVET and Colin Devinant

RESPONDENT

Fives ECL
100 rue Chalant, 59790, Ronchin, FR

Represented by Konstantin SCHALLMOSER

PATENT IN DISPUTE

European Patent No. EP 1 740 740

DIVISION AND COMPOSITION

Panel 1 of the Munich Section of the Central Division.

The order is made by the Presiding Judge and Reporting Judge, Mélanie Bessaud.

LANGUAGE OF THE PROCEEDINGS: FRENCH

SUBJECT-MATTER OF THE PROCEEDINGS: Action for revocation. Order following a preparatory conference (Rule 105.5 of the RoP).

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FACTS AND PROCEEDINGS

On 31 December 2025, REEL International ("the claimant") brought an action before the Munich Section of the Central Division of the Unified Patent Court (UPC) seeking the revocation of European patent EP 1 740 740 (EP'740) entitled 'Compact service module for aluminium electrolysis plants', of which Fives ECL ('the defendant') is the proprietor.

By order of 28 April 2026 made pursuant to Rule 28 of the RoP, a date was set for the close of the written proceedings and dates were fixed for the case management conference and the oral hearing.

In accordance with this order, the written phase closed on Wednesday 9 September 2026 and the pre-trial conference was held in open court via videoconference on 29 September 2026.

Prior to the pre-trial conference, the Judge-Rapporteur invited the parties to submit their comments on certain specific points, in particular:

- The plea of inadmissibility based on res judicata in respect of the decision of the UPC Court of Appeal handed down on 16 September 2026 (Court of Appeal, UPC-CoA 919/2025 and UPC-CoA-920/2025, Heraeus Electronics GmbH & Co. KG v Vibrantz GmbH) ;
- The applications for the hearing of private experts pursuant to Rule 176 of the RoP;
- Applications for further exchanges of written submissions made by each of the parties pursuant to Rule 36 of the RoP.
- The value of the claim;
- The parties have been invited to reach an agreement on recoverable costs;
- Preparations for the oral hearing: visual aids, PowerPoint presentations, and applicable deadlines for their submission, and, where necessary, simultaneous interpretation during the hearing;
- The allocation of speaking time at the oral hearing.

Present at the hearing were:

- For the claimant, Reel International: Thomas Bouvet, Colin Devinant and Célia Benmesbah;
- For the defendant, Fives ECL: Konstantin Schallmoser, Yasmine Azzaoui, Daniel Hoppe and Denis Boubal.

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GROUNDS

1- The exchange of supplementary written submissions pursuant to Rule 36 of the RoP

The parties have reached the following agreement:

- Reel International shall file a supplementary submission by 6 October 2026 at the latest, relating to the request for the examination of experts;

- Reel International and Fives ECL shall file their respective supplementary submissions on the judgment of the UPC Court of Appeal delivered on 16 September 2026 in the Heraeus v. Vibrantz by 15 October 2026 at the latest;

- Fives ECL shall file a supplementary submission by 23 October 2026 at the latest, relating to (i) the parallel German disclosure proceedings pending before the Landgericht Düsseldorf (4b O 40/26) and (ii) its response to those points in Reel International's rejoinder of 28 July 2026 which it considered to be out of bounds;

- Reel International shall file a reply by 6 November 2026 at the latest, relating solely to that part of Fives ECL's supplementary statement of case concerning the parallel German proceedings (to the exclusion of the other points in that statement);

Fives ECL withdraws its application seeking to have the passages of Reel International's rejoinder of 28 July 2026, which it considered to be beyond the scope of the proceedings, excluded from the proceedings, and no further application for leave to file a supplementary statement of case is made under Rule 36 of the RoP.

The reporting judge confirms the timetable thus agreed.

2- The offer to hear expert witnesses (Rule 176 of the RoP)

It was agreed at the hearing that Reel International would submit its observations on the request to hear in person the private expert of Fives ECL, Professor Dr., and its own private expert, [redacted] Professor Dr. [redacted], on 6 October 2026 at a later date.

Both parties agreed to submit their observations to the reporting judge on the judgment of the UPC Court of Appeal delivered on 16 September 2026 in the case of Heraeus v Vibrantz by 15 October 2026, so that an order may be made regarding the offer to hear private experts by 1November 2026.

It was agreed that, should the hearings be ordered, they would be conducted in English and would be limited to one hour.

This decision will be taken by the panel upon receipt of all submissions.

3- The value of the claim

Reel International has estimated the value of the claim at 4,500,000 euros (paragraph 425 of the statement of claim).

The reporting judge noted the defendant's failure to provide a written challenge. The defendant nevertheless expressed surprise at the lack of justification for the amount claimed in

light of the amounts at stake in the parallel proceedings in Germany, and emphasised that, given the existence of parallel infringement actions, the value of the action for revocation should be increased by 50 per cent in accordance with the relevant guidelines.

Reel International states that, in the absence of any challenge to its estimate, Fives ECL is deemed to have accepted its assessment of the value of the dispute. In any event, it argues that this valuation is consistent with the parallel proceedings for damages currently pending before the UPC Court of Appeal, by reference to the sum that Reel International would be required to contribute within the group should its German subsidiary be found liable. Furthermore, this value is also determined in relation to the ceiling on recoverable costs.

The reporting judge considers that the queries raised by Fives ECL have been answered. As there is no serious evidence capable of calling into question the valuation made by the claimant in the action for revocation, the value of the claim is set at 4,500,000 euros.

4- Arrangements for the oral hearing on 9 December 2026

The date of 9 December 2026 at 9.30 am is confirmed for the oral hearing, to be held at the premises of the Central Division, Munich Section.

The reporting judge emphasises that the main procedural issues concern the plea of inadmissibility based on Reel International's lack of standing to bring proceedings and the res judicata effect of the German decision which validated the German part of the European patent.

In response to a question from the Judge-Rapporteur, Fives ECL confirmed that it maintains its plea of inadmissibility on the grounds that the action is time-barred, which should be reclassified as a claim for damages.

On the merits, the reporting judge invited the parties to focus on the points at issue and, in particular, on the features which the parties interpret differently, namely the concepts of tool orientation, rows and compactness.

At the pre-trial conference, it was agreed that speaking time at the oral hearing would be as follows:

- Presentation of the case and the key points of the file by the presiding judge (20 mins);
- Admissibility of the action for invalidity (Fives ECL 30 mins and Reel International's response 30 mins);
- Presentation and interpretation of the patent: 30 mins for the claimant in the action for invalidity and 30 mins for the defendant;
- Validity of the patent: 60 mins for each party; replies from the parties: 10 mins each;
- Ancillary claims: 10 minutes for each party, if necessary;
- Questions from the panel.

It was also agreed that, should the parties' experts be heard, one hour at the start of the hearing would be allocated for their statements and for questions from the parties or the panel. Further details will be provided, where applicable, in the panel's decision to be issued on the

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request for a hearing following receipt of Reel International's supplementary submission on this point.

5 – <u>Simultaneous interpretation at the hearing</u>

In accordance with Article 51(2) of the UPC Agreement and Rule 109 of the RoP, a request for simultaneous interpretation may be made by a party no later than one month before the hearing.

Reel International indicated orally at the pre-trial conference that it would certainly submit a request for interpretation from French into English and proposed to Fives ECL that the translation costs be shared should the defendant also require translation. Fives ECL stated that this was not the case.

In any event, to date, no request for interpretation has been made to the Court; however, given the multinational composition of the panel and in order to ensure a proper understanding of the dispute, simultaneous interpretation from French into English is ordered pursuant to Rule 109.3 of the RoP.

The parties were heard and raised no objections. Reel International confirmed that it might wish to avail itself of this simultaneous interpretation. Fives ECL considers it inappropriate to provide Reel International with this translation free of charge, in view of the additional costs involved.

Both parties have expressly stated that they accept that the panel may ask questions in English.

In view of these factors and the need to ensure that the entire international panel fully understands the oral hearing, simultaneous interpretation is ordered and the Registry is requested to make the necessary arrangements to this end.

In accordance with Rule 109.5 of the RoP, interpretation costs are procedural costs to be determined in accordance with Rule 150 of the RoP. According to the last sentence of the first paragraph of that provision,
'the costs of interpretation and translation necessary for the judges of the Court to conduct the proceedings in the language of the proceedings shall be borne exclusively by the Court'.

Furthermore, it was agreed at the pre-trial conference that certain interveners might address the Court in English; this does not apply to the principal representatives of the parties, who will plead in the language of the proceedings, namely French.

The panel may address the parties in English, as the parties have given their consent to this.

6 –<u>Visual aids for oral submissions</u>

It was agreed at the pre-trial conference that the parties' visual aids (PowerPoint presentations) would be submitted to the Registry of the Central Division, Munich Section, and to the opposing party **<u>by 6.00 pm</u>** on **<u>Wednesday 2 December at the latest</u>**.

It is reminded that visual aids may consist only of material contained in the written submissions or extracts from precisely identified documents.

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7 – Recoverable costs

The parties are invited to reach an agreement on recoverable costs and to notify the Court of this agreement 15 days before the hearing. If the parties agree on an amount, the Court will not require a breakdown of the costs of representation.

Failing that, the parties are requested to submit their quantified claims, accompanied by supporting documents, two weeks before the hearing so that each party may submit its observations on the other party's claim one week before the hearing.

8 – Seeking an agreement

Generally speaking, the parties are encouraged to engage in discussions with a view to reaching a full or partial settlement of the present dispute.

A pre-trial conference may be organised by the reporting judge to facilitate dialogue between the parties.

Furthermore, the parties are reminded that they have the option of initiating alternative dispute resolution (ADR) proceedings with the Centre for Mediation and Arbitration in Patent Matters (CMAB) and may also register for a confidential and free online information session on ADR. The application form for the ADR information session is available here. For further information on the services offered by the CMAB to parties involved in proceedings before the UPC, click here.

Should the parties agree to discontinue the hearing, they are requested to inform the Court no later than one week before the hearing, i.e. by 2 December 2026.

ORDER

The Reporting Judge makes the following decision:

I – the parties may file the following supplementary submissions:

- Reel International shall file a supplementary submission by 6 October 2026 at the latest, relating to the request for the experts to be heard;

- Reel International and Fives ECL will submit their respective supplementary submissions on the judgment of the UPC Court of Appeal handed down on 16 September 2026 in the Heraeus v. Vibrantz by 15 October 2026 at the latest;

- Fives ECL will file a supplementary submission by 23 October 2026 at the latest, relating to (i) the parallel German disclosure proceedings pending before the Landgericht Düsseldorf (4b O 40/26) and (ii) its response to those points in Reel International's rejoinder of 28 July 2026 which it considered to be out of bounds;

- Reel International shall file a reply by 6 November 2026 at the latest, relating solely to that part of Fives ECL's supplementary statement of case concerning the parallel German proceedings (to the exclusion of the other points in that statement of case);

II – The value of the claim is set at 4,500,000 euros;

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III – The oral hearing shall take place in person at the Central Division in Munich on Wednesday 9 December 2026 at 9.30 am, Cincinnatistraße 64, 81549 Munich, Germany, in accordance with the timetable agreed with the parties in point 4;

IV – Simultaneous interpretation from French into English is ordered pursuant to Rule 109.3 of the RoP; the costs of interpretation shall be borne by the court; the Registry is requested to take the necessary measures to ensure this simultaneous interpretation at the hearing;

V – The parties must send any visual aids for their submissions to the Registry and provide them to the other party by 6.00 pm on Wednesday 2 December 2026 at the latest;

Delivered on 2 October 2026

MÉLANIE, JEANNE, LISON BESSAUD

Digitally signed by MÉLANIE, JEANNE, LISON BESSAUD
Date: 2 October 2026 08:08:56 +02'00'

Presiding Judge
Mélanie BESSAUD