Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Local Division The Hague
UPC_CFI_ 478/2025
UPC_CFI_ 585/2026

ORDER

of the Court of First Instance of the Unified Patent Court
issued on 30 November 2026
concerning R.105.5

CLAIMANT:
Avient Protective Materials B.V.
Urmonderbaan 22, Building 200, 6167 RD Geleen The Netherlands
represented by: Tjibbe Douma, Laurens Buijtelaar and Philippa van Hengel (of Bird&Bird)

DEFENDANTS:
1.Xingi Technology Co., Ltd
2. Jiangsu Jiuzhou Xingji High-Performance Fiber Products Co., Ltd.
both established and domiciled in the People's Republic of China
represented by: Michael Rüberg, Karl-Heinz Metten and Lars-Oliver Eggersdorfer (of Boehmert&Boehmert)

PATENT AT ISSUE:
European patent n° **2 791 402** (the **"patent")** of Avient Protective Materials B.V.

DECIDING JUDGES*]*:
This order is issued by the judge-rapporteur.

BACKGROUND AND GROUNDS

1. On 26 October an interim conference (IC) was held with UPC and party representatives from both sides, Xinji's party representatives assisted bij two translators. From the side of the Court, the JR and the TQJ (Koen Callewaert) took part. The other participants are listed below.
   For Claimant: the UPC representatives Tjibbe Douma, Andreas Obermeier, Laurens Buijtelaar and Lotte van der Gun and from Avient Huub Steegmans (Director Legal Affairs), Patric Meessen (Senior Patent Attorney), Laurens Wylick (Legal Counsel) and Hans Meulman (Senior technical application manager)

For Defendants: the UPC representatives Dr. Karl-Heinz Metten, Dr. Michael Rüberg, Dr. Xia Pfaffenzeller and Dr.Lars-Oliver Eggersdorfer and from Defendant 1: Li Xunxun (李珣珣), Deputy General Manager and rJunwei (夏俊维), IP Manager, assisted by the translators Tian Rui (田瑞) and Liu Minmiao (刘敏妙).

2. During the IC, the Court set the case value and dealt with several outstanding applications and objections, as reflected in the operative part below. Also some preliminary guidance was provided on claim construction, infringement and validity.
3. The R.262.2 application from a 3rd party will be dealt with in a separate order.
4. Regarding the R.190 order the Defendants confirmed that all underlying documents pertaining to the TNO Report had now been received or parties would coordinate this between themselves. It was agreed that the Defendants would get two days extra for their response to the Report, until 30 October 2026.
5. It was agreed that decision on whether penalties were forfeited by the Defendants for the asserted late supply of samples after the final confirmatory order in the appeal of the R.190 order, and the related question when the two week period would (re)start, were deferred to the panel . At the OH paries can plead on this, in case Avient maintains its position that penalties are forfeited.
6. Regarding some late-filing issues raised by the Court and/or objected to by the parties, it is decided as set out in the operative parts.
    a. Exhibits D-Inf3-5 and D-CfR26 are permitted into the proceedings; D-Inf6 is permitted only insofar as it contains the corrected translation of D-Inf3. A new version must be submitted,
    b. The decision whether indirect infringement was timely responded to is deferred,
    c. Exhibits BB60A-I (further infringement evidence submitted with C3, Avient's (rejoinder CC/reply application to amend) will be rejected, as is Exhibit BB59A insofar as it relates to infringement of the patent as granted,
    d. The same applies to D-CfR33 and D3 (Xinji's rejoinder to the application to amend); of D3 only part 5A and of part 6 pp 88-105 seem to relate to the auxiliary requests; of D-CfR33 only para 6.3 and 6.5 relate thereto.

7. The Defendants were asked to consider to make their counterclaim conditional on the finding of infringement.

ORDER

The Court, having heard the parties, confirms the following case management decisions and orders taken during the interim conference:

A. The value of both the claim and the counterclaim are set at EUR 1,500,000 each;
B. The applications filed by defendants on 23 October 2026 (regarding translator) are withdrawn;
C. Parties will provide a comprehensive overview of their exhibits and of the last versions of the relief thought (derived from their submission; no new information) within one week from the date of this order;

D. The proposed (minor) amendments of Claimant's R.263 application of 17 April 2026 are permitted;
E. The following exhibits are permitted
F. Within one week from the date of the IC, that is on 2 November 2026 at the latest, Xinjin shall clarify on which most promising validity attacks it intends to rely at the oral proceedings to focus the case, specifying the parts of its submissions relevant thereto. During the IC a maximum of five attacks was mentioned as (just) manageable.
G. At the latest one week after Xinji submits the aforementioned at F, Avient shall submit a list of auxiliary requests ("ARs") on which it intends to rely, specifying the parts of its submissions relevant thereto. Six is suggested as a reasonable number. For each AR Avient shall indicate to which specific validity attack the AR is a response.
H. At the latest one week after Avient submitted the list mentioned at G. above, Xinji shall inform the Court on which additional validity attacks, if any, it intends to rely against the ARs, specifying the parts of its submissions relevant thereto. Thereby Xinji is urged to rely on the same prior art as for (claim 1 of) the patent as granted where possible.
I. Regarding the late-filing objections (see 6 above):
    a. Xinji's exhibits D-Inf3-5 and D-CfR26 are permitted into the proceedings; D-Inf6 is permitted only insofar as it contains the corrected translation of D-Inf3. A new version must be submitted,
    b. Avient's exhibits BB60A-I (further infringement evidence submitted with C3, Avient's rejoinder CC/reply application to amend) are not permitted into the proceedings; Exhibit BB59A if not permitted insofar as it relates to infringement of the patent as granted. A new version must be submitted; parts of C3 which relate thereto are also not permitted (Avient shall indicate which part);
    c. The same applies to D-CfR33 and D3 (Xinji's rejoinder to the application to amend); of D3 only part 5A and of part 6 pp 88-105 are permitted as relating to the auxiliary requests; of D-CfR33 only para 6.3 and 6.5 is permitted; a new version of D-CfR33 must be submitted,
    d. The decision whether indirect infringement was timely responded to is deferred,
    e. Where new versions must be submitted, these are due within one week from today;
J. It was agreed that the oral hearing scheduled for 7 December 2026 will start at 9:30;
K. At the oral hearing the maximum pleading time for each side is **90 minutes**, with an additional **30 minute** rebuttal each side. All issues are to be pleaded together, however, with Avient starting on all issues apart from validity (and ARs). The suggested schedule is as follows:
    - Avient all issues apart from validity: 60'
    - Xinji all issues (including response to Avient's first term above) : 90'
    - Avient validity (including response to Moderna's first term) and rebuttal other issues : 30'+ 15' = 75'

- Moderna rebuttal : 30’
- GSK rebuttal validity: 15’

Parties are free to vary the time spent on topics, provided the total pleading times set above are respected. Extra time will be added for interruptions by the Court.

L. A PowerPoint presentation is permitted at the oral hearing under the condition that these do not include any new information. Such presentations must be exchanged and sent to the Court at the latest twenty-four hours before the start of the oral hearing. Dutch style pleading notes are also permitted under the conditions discussed (inter alia as a ‘transcript’-aid to the court only, no legal status).

M. Unless parties reach an agreement on the costs (which they are urged to do; the maximum reimbursable amount based on the case values is EUR 112,000), parties are ordered to submit a **specified overview of the costs** that they will seek to recover to the court and to the other party five days before the start of the oral hearing.

Digitally signed
Kokke Margot Elsa
2026-10-30 18:34:30 +0100

Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet