Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Hamburg – Local Division

# UPC_CFI_2889/2026
# Procedural order
# of the Court of First Instance of the Unified Patent Court, delivered on: 11/11/2026

HEADNOTES

1. Pursuant to Art. 33(1) (a) UPCA actions shall be brought before the division where the actual or threatened infringement has occurred or may occur. In case of multiple defendants, this requires that infringing activities in the Contracting Member State hosting the local division regarding all Defendants are asserted by Claimant.

2. Pursuant to Art. 33(1) (b) UPCA a local division is competent to hear the case against multiple defendants where one of the defendants has its residence, provided that the defendants have a commercial relationship and where the action relates to the same alleged infringement, regardless of their domicile or seat.

3. Combining the actions against three defendants together serves the purpose to avoid parallel proceedings before different local or regional divisions and the risk of contradictory decisions, which could result from having a decision solely on the infringement regarding the plant in France (Defendants 1) and 2)), which Claimant described as simply a representative for the other plants, in one case, and regarding other – allegedly similar – plants in other UPCA countries (Defendant 1)), in a second, respectively selling allegedly key supportive elements (Defendant 3)) to said plants of Defendant 1), in a third.

KEYWORDS

Art. 33(1) (a) UPCA, Art. 33(1) (b) UPCA, competence, multiple defendants, commercial relationship

CLAIMANT

**Evonik Operations GmbH,** Opernplatz 1, 45128 Essen, Germany, represented by the Managing Directors (Geschäftsführer) Claudine Mollenkopf, Thomas Wessel and Lauren Kjeldsen,

Represented by Eisenführ Speiser Patentanwälte Rechtsanwälte PartGmbB, Johannes-Brahms-Platz 1, 20355 Hamburg

(Address of service: sscheltz@eisenfuhr.com)

DEFENDANTS

**Air Products and Chemicals Inc.,** 1940 Air Products Boulevard, Allentown, Pennsylvania 18106, USA, represented by its represented by its Chief Executive Officer Mr Eduardo F. Menezes,

- Defendant 1) -

Represented by Beck Greener LLP, Fulwood House, 12 Fulwood Place, London WC1V 6HR, United Kingdom,

(Anna Hatt, John Hull, Catherine Jewell, Ben Muir and (Philip) Matthew Dixon, mail@beckgreener.com);

**ARISTOT SAS**, 321 Impasse Eugène Fromentin, Domaine de la Salle, 13320 Bouc-Bel-Air, France, represented by its President (Présidente) Ms Nathalie Philbois

- Defendant 2) -

Represented by BARDEHLE PAGENBERG, SO Square Opéra, 5 rue Boudreau, 75009 Paris, France

(Frédéric Portal);

**Air Products GmbH**, Hüttenstraße 50, 45527 Hattingen, represented by the directors Jörg Hömberg, Miquel Lope Alonso, Mark Jamie Sambrook, Sonia de Vasconcelos Borges de Araújo

- Defendant 3) -

Represented by Beck Greener LLP, Fulwood House, 12 Fulwood Place, London WC1V 6HR, United Kingdom,

(Anna Hatt, John Hull, Catherine Jewell, Ben Muir and (Philip) Matthew Dixon, mail@beckgreener.com).

PATENT IN SUIT

| *Patent nr.* | *Proprietor* |
|---|---|
| **EP3240620** | Evonik Operations GmbH |

LANGUAGE:

English

DECIDING JUDGE

Judge-rapporteur Dr. Schilling

PRESENT APPLICATION:

Preliminary Objection, R. 19 RoP, by Defendants

SHORT SUMMARY OF FACTS

1 With its Statement of Claim, dated 11 August 2026, Claimant filed an infringement action against US-based Defendant 1), Air Products and Chemicals, Inc., France-based Defendant 2), Aristot SAS, and Germany-based Defendant 3), Air Products GmbH, for indirect infringement of the patent in suit.

2 Claimant directs its claims against a membrane-based gas separation plant in Alsace, France, "as a representative example", and asserted that the same applies to plants in Germany, Italy, The Netherlands and other European Countries, which it collectively referred to as the "Attacked Embodiment I". Claimant also directs its claims against Membrane Separators of Defendant 1), as "Attacked Embodiment II". Claimant asserts that these Attacked Embodiments are sold for use in an apparatus according to claim 1 of the patent, in particular the membrane-based gas separation plants titled "Attacked Embodiment I".

3 Claimant requests to order Defendants to cease and desist from a) manufacturing, offering, placing on the market, using or importing or storing for these purposes in Austria, Belgium, Denmark, France, Germany, Italy, and the Netherlands, *gas separation apparatuses* suitable for carrying out method for separating gases according to the patent in suit, and b) from offering, placing on the market, using or importing or storing for these purposes to customers in aforementioned countries *membrane separators*, which are suitable for use in the apparatuses according to item 1. a), for use in these Member States.

4 The Statement of Claim was served on Defendant 1) on 14 September 2026. In accordance with Rule 271.6(b) of the RoP, the deemed date of service of the Statement of Claim on Defendants 2) and 3) is 27 August 2026.

5 Defendants 1) and 3) filed a Preliminary Objection against the Local Division's competence on 28 September 2026. Defendant 2) also filed a Preliminary Objection on the same date and declared to concur with the grounds and arguments presented by Defendant 1) and Defendant 3) in their Preliminary Objection.

POINTS AT DISPUTE

6 According to the Claimant, the Local Division Hamburg has international, substantive and local jurisdiction pursuant to Art. 31, 32(1) lit (a), 33(1) lit. a and b UPCA.

7 Claimant argued in the SoC that Defendants belong to the same group and have related commercial activities aimed at the same purpose (such as R& D, manufacturing, sale and distribution of the same products). According to Claimant this is sufficient to be considered as "a commercial relationship" within the meaning of the Article 33(1)(b) UPCA. Defendant 3) has its domicile and principal place of business in Germany, i.e. at the seat of the Local Division seized. The action relates to the "same infringement" with respect to Defendants 1) and 3). Also, Defendants 1) and 3) have a "commercial relationship", given that Defendants 1) and 3) are members of the Air Products Group and that Defendant 1) supplies and offers to supply Attacked Embodiments I and II in Germany with the help of its German distribution partner, Defendant 3). Defendant 2) is a plant builder and general contractor for the biogas upgrading plant in France. Thus, Claimant asserts that Defendant 2) acts as joint infringer with Defendant 1) and may be sued before the same division to avoid irreconcilable judgments.

8 Claimant asserts that Defendant 1) has also implemented plant projects in Germany. It considers Defendant 3) acting as exclusive German sales office for Membrane Separators, to commit infringing acts directly in Germany. In addition, the membrane separators (Attacked Embodiments II) are also installed in infringing biogas upgrading plants manufactured by other companies located in Germany.

Defendants' position

9 Defendants argue that the action relates to alleged acts of infringement concerning two separate products which have been characterized and described by the Claimant as "Attacked Embodiment I" and "Attacked Embodiment II". Defendants are of the opinion that Claimant has improperly combined two separate infringement actions within a single Statement of Claim before a court that was not competent to hear both alleged infringements, when these clearly do not concern the "same alleged infringement" under Article 33(1)(b) UPCA. This fundamental deficiency is not one that can be corrected simply by referring part of the action to a different Local Division under Rule 19.5 RoP. At the very least, the Claimant has failed to comply with the procedural requirements for filing its action regarding Attacked Embodiment I, particularly with respect to the payment of the requisite official Court fees.

10 Defendants refer to the fact that Claimant alleges (I.) that Defendant 1) and Defendant 2) have together committed indirect infringement of claim 1 of the patent by designing, manufacturing and thereby supplying plants that are specifically configured to carry out the process of claim 1 of the patent in suit and (II.) that Defendant 1) and Defendant 3) have together committed indirect infringement of claim 1 of the patent by supplying or offering to supply individual membrane separation modules.

11 Defendants are of the opinion that Defendant 2) and Defendant 3) lack a commercial relationship and the action brought against them does not relate to the same alleged infringement. The acts of which Defendant 2) and Defendant 3) are accused relate to different products, having material and structural differences, and which require substantially different infringement analyses. They argue that the very fact that the Claimant itself has had to characterize Attacked Embodiment I and Attacked Embodiment II separately and dedicate such a significant proportion of their SoC to their separate analysis, speaks to the material and structural differences between these products and necessity for separate analyses of whether or not an infringement of the Patent-in-Suit has taken place.

12 Defendants criticize that regarding the alleged acts of infringement concerning Attacked Embodiment I the only evidence provided by the Claimant concerns an alleged act of infringement by Defendant 1) and Defendant 2) in France (see Exhibits ES6 and ES9). They claim that Claimant has neither alleged nor provided any evidence that Defendant 3) has taken any part in any acts of infringement concerning the Attacked Embodiment I; and has neither alleged nor provided any evidence that Defendant 2) has taken part in any acts of infringement concerning the Attacked Embodiment II. While the Claimant does allege that Defendant 3) takes part in any acts of infringement concerning the Attacked Embodiment II, the Claimant has not provided any evidence in support of this allegation. All the exhibits that have been submitted by the Claimant in reference to the alleged acts of infringement concerning the Attacked Embodiment II demonstrate only that Defendant 3) is a subsidiary of Defendant 1).

13 They are of the opinion that Claimant's assertions that other acts of infringement have occurred in Germany have not been substantiated by any evidence thereof. At least insofar as the alleged acts of infringement concerning Attacked Embodiment I is concerned, the Local Division Hamburg also lacks the competence to hear the action under Article 33(1), sub-paragraph (a) of the UPCA since the alleged act in respect of which evidence has been submitted by the Claimant took place in France, not Germany.

Claimant's position

14 Claimant is of the opinion that the question of whether there is merit to the facts presented by the Claimant is not a question of competence, but for the proceedings on the merits. Facts contested by the Defendants, i.e. questions of responsibility are not relevant for the assessment of jurisdiction over one proceeding.

15 Claimant asserts that Defendant 1) builds the Attacked Embodiment I in cooperation with local plant construction companies (such as Defendant 2)) within Europe, as laid out in SoC, mn. 83, 88. Defendant 1)'s actions are not limited to France but, according to currently available information, Defendant 1) has already offered, sold and implemented into other European countries such as Italy, the Netherlands, Slovakia and Germany, as laid out in SoC, mn. 89, 91, 118-117. In particular, there is three-stage biogas upgrading plant equipped with membrane separators (Attacked Embodiment II) sold by Defendants 1) and 3) installed and is currently in operating in Thuringia, Germany, as laid out in SoC, mn. 115.

16 It argues that the Attacked Embodiment II are membrane separators essential consumable goods implemented in the Attacked Embodiment I that have to be regularly exchanged. Accordingly, the Attacked Embodiment II has to be sold in Germany to maintain the functionality of the Attacked Embodiment I.

17 Claimant considers Defendant 2) as a plant builder and general contractor for the biogas upgrading plant in France, see SoC, mn. 88, 207, and thus a co-perpetrator with Defendant 1) for at least one installation of the Attacked Embodiment I, which allows the infringements to be heard together before the same local division.

18 Claimant asserted that Attacked Embodiment II for Germany is sold exclusively via the Defendant 3), as indicated in the obtained product certifications based on the European Pressure Equipment Directive (2014/68/EU), as laid out in SoC, mn. 102 et seq.

19 In each of its corresponding affidavits Defendant 1) and Defendant 3) state that any inquiries relating to the Attacked Embodiment II made with Defendant 3) would be referred to Defendant 1) (see Exhibits BG 2 and Exhibit BG 3). Defendant 3) is also at least an accessory enabling indirect patent infringement by Defendant 1) relating to the Attacked Embodiment II.

20 Claimant is of the opinion that it is in the nature of a supply chain that different actors contribute along the supply chain in a different manner. Thus, defendants acting in a deliberate and coordinated manner must be held liable for the infringing acts as if they were their own. Both Attacked Embodiments refer to the same patent infringement of the patent based on varying infringing acts along one (or multiple) supply chains. Defendant 1) designs the plant and builds it together with Defendant 2), while Defendants 1) and 3) provide essential consumables required to continuously operate the plant after initial construction. The infringement allegations refer to the structurally identical product, the Attacked Embodiment I that

uses the Attacked Embodiment II, as the latter is part of the Attacked Embodiment I infringing the patent.

21 According to Claimant, also Defendants 2) and 3) have an indirect commercial link. Defendant 1) cooperates with Defendant 2) to implement the Attacked Embodiment I, which requires the Attacked Embodiment II supplied by Defendant 3). It is irrelevant that Defendant 3) may not be in the same supply chain as Defendants 1) and 2) or that it may not be involved in all supply chains.

22 Splitting the case between the LDs Hamburg und Paris would lead to the risk of an irreconcilable decisions, which Art. 33(1)(b) UPCA aims to avoid. However, as a matter of procedural caution, Claimant requests that, should the Court consider that it lacks jurisdiction to hear the pending proceedings, it shall refer the proceedings to the Local Division Paris, at its discretion, either in part (e.g. in respect of Defendant 2 alone or in respect of Defendants 1 and 2 concerning Attacked Embodiment I) or in full.

23 Defendants 1) and 3) responded to Claimant's Statement on the Preliminary Objections with submission 09 November 2026, that transferring of the action in full to the Local Division Paris creates a corresponding issue of lack of competence of that court in respect of Embodiment II, analogous to that which has already been created by bringing the action at the Local Division Hamburg in respect of Embodiment I. At the least, the Claimant has failed to satisfy the procedural requirements in filing its suit in relation to Embodiment I, with respect to the payment of the necessary official (Court) fee in this regard. Transfer of the action in part therefore also does not remedy the deficiencies at issue, either. In view of the lack of correction of the deficiency of competence, the transfer of the action in whole or in part to the Local Division Paris would not be in keeping with Rule 19.5 UPC RoP in this case.

24 Defendant 2) responded that in the event that the Court does not grant Defendant 2)'s request for dismissal, Defendant 2) does not object to the referral of the proceedings concerning Defendant 2) to the Local Division Paris under Rule 19.5 RoP. The Local Division Paris could be the sole division possessing any territorial link to Defendant 2): Defendant 2) has its statutory seat and principal place of business in Bouc-Bel-Air, France (Art. 33(1)(b) UPCA) and the sole act imputed to Defendant 2) relates exclusively to the Wittersheim project located in France (Attacked Embodiment I) (Art. 33(1)(a) UPCA).

REQUESTS BY THE PARTIES

25 Defendant 1) and 3) request:

I. The preliminary objection be allowed;

II. The infringement action (UPC-CFI-0002889/2026) against the Defendants be dismissed in its entirety for lack of competence of the division indicated by the Claimant (Rule 13(1)(i));

III. Should the Court refuse the preceding request, that the infringement action (UPC-CFI-0002889/2026) against the Defendants in relation to at least the Attacked Embodiment I be dismissed for lack of competence of the division indicated by the Claimant (Rule 13(1)(i));

IV. The Court determines that the Claimant bears all legal costs and other expenses incurred by the Defendants in relation to the preliminary objection.

V. In the event that one or more of the Defendants' preceding requests, as numbered I to IV above, are rejected, that the Court grants the Defendants leave to appeal.

26 Defendant 2) requests:

I. The preliminary objection be allowed;

II. The infringement action (UPC-CFI-0002889/2026) against the Defendant 2 be dismissed in its entirety for lack of competence of the division indicated by the Claimant (Rule 13(1)(i));

III. Should the Court refuse the preceding request, that the infringement action (UPC-CFI-0002889/2026) against the Defendant 2 in relation to at least the Attacked Embodiment I be dismissed for lack of competence of the division indicated by the Claimant (Rule 13(1)(i));

IV. The Court determines that the Claimant bears all legal costs and other expenses incurred by the Defendant 2 in relation to the preliminary objection.

V. In the alternative, in the event that one or more of the Defendant 2's claims referred to in points I to IV above are rejected, grant the Defendant leave to appeal.

27 Claimant requests:

I. The preliminary objection of Defendants 1) and 3) submitted on 28 September 2026 is rejected.

II. The preliminary objection of Defendant 2) submitted on 28 September 2026 is rejected.

III. In the alternative, the pending proceeding (UPC_CFI_2889/2026) is referred to the Local Division Paris, either fully or in part.

GROUNDS FOR THE ORDER

28 Pursuant to Rule 19.1 (a) RoP, a defendant may lodge a Preliminary objection concerning the jurisdiction and competence of the Court.

29 The preliminary objections are admissible because they were lodged in due form and within the time limit specified in Rule 19.1-3 RoP. They are, however, not successful.

1. Principles

30 According to Art. 33(1) (a) and (b) UPCA notwithstanding an agreement on the forum, infringement actions shall be brought before:

*(a) the local division hosted by the Contracting Member State where the actual or threatened infringement has occurred or may occur, or the regional division in which that Contracting Member State participates; or*

*(b) the local division hosted by the Contracting Member State where the defendant or, in the case of multiple defendants, one of the defendants has its residence, or principal place of business, or in the absence of residence or principal place of business, its place of business, or the regional division in which that Contracting Member State participates. An action may be*

*brought against multiple defendants only where the defendants have a commercial relationship and where the action relates to the same alleged infringement.*

31 This means that pursuant to Art. 33(1) UPCA actions shall be brought before the division (a) where the actual or threatened infringement has occurred or may occur or (b) where the defendant has its residence. According to the case law of the CoA for the purpose of establishing the competence of a local division, there is no hierarchy between competence based on the place where the actual or threatened infringement has occurred or may occur in Art. 33(1)(a), and competence based on the residence or principal place of business of the defendant in Art. 33(1)(b) (CoA, Order of 28 November 2025 – UPC_CoA_317/2025 and UPC_CoA_376/2025 – Barco/Yeahlink, mn. 58).

2. Art. 33(1) (a) UPCA

32 Claimant asserted that Defendant 1) builds the attacked plant (Attacked Embodiment I) in cooperation with local plant construction companies within Europe, such as Defendant 2) regarding the plant in France. Claimant in particular asserted that Defendant 1)'s actions are not limited to France but, has already offered, sold and implemented into other European countries such as Italy, the Netherlands, Slovakia and Germany, and that there is three-stage biogas upgrading plant equipped with membrane separators (Attacked Embodiment II) sold by Defendants 1) and 3) installed and is currently in operation in Thuringia, Germany. Claimant further asserted that Defendant 3) acts as exclusive German sales office for Membrane Separators, committing infringing acts directly in Germany.

33 These asserted facts justify accepting competence for Defendants 1) and 3) under Art. 33(1)(a) UPCA at the LD Hamburg. However, regarding Defendant 2) Claimant did not allege any actions performed in Germany.

34 While the CoA stated that there is no need to look for connecting factors in the territory of the local division seised in relation to each defendant to establish competence, however, in order to determine competence under Art. 33(1)(a) UPCA, the existence of infringing activities in the Contracting Member State *hosting the local division*, needs to be established.

35 Infringing activities of Defendant 2) in Germany were not claimed. The only argument Claimant brought forward was that Defendant 2) is a plant builder and general contractor for the biogas upgrading plant in France. According to Claimant, Defendant 2) is thus a co-perpetrator with Defendant 1) for at least one installation of the Attacked Embodiment I, which in fact is not located in Germany. Hence, competence of the LD Hamburg to hear the case against Defendant 2) can only be established under Art. 33(1) (b) UPCA.

3. Art. 33(1) (b) UPCA

36 This rule provides that in case of multiple defendants, the local division hosted by the CMS where one of the defendants has its residence, is competent to hear the case, provided that the defendants have a commercial relationship and where the action relates to the same alleged infringement, regardless of their domicile or seat. That provision is intended to avoid parallel proceedings before different local or regional divisions and the risk of contradictory decisions that could result (CoA, Order of 22 June 2026 – UPC_CoA_4/2026 – Bosch v Valeo, mn. 23).

37 The requirement of a “commercial relationship” implies a “certain quality and intensity” (LD Paris, 11 April 2024– UPC_CFI_495/2023, mn. 21). To avoid multiple actions regarding the same infringement and the risk of irreconcilable decisions from such separate proceedings, and to comply with the main principle of efficiency within the UPC, the interpretation of "a commercial relationship" and therefore the link between the defendants should not be interpreted too narrowly. The fact of belonging to the same group (of legal entities) and having related commercial activities aimed at the same purpose – such as R&D, manufacturing, sale and distribution of the same products – is sufficient to be considered as “a commercial relationship” within the meaning of the Article 33(1) (b) (LD Paris, 11 April 2024, UPC CFI 495/2023, GRUR-RS 2024, 9684 Rn. 21; LD Hamburg, Final Order of 14 August 2025 – UPC_CFI_387/2025 – Dyson/Dreame I, mn. 62).

38 Applying these principles, the commercial relationship between Defendant 1) as the builder of the attacked membrane-based gas separation plants (Attacked Embodiment I) and Defendant 3) as exclusive German sales office for membrane separators (Attacked Embodiment II) to be used in the plant(s) (Attacked Embodiment I) is sufficiently established. Both belong to the same group and are involved in the sale of at least the Membrane Separators to be used in the Attacked Embodiments I, which in turn is alleged to perform the process claimed by the patent, which is a sufficient link (comp. CoA, Order of 22 June 2026 – UPC_CoA_4/2026 – Bosch v Valeo, mn. 34 ff).

39 With regard to Defendant 2) the necessary commercial relationship can equally be established for the purpose of deciding on the disputed competence at the stage of a preliminary objection. The determination of a division’s competence must not be based on an exhaustive assessment of the evidence relating to the facts in dispute that are relevant both to the question of the division’s competence and to the assessment of the claim on the merits, since such an assessment would amount to improperly anticipating the outcome of the proceedings on the merits. In such a case, the Court must confine itself to a cursory look at the parties’ allegations and evidence as provided (CoA, Order of 22 June 2026 – UPC_CoA_4/2026 – Bosch v Valeo, mn. 36).

40 The close connection between Defendant 1) and Defendant 2) is established in the present case with respect to the indicated UPCA Member States as the Claimant provided undisputed facts that Defendant 2) is a plant builder and general contractor for the biogas upgrading plant in France, and thus could be jointly responsible for at least one installation of the Attacked Embodiment I. The fact that Claimant asserted only Defendant 1) being responsible also for other plants in other European countries such as Italy, the Netherlands, Slovakia and Germany, whereas Defendant 2) is accused of infringement only in certain Contracting Member States and/or in relation to certain of those products, namely France, is a constellation the CoA addressed in the aforementioned Bosch/Valeo decision, already (there mn. 40). According to the CoA this means that Defendants do not dispute that the action relates to the same alleged infringement. The fact that, according to Defendants, only one of the Respondents is accused of infringement in Germany and other countries, “whereas, as regards the other Respondents, the action only concerns certain Contracting Member States and/or certain of those products, is nevertheless sufficient to establish the existence of the same alleged infringement, since it concerns infringement of the same patent”. The same applies here as Claimant stated that the plant in France should simply serve as a representative for the other plants.

41 As far as Defendants refer to the fact that Defendant 3) is not a co-builder of a gas separation plant (Attacked Embodiment I) but allegedly a supplier of Membrane Separators (Attacked Embodiment II) does not alter the establishment of a commercial relationship. That is, because it is, at least for the sake of the preliminary objections, not challenged that the Membrane Separators (Attacked Embodiment II) are designed to be used in a gas separation plant (Attacked Embodiment I) and thus support its use. This means, the infringement allegations refer to the structurally identical product, the Attacked Embodiment I, that uses the Attacked Embodiment II, as the latter is part of the Attacked Embodiment I infringing the patent. Whether or not selling Attacked Embodiment II qualifies for the claimed indirect infringement is a question for the decision on the merits; the same applies to the disputed question whether Defendant 3) does have "any connection to the sale or distribution of membrane separation modulesor" or not (comp. Witness statement, exhibit BG2). Supporting the plants set up by Defendants 1) [and 2)] by supplying the Membrane Separators is sufficient to justify the finding of a commercial relationship as it concerns the infringement of the same patent just on different levels in the supply chain.

42 Combining the actions against Defendant 1), 2) and 3) together serves the purpose to avoid parallel proceedings before different local or regional divisions and the risk of contradictory decisions, which could result from having a decision solely on the infringement regarding the plant in France (Defendants 1) and 2)), which Claimant described as simply a representative for the other plants, in one case, and regarding other – allegedly similar – plants in other UPCA countries (Defendant 1)), in a second, respectively selling allegedly key supportive elements (Defendant 3)) to said plants of Defendant 1), in a third. Hence, separating the actions is against the intention behind Art. 33 (1) (b) UPCA. As the LD Hamburg's competence is sufficiently established, there is no room to transfer the case in total or in part to another division.

ORDER

I. The preliminary objections are dismissed.

III. The costs of the preliminary objection are costs of the main proceeding.

INFORMATION ON THE APPEAL

The present decision rejecting the Preliminary objection may only be appealed pursuant R. 220.2 RoP. Given the clarification by the Bosch v Valeo decision of the CoA there is no need to grant leave to appeal. Pursuant to R. 220.3 RoP in the event of a refusal of the Court of First Instance to grant leave within 15 days of the order of one of its panels a request for a discretionary review to the Court of Appeal may be made within 15 calendar days from the end of that period. Rule 333.3 shall apply mutatis mutandis. The request shall set out the matters referred to in Rule 221.2 RoP.

SIGNATURES

STEFAN SCHILLING

Digital signiert von STEFAN SCHILLING
DN: cn=STEFAN SCHILLING, c=DE, email=stefan.schilling@unifiedpatentcourt.org
Datum: 2026.11.11 14:16:15 +01'00'

Judge rapporteur Dr. Stefan Schilling

Digitally signed
Ewers Carolin
2026-11-11 14:30:51 +0100

Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

For the sub-registry