



Düsseldorf Local Division
UPC_CFI_336/2024
UPC_CFI_605/2024

Procedural Order
of the Court of First Instance of the Unified Patent Court
issued on 3 February 2025
concerning EP 3 065 184 B1

Claimant:

Maxeon Solar Pte. Ltd., represented by its CEO, 8 Marina Boulevard #05-02, Marina Bay Financial Centre, 018981 Singapur,

Represented by: Attorney-at-law Christian Harmsen, Attorney-at-law Dr Bastian Selck, Bird & Bird LLP, Carl-Theodor-Straße 6, 40213 Düsseldorf, Germany,

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Contributing: Patent Attorney Dr Felix Harbsmeier, Patent Attorney Cameron Walker, Bird & Bird LLP, Am Sandtorkai 50, 20457 Hamburg, Germany,

Tjibbe Douma und Carlos van Staveren, Bird & Bird (Netherlands) LLP, Gustav Mahlerlaan 42, 1082 MC Amsterdam, the Netherlands,

Defendants:

1. **Aiko Energy Germany GmbH**, represented by its CEOs Dr Christian Frank Peter und Haojie Lu, Niederkasseler Lohweg 18, 40547 Düsseldorf, Germany,
2. **Solarlab Aiko Europe GmbH**, Dr Christian Frank Peter, Berliner Allee 29, 79110 Freiburg im Breisgau, Germany,
3. **Memodo GmbH**, represented by its CEOs Enrico Brandmeier, Daniel Schmitt und Tobias Wenleder, Eichenstraße 11 a-d, 85445 Oberding, Germany,
4. **Aiko Energy Netherlands B.V.**, represented by its CEO, Schiphol Boulevard 201 – 1118 BG - Schiphol, the Netherlands,
5. **Libra Energy B.V.**, represented by its CEO Bram van Duijn, Eendrachtsstraat 199, 1951 AX Velsen-Noord, the Netherlands,

6. **VDH Solar Groothandel B.V.**, represented by its CEO, Finlandlaan 1, 2391 PV, Hazerswoude-dorp, the Netherlands,
7. **PowerDeal SRL**, represented by its CEO, Rue du Fond des Fourches 41, 4041 Herstal, Belgium,
8. **Coenergia Srl a Socio Unico**, represented by its CEO, Foro Buonaparte 55, 20121 Milan, Italy,

Defendants 1., 2. and 4. represented by:

Attorney-at-law Gertjan Kuipers, Attorney-at-law Hendrik Jan Ridderinkhof and other Representatives before the UPC of Hogan Lovells International LLP, Strawinskyaan 4129, 1077 ZX Amsterdam, the Netherlands,

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Contributing:

Attorney-at-law Dr Henrik Lehment, Attorney-at-law Vanessa Zipperich and other Representatives before the UPC of Hogan Lovells LLP, Dreischeibenhaus 1, 40211 Düsseldorf, Germany,

Patent Attorney Dr Andreas Schmid, Patent Attorney Cedrik Rohr and other Representatives before the UPC of Hogan Lovells International LLP, Karl-Scharnagl-Ring 5, 80539 Munich, Germany,

Defendants 3. and 5. to 8. Represented by:

Attorney-at-law Dr Constantin Kurtz, Attorney-at-law Dr Stefan Eck, Attorney-at-law Maximilian Reif, Klaka Rechtsanwälte Partnerschaft mbB, Delpstraße 4, 81679 Munich, Germany,

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Contributing:

Patent Attorney Dr Markus Herzog, Patent Attorney Manuel Millahn, Weickmann & Weickmann Patent- und Rechtsanwälte PartmbB, Richard-Strauss-Straße 80, 81679 Munich, Germany,

PATENT IN SUIT:

EUROPEAN PATENT NO. 3 065 184 B1

PANEL/DIVISION:

Panel of the Düsseldorf Local Division

DECIDING JUDGES:

This Order was issued by Presiding Judge Thomas acting as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT: R. 262A RoP – Protection of confidential information

GROUNDS FOR THE ORDER:

1.

As the Court has already pointed out in its Order of 23 December 2024, only the party whose access is to be restricted is in a position to assess the number of persons who need access in order to be able to exercise its rights effectively. Similarly, only the party concerned is in a position to identify the persons concerned and has insight into the necessary internal processes. Once the party has exercised its right of proposal on this basis, it is up to the party claiming confidentiality to raise specific objections in a second step. It is not sufficient for the party to object to the proposal in general terms. If the party in question objects to the proposed number of natural persons, it is rather up to that party to explain why the protection of the information for which confidentiality is requested would be jeopardised by the proposed person in particular, despite the confidentiality obligations that also exist vis-à-vis the authorised users. On the other hand, if that party objects to the number of persons proposed, it is up to that party to explain in concrete terms why its rights would be compromised by the proposed number of natural persons.

2.

On the basis of these principles, there is no reason not to include Mr. [...] in the group of persons authorised to have access to the information classified as confidential.

According to the Claimant, he is a consultant for Maxeon Solar and involved in all patent matters. He provides support in the preparation of written submissions and thus requires unrestricted access to all the revenue, profit and sales figures.

Defendants 1., 2. and 4. have not provided any reason that would justify denying Mr. [...] access, which is necessary from the Claimants view.

The fact that Mr. [...] is not an employee of the Claimant or an affiliated company, but an independent consultant, does not in itself justify denying him access per se. It may be that the Claimant does not have authority to instruct him. However, he is also subject to the confidentiality order. In the event of a breach of this order, a penalty payment may be imposed on him.

3.

There is no reason to include Ms. [...], who was only named retrospectively, in the group of authorised users.

As explained by the Claimant, she is a lawyer and Chinese patent agent representing Maxeon Solar in licensing matters. In favour of the Claimant, it can be assumed that licensing issues naturally require access to revenue, profit and sales figures as well as calculation methods. However, there is no reason to grant her separate access to this information. If, as indicated by the Claimant, she is involved in the proceedings and all decisions in the parallel Mannheim proceedings as well as in the UPC proceedings are coordinated with her, the Claimant's representatives are free to include

her in their legal team, although they would then also be liable for any breaches of the confidentiality order by Ms [...]. The same applies with regard to the fact that, according to the Claimant, this coordination will in the future also include parts/explanations regarding the provision of security by the Defendants. In the event that Ms [...] is not involved in the present proceedings, there is no reason to grant access to the confidential information in any event.

ORDER:

- I. The Order of 23 December 2024 is amended under point II.1. in that regard that the following persons are added to the group of persons authorised to access to the information classified as confidential:
 1. **Mr. [...]**
 2. **Mr. [...]**
 3. **Mr. [...].**
- II. Information classified as confidential in the Order of 23 December 2024 shall also be treated as such by the natural persons to whom access has been granted above until further notice and shall not be used or disclosed outside of these court proceedings, except to the extent that it has come to the knowledge of the receiving party outside of these proceedings, provided that the receiving party has obtained it on a non-confidential basis from a source other than the Defendants 1., 2. and 4. or their affiliates, provided that such source is not bound by a confidentiality agreement or other obligation of secrecy with the Defendants 1., 2. and 4. or their affiliates.
- III. In the event of a culpable breach of this Order, the Court may impose a penalty payment for each breach, to be determined having regard to the circumstances of each case.
- IV. The request to also **Ms [...]** grant access is rejected.

DETAILS OF THE ORDER:

App_57498/2024, App_57500/2024 and App_1872/2025 under main file references ACT_36426/2024 and CC_57043/2024

UPC numbers: UPC_CFI_336/2024 and UPC_CFI_605/2024

Type of procedure: Infringement action and Counterclaim for revocation

Issued in Düsseldorf on 3 February 2025

NAME UND SIGNATURE

Presiding Judge Thomas