



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 13 April 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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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 ist CEO Bram van Duijn, Eendrechtsstraat 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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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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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

SUMMARY OF FACTS AND STATEMENT OF FORMS OF ORDER SOUGHT BY THE PARTIES:

By procedural order of 23 December 2024, the Düsseldorf Local Division classified the following information as confidential:

1. the green-shaded statements/numbers included in the Statement of Defence and the Counterclaim for Revocation submitted by Defendants 1., 2. and 4. and dated 21 October 2024 relating to revenue, profit and sales figures of Defendant 1. and Defendant 4. including the green-shaded details on the calculation methods for the enforcement securities;
2. Exhibit HL 35 which concerns details related to the revenue, profit and sales figures of Defendant 1. and Defendant 4.

In addition, access to this information has been restricted by the above-mentioned order, while the group of persons to whom access is granted has been extended by order of 26 January 2025.

Defendants 1., 2. and 4. now seek an extension of that order. They submit that the number of accused products sold by Defendants 1. and 4. in 2024 in the Member States covered by the action constitutes a trade secret. Therefore, in their view, Defendants 1., 2. and 4. have a legitimate interest in keeping the circle of people who have access to this information as small as possible and, in particular, in keeping this information as secret as possible from third parties and competitors. The same applies with regard to the percentage by which the actual number of attacked products sold in 2024 in the Member States covered by the action deviates from the estimated number of products sold, since this percentage might allow conclusions to be drawn about the sales figures and business development of the Defendants 1. and 4. in the Member States covered by the action. For the same reason and/or due to possible conclusions that might be drawn with regard to Defendants 1. and 4. revenues or profits, the amounts of the individual enforcement securities shown in green-shaded and the respective calculations are confidential and must be protected.

The Claimant objected to this application.

In its opinion, the green-shaded statements/numbers contained in the Rejoinder concerning the revenue, profit and sales figures of Defendants 1. and 4., including the green-shaded calculations as well as Exhibit HL 41, do not constitute trade secrets. The conditions for this are not met and have not been outlined by Defendants 1., 2. and 4. Hypothetical, unrealistic sales figures cannot be a trade secret.

To the extent that the Defendants 1., 2. and 4. seek to extend the order to “any statements/numbers relating to the revenue, profit and sales figures of the Defendants 1. and 4. in further written submissions, exhibits and/or oral submissions to be filed/made during these proceedings”, the Claimant already considers the request to be inadmissible and too vague.

INDICATION OF THE PARTIES' REQUESTS:

The Defendants 1., 2. and 4. request

to extend the order dated 23 December 2024 as amended by the order dated 26 January 2025 to

- the green-shaded statements/numbers included in the Rejoinder relating to the revenue, profit and sales figures of Defendant 1. and Defendant 4. including the green-shaded calculations;
- the green-shaded number in Exhibit HL 41 which concerns the sales figures of Defendant 1. and Defendant 4.;
- any statements/numbers relating to the revenue, profit and sales figures of the Defendants 1. and 4. in further written submissions, exhibits and/or oral submissions to be filed/made during these proceedings.

The Claimant requests

1. the application of the Defendants 1., 2., and 4., dated March 3, 2025, be dismissed, in the alternative
2. only the “the green-shaded statements/numbers included in the Rejoinder to the Reply to the Statement of Defence, Reply to the Defence to the Counterclaim and Defence to the Application to amend the patent dated 3 March 2025 relating to the revenue, profit and sales figures of Defendant sub 1. and Defendant sub 4. including the green shaded calculations and the green shaded number in Exhibit HL 41 which concerns the sales figures of Defendant 1. and Defendant 4. are classified as confidential within the meaning of Art. 58 UPCA, R. 262.2 RoP.

GROUNDINGS FOR THE ORDER:

The formal requirements of R. 262A.2 and .3 RoP were complied with. The Claimant and Defendants 3. and 5. to 8. were also heard before the confidentiality order was issued, as required by R. 262A.4 RoP. The Claimant made use of the opportunity to submit observations.

With respect to Defendant's 1., 2. and 4. interest in protecting the green-shaded statements/numbers contained in the Rejoinder to the Reply to the Statement of Defence, the Reply to the Defence to the Counterclaim and the Defence to the Application to amend the patent relating to the revenues, profits and sales figures of Defendant 1. and Defendant 4., including the green-shaded calculations and the green-shaded number in Exhibit HL 41 relating to Defendant's 1. and 4. sales figures, reference is made to the order dated 23 December 2024 (section 3).

The Claimant rightly criticises the further request, which refers to further written and oral submissions and/or exhibits, as being too vague and indeterminate.

Information that has already been declared confidential will remain confidential if it is included in future submissions or exhibits. With respect to such information, a new confidentiality order

would only be declaratory. An extension of the confidentiality regime can only be considered for the specific information for which an extension is requested. However, if the Defendants seek such an extension, a specific explanation of the interest in protecting the confidentiality of the information in question will be required.

ORDER:

- I. The order dated 23 December 2024, as amended by the order dated 26 January 2025, is extended to
 1. the green-shaded statements/numbers included in the Rejoinder relating to the revenue, profit and sales figures of Defendant 1. and Defendant 4. including the green-shaded calculations;
 2. the green-shaded number in Exhibit HL 41 which concerns the sales figures of Defendant 1. and Defendant 4.
- II. The application is rejected in all other aspects.

DETAILS OF THE ORDER:

App_10549/2025, App_10556/2025 and App_10557/2025 under main file references ACT_36426/2024, CC_57043/2024 and App_67939/2024

UPC numbers: UPC_CFI_336/2024 and UPC_CFI_605/2024

Type of procedure: Infringement action and Counterclaim for revocation

Issued in Düsseldorf on 13 April 2025

NAME UND SIGNATURE

Presiding Judge Thomas