



No. ACT_39183/2024
UPC_CFI_368/2024
App_48679/2024

ORDER

Of the President of the Court of First Instance of the Unified Patent Court
Issued on 2/09/2024

APPLICANT: (in the main proceedings, respondent in the procedural application)

Valeo Electrification, 14 avenue des Béguines, 95800 Cergy, France, represented by the President Thierry Kalanquin, with the same address,

Represented by: Attorney-at-law Felix Rödiger, Attorney-at-law Jonas Smeets, Attorney-at-law Fabian Saupe, Carl-Theodor-Straße 6, 40213 Düsseldorf, Germany,

Electronic address for service: felix.roediger@twobirds.com

Contributing European patent attorneys: Nicolas Cardon, Amandine Ricard, Pierre Prigent, Valeo Electrification, Cergy,

DEFENDANTS: (in the main proceedings, and applicant in the procedural application)

1. Magna PT B.V. & Co. KG, Herrmann-Hagenmeyer-Str. 1, 74199 Untergruppenbach, Germany, represented by its general partner, Magna PT Management B.V., with the same address, which is jointly represented by the managing directors Thomas Klett and Sandro Gildo Morandini, with the same address,
2. Magna PT s.r.o., Perinska cesta 282, Kechnec 044 58, Slovakia, represented by its managing directors Martin Hluchý und Katarína Vaškovičová, with the same address,
3. Magna International France, SARL, 4 route de Gisy Bâtiment 26, Bièvres 91570, France, represented by its managing directors Thierry Servouse and Franz Trummer, with the same address,

All Defendants represented by: Attorney-at-law Klaus Haft, Attorney-at-law Sabine Agé, Attorney-at-law Sebastian Kratzer, Hoyng, ROKH, Monegier, Steinstraße 20, 40213 Düsseldorf, Germany,

Collaborating attorney: Attorney-at-law Dr Wolfgang Kellenter, Hengeler Müller, Benrather Straße 18-20, 40213 Düsseldorf, Germany, 2

Collaborating European Patent attorney: European Patent Attorney Jan Ackermann, Cohausz & Florack, Bleichstraße 14, 40211 Düsseldorf, Germany,

PROCEDURE

On 3 July 2024, VALEO filed an application for provisional measures against MAGNA entities (based on EP 3 320 604 B1).

By generic procedural application dated 26 August 2024, MAGNA entities – referring to R. 9(1) RoP – request for a review of the allocation of a technically qualified judge and to allocate a technically qualified judge with experience in the field of mechanical engineering.

By procedural order issued on the same day of the request (ORD_48679/2024), Presiding judge Thomas acting as judge rapporteur ordered that the request be forwarded to the President of the Court of First Instance for further consideration.

By email dated 26 August 2024, the request and the related procedural order have been forwarded by the Presiding Judge acting as judge-rapporteur to the President of the Court of First Instance of the UPC pursuant R. 33.3 RoP in conjunction with Art. 18(3), Art. 20(2) UPCA).

Following a preliminary order dated of 27 August 2024, VALEO (respondent to the request) submitted on 30 August 2024 his written observations on the request to review the allocation of the technically qualified judge (TQJ).

The respondent rejects the Applicant's request arguing that a replacement of the TQJ should be legally inadmissible as the parties may not be removed from their lawfully appointed judge (in German: "*Recht auf den gesetz-lich bestimmten Richter*"), and that there is also no reason to doubt the technical expertise of allocated TQJ.

ORDER

The technically qualified judge is one of the judges of the panel as defined in Articles 19 and 20 UPCA (concerning the Court of First Instance) and the legal texts governing the UPC do not provide the opportunity for the parties to "*make suggestion regarding (...) the technical or other relevant background*" of one of the judges allocated to the panel, unlike in the case of

the appointment of a court expert (R 185.2 RoP). The only ground on which a party may object to a judge taking part in the proceedings is provided for by the provisions of the Article 7.4 UPCA relating to partiality.

For these reasons, MAGNA's application for a review of the allocation of a technically qualified judge in order to allocate another technically qualified judge with experience in the field of mechanical engineering is dismissed.

Issued on 2 September 2024

NAME AND SIGNATURE

On behalf of The President of the UPC Court of First Instance
Camille Lignieres (Deputy President of CFI)