



Düsseldorf - Local Division

UPC_CFI_998/2025

UPC_CFI_738/2026

UPC_CFI_743/2026

Order (R.158 RoP)
of the Court of First Instance of the Unified Patent Court
Issued on 1 June 2026
Concerning EP 3 777 595 B1

APPLICANT R. 158 ROP APPLICATION

Shinkyung Inc.

Hereafter referred to as "Defendant 2" or "SHINKYUNG

RESPONDENT R. 158 ROP APPLICATION

Boa Technologies Inc.

Hereafter referred to as "Claimant" of "BOA"

RELATED TO THE ACTIONS

CLAIMANT (UPC CFI 996/2025 AND UPC CFI 998/2025)

DEFENDANT (UPC CFI 737/2026, UPC CFI 742/2026 AND UPC CFI 738/2026, UPC CFI 743/2026)

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PATENT AT ISSUE

Number	Proprietor(s)
EP 3 777 595 B1	Boa Technology, Inc

LANGUAGE OF THE PROCEEDINGS:

English

SUBJECT MATTER:

R. 158.1. RoP (Application for Security)

PANEL - LOCAL DIVISION

Presiding Judge
Judge-Rapporteur /Legally Qualified Judge
Legally Qualified Judge
Technically Qualified Judge

Panel 2 of the Local Division in Düsseldorf
Bérénice Thom
Samuel Granata
Ingo Rinke
Giorgio Chiccacci

DECIDING JUDGES:

Order issued by the Judge-Rapporteur

I. REQUEST AND POSITION OF THE PARTIES

1. Integrated in Defendants' "*Statement of Defence and Counterclaim for Revocation*" (hereafter referred to as "*SoD*"), Defendant 2 (SHINKYUNG) (on pages 135-137) introduces a "*Request for Security for Costs (R. 158 RoP)*" by formulating the following actual request:
 - I. to order Claimant to provide to Defendant 2) security for costs in the amount of EUR 200,000, which may also be in the form of a bank guarantee (Art. 82 (2) UPCA, RoP 158.1);*
2. SHINKYUNG focuses on the "*severe financial state*" of the holding company (CODI) behind BOA "*since almost a year*". Reference is made to the fallen stock price of CODI (-62%) in 2025 compared to the year before. Further, SHINKYUNG holds the reasons for this "*crash*" are structural. SHINKYUNG refers to the negative growth estimates for 2026, which would call for an increased cash drain from BOA either directly (higher extraction of dividends) or indirectly (increased intercompany loans). For these reasons SHINKYUNG concludes it would be uncertain that BOA would be able to meet cost claims.
3. BOA requests as follows:
 - I. to dismiss the Application for security for costs;*
 - II. as an auxiliary request, in the event the Court orders security for costs, the amount should not exceed EUR 75.000,00;*
 - III. as a further auxiliary request, in the event the Court orders security for costs, to allow the Claimant to deposit the security by deposit or bank guarantee within eight weeks from the date of service of the order to provide the security".*

4. Regarding its first request BOA argues that its financial stability stressing that (a) the stock price of CODI is irrelevant for the assessment of the financial situation of BOA and (b) BOA is financially well. Regarding its auxiliary request, and should the Court follow the arguments made by SHINKYUNG, BOA argues that the requested amount is too high as no proof has been provided regarding already incurred costs for legal representation.

II. Grounds

5. The admissible request is unfounded and therefore has to be dismissed.
6. In essence SHINKYUNG bases its security request on alleged legitimate concerns that any future costs order in their favour may not be recoverable (cf. UPC CoA Order of 18 February 2026, UPC_CoA_890/2025 (*Syntorr v. Arthex*) §19).
7. The ratio behind Art. 69(4) UPCA, in assessing the mentioned threshold, is the protection of a defendant against a claimant, who initiates an action, without having sufficient means to compensate the defendant for the legal costs incurred in the proceedings the defendant was involved in at the initiative of the claimant (CoA Order of 20 June 2025, UPC_CoA_393/2025, *AorticLab v Emboline*, paras. 15 and 28). (§ 17 *Syntorr v. Arthex*). In assessing “sufficient means”, the Court should consider the facts and circumstances based on the *actual* financial situation of the claimant (cf. § 13 CoA Order of 30 October 2025, UPC_CoA_8/2025, *Oerlikon v. Bhagat* with reference to UPC_CoA_328/2024, Order of 26 August 2024, *Ballinno BV v. Kinexon*, para 25 ff and Order LD Paris 27 December 2024 (*Microsoft v. Suinno*, UPC_CFI_164/2024)).
8. The arguments put forward by SHINKYUNG (referring mainly to the financial situation of the holding company of the Claimant (CODI) and its implications for BOA) fail . In its assessment of financial means only the financial situation of BOA should be taken into consideration. The financial situation of CODI (not a party to these proceedings) does not need to be considered (UPC CoA Order of 29 November 2024, UPC_CFI_548/2024 *Aarke v. Sodastream* § 21). Making abstraction of the above as a sufficient reason for dismissal, BOA further convincingly argues the drop of the stock price of CODI is related to an internal investigation due to financing, accounting, and inventory practices irregularities in Lugano Holding Inc. (a separate subsidiary of CODI) and the outdated financial analysis . Instead BOA refers to the last financial analysis of 17 March 2026 including the fourth quarter of 2025 and demonstrates that CODI earned USD 64,3 million. Against this background the Court is not able to find that BOA has initiated the infringement action without having sufficient means to compensate SHINKYUNG for the legal costs incurred in this proceedings.

III. Order

The Court dismisses the request for security introduced by Defendant 2 (SHINKYUNG Inc.).

Issued by the Judge-Rapporteur on 1 June 2026

<p>Samuel GRANATA Judge- Rapporteur</p> <p>Legally Qualified Judge</p>	
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