



Reference number:

UPC-CoA-97/2026

ORDER
of the Court of Appeal of the Unified Patent Court
issued on 16 October 2026
regarding an application to stay proceedings (R. 295(a) RoP)

APPELLANT (AND CLAIMANT AND COUNTERDEFENDANT BEFORE THE COURT OF FIRST INSTANCE)

Dainese S.p.A., Colceresa, Italy

(hereinafter referred to as “the Appellant”)

represented by Federico Caruso, attorney-at-law, and other representatives of SIB LEX, Milan, Italy and Società Italiana Brevetti (SIB) S.p.A., Italy

RESPONDENTS (AND DEFENDANTS AND COUNTERCLAIMANTS BEFORE THE COURT OF FIRST INSTANCE)

1. **ALPINESTARS S.p.A.**, Asolo, Italy
2. **Alpinestars Research S.p.A.**, Maser, Italy
3. **Motocard Bike S.L.**, Barcelona, Spain

(hereinafter jointly referred to as “**the Respondents**”)

all represented by Massimiliano Tiberio, attorney-at-law, and other representatives of DLA Piper Italy, Milan, Italy and DLA Piper UK LLP, Munich, Germany

PATENT AT ISSUE

EP 4 072 364

DECIDING JUDGE

Nathalie Sabotier, legally qualified judge and judge-rapporteur

IMPUGNED DECISION OF THE COURT OF FIRST INSTANCE

- ☐ Decision of the Local Division Milan issued on 21 April 2026
- ☐ Reference number:
UPC-CFI-472/2024 – Infringement proceedings
UPC-CFI-792/2024, UPC-CFI-831/2024, UPC-CFI-182/2025 – Counterclaims for revocation

LANGUAGE OF THE PROCEEDINGS

English

SUMMARY OF FACTS AND PROCEEDINGS (INSOFAR AS RELEVANT HERE)

1. On 8 August 2024, the Appellant lodged an infringement action against six defendants, including the Respondents, concerning the patent at issue, before the Local Division Milan.
2. In its decision issued on 21 April 2026 (“the impugned decision”), the Local Division Milan dismissed the action for infringement lodged by the Appellant and the counterclaims for revocation lodged by the Respondents.
3. On 19 June 2026, the Appellant lodged an appeal against the impugned decision.
4. On 21 August 2026, the Appellant filed the Statement of Grounds of Appeal. As indicated in the Note from the Registry dated 24 August 2026, this Statement was made available to the Respondents on 24 August 2026.
5. By an order dated 10 September 2026, the Court of Appeal dismissed the Respondents’ application filed pursuant to R. 361 RoP requesting to declare the appeal manifestly inadmissible.
6. On 25 September 2026, the Respondents filed an application to stay the proceedings until the Board of Appeal of the EPO issues the written decision concerning the validity of the patent at issue (T 1375/25). In addition, the Respondents request the Court to specify whether, from that date, the relevant time limits shall begin to run anew in full or shall resume taking into account the time already elapsed at the time of the stay order.
7. The Respondents indicate that the oral hearing in the appeal proceedings before the EPO is scheduled on 15 October 2026, and that the Board of Appeal issued its preliminary opinion on 17 September 2026. The Board of Appeal indicated as its preliminary opinion that the claims according to auxiliary request 2 could be maintained. That auxiliary request has also been submitted in the proceedings before the CFI. The Respondents note that a decision on the appeal is expected to be announced orally at the end of the oral hearing, i.e. on 15 October 2026. Furthermore, pursuant to R. 15(9) of the Rules of Procedure of the Boards of Appeal, the written

decision, including the reasons, is expected to be issued within three months following the closure of the oral proceedings, hence at the latest on 15 January 2027.

8. The Respondents argue that a stay of the proceedings, with the deadline for filing the Statement of response and any cross appeal postponed until after the EPO Board of Appeal's decision, would ensure more efficient management of the proceedings, avoid unnecessary procedural steps, and reduce the risk of conflicts between the decision in the infringement proceedings and the imminent decision of the Board of Appeal of the EPO on the validity of the same patent. In particular, the Respondents state that, considering the preliminary opinion, the patent is unlikely to survive as granted, so that the expected decision may require the exchange of additional briefs to address the version of the claims possibly upheld by the Board of Appeal. Therefore, according to the Respondents, granting a stay in the current situation would avoid the need to file a brief that could require to be revised in view of the decision by the Board of Appeal.
9. The Court requested the Appellant to provide comments on the Application on 29 September 2026.
10. In its reply dated 6 October 2026, the Appellant requests that the Application for a stay of the appeal proceedings be dismissed. In the alternative, should the Court grant the stay, the Appellant requests that the time limit for filing the Respondents' Statement of Response resumes immediately after the date of the oral hearing before the EPO Board of Appeal, i.e. on 15 October 2026.
11. The Appellant puts forward the following reasons. First, the request for a stay was made belatedly, despite the Respondents' knowledge of the date of the EPO Board of Appeal oral hearing. In the Appellant's view, the Respondents could have raised the request either when seeking a finding of inadmissibility or following the filing of the Statement of grounds of appeal. Second, the Appellant considers that the Respondents' request is inconsistent with their conduct in the proceedings before the CFI, where, in similar circumstances, they did not request a stay, but asked for an extension of the time limit pursuant to R. 9.3 RoP. Finally, the Appellant submits that, even after the oral hearing before the EPO Board of Appeal has taken place, the Respondents will have sufficient time to prepare their Statement of Response taking into account the outcome of the EPO proceedings.
12. On 16 October 2026, both parties informed the Court of Appeal that the Board of Appeal announced orally, following the oral hearing of 15 October 2026, that the patent shall be maintained in amended form corresponding to auxiliary request 2.

GROUND FOR THE ORDER

13. The application for a stay is inadmissible. Even assuming that the application for a stay would be admissible, it is not well-founded and should be dismissed.

Admissibility of the application for a stay

14. Pursuant to R. 4.1 RoP, written pleadings and other documents must be signed and lodged with the Registry or the relevant sub-registry in electronic form. The Court of Appeal has already clarified that, in proceedings before the UPC, it is not sufficient for a party's representative to log into the Case Management System (CMS) through a secure authentication process and thereby confirm his or her identity (UPC-CoA-61/2026, 22 May 2026, SharkNinja v. SEB, paras. 11–12; Windhager v. bellissa, para. 22). The written pleadings themselves must also bear the signature of the party.
15. At the same time, the wording of R. 4.1 RoP does not require that such signature take the form of a qualified or advanced electronic signature. Nor does any such requirement follow from any other provision of the RoP, the UPCA, or the case law of the Court of Appeal (UPC-CoA-73/2026, 8 October 2026, ESKO-SOFTWARE, ESKO-GRAPHICS BV v. IN(K)CONTROL BV, para. 26).
16. The application for a stay lodged by the Respondents on 25 September 2026 lists the members of the Respondents' legal team by their name. However, it does not bear any signature of Respondents' authorized UPC representatives, as required by R. 4.1 RoP.
17. The Court of Appeal therefore considers that the application for a stay does not meet the requirements of R. 4.1 RoP and should, accordingly, be considered inadmissible. Even assuming that the application for a stay would be admissible, it is not well-founded for the reasons stated below.

Application for a stay of proceedings

18. As a general principle, the Court will not stay proceedings (UPC_CoA_22/2024, 28 May 2024, Carrier v BITZER, paragraph 23).
19. Pursuant to Art. 33(10) UPCA and R. 295(a) RoP, an exception to the principle that the Court will not stay revocation proceedings pending opposition proceedings applies when a rapid decision may be expected from the EPO.
20. The terms "rapid decision" and "rapidly" in these provisions must be interpreted, inter alia, in the light of the relevant circumstances of the case, such as the stage of the opposition proceedings and the stage of the revocation proceedings (UPC_CoA_5/2025, 30 April 2025, Juul v NJOY, paragraph 5).

21. The term “may” in Art. 33(10) UPCA and R. 295(a) RoP means that the Court has a discretionary power to stay the proceedings even when a rapid decision may be expected from the EPO. Whether or not a stay is granted depends on the balance of interests of the parties and the specific circumstances of the case.
22. When applying these principles to the present case, there is no ground for the requested stay of the proceedings.
23. A rapid decision may be expected here within the meaning of the provisions cited above since the oral hearing was scheduled to take place before the Board of Appeal of the EPO on 15 October 2026. The parties confirmed that the oral hearing did take place and that on 15 October 2026 the Board of Appeal rendered an oral decision maintaining the patent at issue according to auxiliary request 2.
24. Following the order dated 7 August 2026 scheduling the oral hearing, the Board of Appeal issued on 17 September 2026 a detailed preliminary opinion, which, in addition to the occurrences during the oral hearing on 15 October 2026, provides guidance to the parties as to how the Board preliminarily assessed the validity of the patent at issue. According to this preliminary opinion, confirmed after the oral hearing, the Board of Appeal found the patent valid in the amended form corresponding to auxiliary request 2.
25. The Court of Appeal notes in this respect that this amended form of the patent at issue was submitted to the Court of First Instance. Therefore, this auxiliary request was already the subject of the dispute before the Court of First Instance and Respondents have already commented on this auxiliary request.
26. Moreover, as the Appellant rightly argues, given the date of the oral hearing before the Board of Appeal and the oral decision rendered on that same date (15 October 2026), since the Statement of response is expected no later than 24 November 2026, the Respondents still have 40 days to factor in the outcome of the present appeal proceeding and any development that occurred during the oral hearing.
27. Therefore, the Court of Appeal fails to see why there would be, at this stage and given the specific circumstances of the present case, a need for a stay or additional exchanges of written briefs between the parties after January 2027. As granting a stay would not offer any decisive procedural advantage, the request is unfounded.

ORDER

The application for a stay of proceedings is dismissed.

Issued on 16 October 2026.

Nathalie,
Jeanne, Danielle
SABOTIER



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Nathalie Sabotier, legally qualified judge and judge-rapporteur