

To whom it may concern

Our reference: 13126903/1  
Responsible lawyer: Trond Hatland

Bergen, 18 June 2019

## STATEMENT REGARDING ALLEGATIONS PUT OUT BY BARCO NV AND BARCO FREDRIKSTAD AS AGAINST NORXE AS

By introduction, I am a partner in one of Norway's leading lawfirms, Advokatfirmaet Thommessen AS ("**Thommessen**"). Thommessen represents Norxe AS of Fredrikstad, Norway ("**Norxe**").

Norxe designs, manufactures and markets projectors for demanding applications. In November 2016 Norxe launched the groundbreaking *Norxe P1 projector* ("**P1**"), utilizing the next generation HLD LED illumination technology. This gives higher brightness than any other LED-illuminated projectors in the market and uses no moving parts such as phosphor wheels and color wheels.

Norxe has a U.S. subsidiary, Norxe America Inc., of Orlando, Florida ("**Norxe Inc**").

Barco NV of Belgium ("**Barco NV**") is a competitor to Norxe and Norxe Inc in the projector market. Barco NV has, *inter alia*, a U.S. subsidiary, Barco, Inc (California, Georgia, Texas and Oregon) ("**Barco Inc**") and a Norwegian subsidiary, Barco Fredrikstad AS ("**BF**"). These Barco entities are collectively referred to as "**Barco**", herein.

Since February 2017 Norxe was informed that Barco interfered with Norxe's contracts and business, worldwide and in the U.S. in particular, and that Barco was defaming Norxe's good name and reputation in the trade. After several attempts to stop these harmful activities, attorney-at-law Robert E. Meshel, P.C., acting on behalf of Norxe and Norxe Inc, submitted to Barco in October 2017 a Cease and Desist Demand. However, such acts have not ceased and they continue to occur.

Further, Norxe is informed that Barco over time has disseminated untrue and defamatory statements, *inter alia* in the U.S. market, involving law suits against Norxe in Norway. To

ADVOKATFIRMAET  
THOMMESSEN AS

Foretaksregisteret  
NO 957 423 248 MVA  
thommessen.no

OSLO  
Haakon VII's gate 10  
Postboks 1484 Vika  
NO-0116 Oslo  
T +47 23 11 11 11  
F +47 23 11 10 10

BERGEN  
Vestre Strømkaaien 7  
Postboks 43 Nygårdstangen  
NO-5838 Bergen  
T +47 55 30 61 00  
F +47 55 30 61 01

LONDON  
Paternoster House, 2nd floor  
65 St Paul's Churchyard  
GB-London EC4M 8AB  
T +44 207 920 3090  
F +44 207 920 3099

Norxe's knowledge, Barco has been claiming, inter alia, that Norxe had breached Barco Intellectual Property when developing the Norxe P1 and that Barco was winning lawsuits against Norxe.

However, in a litigation between Barco NV/BF and Norxe and ten of Norxe's employees, Fredrikstad District Court in Norway has recently (17 June 2019) stated/ruled:

1. *"It has been clarified that Norxe P1 does not contain Barco proprietary technology. (...). It can be stated that Norxe P1 is not based on anything copied from Barco nor does it infringe any copyrights"* [in-house translation of the court ruling].
2. The court ruled that Norxe's business is not – and has not been – in conflict with good business practice between undertakings.
3. The court ruled that the planning of Norxe's business by former Barco employees was not disloyal.
4. Barco was not awarded any compensation (they claimed near NOK 200 millions).
5. Barco was not awarded halt in the production and sale of Norxe P1 (and Norxe P2).
6. Six of the ten employees who were sued by Barco were acquitted and awarded all legal costs.
7. The court found that one of the employees had some documents (pricelist and customer list) on his private computer that should have been deleted when he left Barco. However, the court found that these documents had been deleted at a later stage and not used by Norxe.
8. The court was of the opinion that one of the employees had performed some limited work for Norxe when he was still employed by BF and that this was a breach of his duty of professional loyalty towards Barco. Norxe disagree as (i) Norxe was still not founded as a company at that time and (ii) the employee did the work in the weekends/on his spare time (he had paternity leave at the time). Further, it was not "work" per se, but thoughts and sketches that the employee doodled.

Under all circumstances, the court found that the "work" had no negative effect for Barco as the employee in question performed his work for BF to their full satisfaction.

9. Finally, the court was of the opinion that Mr. Jørn Eriksen and Mr. Kjell Einar Olsen recruited some former Barco employees in breach of an agreed non-solicitation clause. Mr. Jørn Eriksen and Mr. Kjell Einar Olsen strongly rejects that they have breached the agreed non-solicitation clause, and believe that the court has misinterpreted the agreed non-solicitation clause. Mr. Jørn Eriksen and Mr. Kjell Einar Olsen are of the opinion that they were allowed to employ former Barco employees and that they have not engaged in active recruitment. In that respect, it is worth to note that the court stated that *"it is likely that the employees would have terminated their employments with Barco anyway"* and that *"it is natural that the employees was hired by a competitor"*. Thus, Barco was – as mentioned above – not awarded any compensation.

All in all, Norxe are pleased that Fredrikstad District Court has rejected Barco's most serious allegations regarding copy/theft of technology, and that the court clearly states that Norxe P1 is a unique product and not in any way based on Barco proprietary technology. This is as expected and completely in line with what Norxe has stated all the way. Norxe are also pleased that the court clearly states that Norxe's business and the planning of Norxe's business is and has been conducted fully in accordance with applicable rules.

We note that the court is of the opinion that some minor violations have taken place. As mentioned above, Norxe disagree. However, the court has under all circumstances stated that these minor violations have not had any negative effects for Barco. To that, Norxe agree.

For further information, please contact the undersigned per e-mail: [tha@thommessen.no](mailto:tha@thommessen.no), or the Chairman of the BoD of Norxe, Mr. Jørn Eriksen per e-mail: [jorn@norxe.com](mailto:jorn@norxe.com).

Yours sincerely  
Advokatfirmaet Thommessen AS



Trond Hatland  
Advokat (H) / Attorney-at-law, permitted to the Supreme Court