

IFC Procedure No. 57/2023



**UNIFIED PATENT COURT**  
**MILAN LOCAL DIVISION**

**Procedure No. IFC 57/2023**

ACTOR

**Ocado Innovation limited**, a company incorporated under English and Welsh law, with registered office at Buildings One & Two, Trident Place, Mosquito Way, Hatfield, AL10 9UL, United Kingdom, represented by Giovanni Guglielmetti, Alessio Bottero, Maria Giulia De Rosa, Simon Ayrton, Tom Oliver and Joel Coles

DEFENDANTS

**Autostore AS**, a company under Norwegian law with its registered office at Stokkastrandvegen 85, Nedre Vats, 5578, Norway

**Autostore SP. Z.O.O.**, a company under Polish law with its registered office at ul. Ignacego Łukasiewicza 4, 75-202 Koszalin/Köslin, Poland

**Autostore System s.r.l.**, a company incorporated under Italian law with registered office in via Agnello, 8, 20121 Milan, Italy

**Autostore System GmbH**, a company under German law with its registered office at Im Striep 10, 41069 Mönchengladbach, Germany

**Autostore System AB**, a company under Swedish law with registered office at Hannes Snellman Advokatbyrå AB, Box 7801, 103 96 Stockholm, Sweden

**Autostore SAS**, a company under French law with registered office at 55 Ter Avenue René Cassin, 69009 Lyon, France

**Autostore System AT GmbH**, a company under Austrian law with registered office at St. Peter Gürtel 4, 8042 Graz, Austria

**Autostore System S.L.**, a company under Spanish law with registered office in Edificio Coronales, Bahía de Pollensa 12, 2nd floor, Madrid 28042, Spain  
all represented and defended by lawyers Gabriele Cuonzo, Vittorio Cerulli Irelli and Lorenzo Battarino.

PATENT SUBJECT TO TRIAL Patent

European No. EP4101791.

PARTICIPATING JUDGES

This order was made by the College in the following composition:

- Pierluigi PERROTTI presiding judge and judge rapporteur
- Camille GARROS LIGNIERES judge
- AlimaZANA judge

LANGUAGE OF PROCEEDINGS

Italian.

SUBJECT OF THE PROCEEDINGS

Action to establish patent infringement.

BRIEF STATEMENT OF FACTS

By a writ filed on 2.6.2023, the plaintiff brought an action for declaratory relief against the defendants for infringement of European Patent EP 4101791. At present, the writ of summons appears to have been duly served on only some of the defendants.

On 3.8.2023, the plaintiff filed an application for waiver of the action pursuant to Rule 265 RoP, with an annexed declaration of consent of the defendants to the waiver, in which it also requested the Court for partial reimbursement of the *Court fees* previously paid.

REQUESTS FROM THE PARTIES

The applicant requests that the Court:

- issue a decision declaring these proceedings terminated;
- orders that the decision be entered in the register;
- if necessary, order each party to bear its own costs;
- reimburse the applicant EUR 37,800, representing 60 per cent of the costs incurred in these proceedings.

The defendants have consented to the discontinuance of the action and have stated that they do not seek reimbursement of costs. Should the Court find it necessary to rule on costs, they request that each party bear its own costs.

#### REASONS FOR THE DECISION

The Court declares the proceedings closed in accordance with the agreement of the parties.

With regard to the costs of litigation, Rule 265(2)(c) RoP generally provides that following the discontinuance of the action the Court must adopt a decision on costs pursuant to Rules 150 et seq. RoP. According to rule 151 RoP, however, this type of order is issued only at the request of one of the parties, which in the present case is expressly excluded by the agreement of the parties. It follows that no decision on costs is required.

The application for the issuance of an order for partial reimbursement of the plaintiff's court costs is also well-founded, as the conditions set forth in Rule 370(9)(b) and (11) RoP are fulfilled.

#### DECISION

The Unified Patent Court - Milan Local Division:

- declares these proceedings closed;
- orders that this decision be entered in the register;
- orders the Registrar to proceed as soon as possible to reimburse Ocado Innovation limited the amount of 37,800 Euro, equal to 60% of the Court fees paid by it in these proceedings;
- states that the value of the dispute is 8,000,000 euros.

DETAILS OF THE DECISION

Decision on application App. No. 557045/2023, related to main file Act. No. 463658//2023 -  
UPC proceeding No. CFI 57/2023.

Subject: Patent infringement action

APPEAL INFORMATION

This decision may be challenged before the Court of Appeal by any party that has been unsuccessful, in whole or in part, in its claims within two months from the date of notification of the decision (Art. 73(1) UPCA; Rule 220(1)(a) RoP).

Thus decided in Milan, on 11 September 2023.

Pierluigi Perrotti  
presiding judge and judge rapporteur

Camille Garros Lignieres judge

Alima Zana judge