



Procedural order
of the Court of First Instance
of the Unified Patent Court local division Düsseldorf
issued on 22 March 2024
concerning EP 2 697 391 B1

LEADERSHIPS:

1. Pursuant to Art. 51(2) UPCA, all chambers of the Court of First Instance shall, where appropriate, provide for interpretation at the request of a party in order to assist the party at the oral proceedings. This general principle is set out in R. 109 VerFO in more detail.
2. The aim of simultaneous interpreting is to enable parties who do not speak the language of the proceedings, or do not speak it sufficiently, to actively participate in the oral proceedings. The interpretation can be provided both into and from the language of the proceedings (see R. 109.1 VerFO).
3. However, according to Art. 51 para. 2 UPCA, interpretation is only provided for to the extent that it appears appropriate to support a party in the oral proceedings. In all other respects, it remains necessary to negotiate in the language of the proceedings. If individual party representatives speak the language of the proceedings, there is neither reason nor cause to allow them to attend the hearing in a language other than the language of the proceedings with the use of simultaneous interpreting.

KEYWORDS:

Simultaneous interpreting; change of the language of the proceedings

APPLICANT:

10x Genomics, Inc, 6230 Stoneridge Mall Road, 94588-3260 Pleasanton, CA, USA, legally represented by the Board of Directors, which is represented by the CEO ... , *ibid*,

represented by: Lawyer Prof. Dr. Tilman Müller-Stoy, Attorney at Law

Dr Martin Drews, Patent Attorney Dr Axel Berger, Prinzregentenplatz 7, 81675 Munich,

Electronic address for service: ...

RESPONDENT:

Curio Bioscience Inc, 4030 Fabian Way, Palo Alto, CA 94303, USA, represented by its CEO ..., *ibid*,

represented by: Attorney at Law Agathe Michel-de Cazotte, European Patent Attorney Cameron Marschall, 1 Southampton Row WC1B 5HA London, United Kingdom,

Electronic delivery address: ...

PATENT OF DISPOSITION:

EUROPEAN PATENT NO. EP 2 697 391 B1

DECISION-MAKING BODY/CHAMBER:

Judges of the Düsseldorf local division:

This order was issued by presiding judge Thomas as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: German

SUBJECT: R. 109.1 VerfO - Simultaneous interpretation of oral proceedings

BRIEF DESCRIPTION OF THE FACTS:

The parties are currently facing each other in proceedings for an order for provisional measures, whereby the applicant has opted for German as the language of the proceedings. The applicant opposed an application by the defendant to change the language of the proceedings to English, whereupon the President of the Court of First Instance rejected such a change. A decision by the Court of Appeal on the appeal lodged against this by the respondent is still pending. The summary proceedings will therefore continue to be conducted in German. Attempts at a settlement of the language issue have failed.

By order dated 1 March 2024, the Düsseldorf local division rejected an application by the applicant for an order for simultaneous interpreting from German into English. The

The local division rejected the alternative request made by the applicant in this case to make arrangements for simultaneous interpreting of the oral proceedings. At the same time, the local division permitted the parties in this order to commission simultaneous interpreting for the oral hearing for the translation from German into English at their own expense and to inform the Sub-Registry of the Düsseldorf local division by 12 March 2024 whether they would make use of this option. A corresponding notification from the defendant was received by the Düsseldorf local division by the deadline. At the same time, the defendant informed the Düsseldorf local division that it would utilise the option and commission two (additional) interpreters to translate from English into German.

APPLICATIONS BY THE PARTIES:

The applicant requests,

declare that the parties, in particular the defendant side, may not negotiate in English with simultaneous interpretation into German at the oral hearing, but that all oral submissions are to be made by the respective appointed representatives in the German language of the proceedings.

The defendant applies,

reject the applicant's application;

declare that the parties' representatives at the oral hearing on 26 (and 27) March 2024 may be heard in English with simultaneous interpretation into German.

REASONS FOR THE ORDER:

Pursuant to Art. 51 para. 2 UPCA, all chambers of the Court of First Instance shall, where appropriate, provide for interpretation at the request of a party in order to assist the party at the oral hearing. This general principle is further concretised in R. 109 VerFO. If there is no timely application for simultaneous interpreting within the meaning of R. 109.1 of the Rules of Procedure - as is the case here on the defendant's side - or if such an application was rejected by the judge-rapporteur, the party is at liberty to appoint an interpreter themselves at their own expense (R. 109.4 of the Rules of Procedure) in the event that the judge-rapporteur does not order interpreting ex officio (R. 109.3 of the Rules of Procedure). In this case, they must inform the registry of such an intention two weeks before the oral hearing.

The defendant made use of this option in the present case. A corresponding notification was received by the sub-registry of the Düsseldorf local division on 12 March 2024 and thus within the deadline.

The aim of simultaneous interpreting is to enable parties who do not speak the language of the proceedings, or do not speak it sufficiently, to actively participate in the oral proceedings. The interpretation can be provided both into and from the language of the proceedings (see R. 109.1 VerFO). It is obvious that this must be the case. Only such simultaneous interpreting in both directions ensures that the person concerned understands the statements in the language of the proceedings (translation *from* the language of the proceedings) and can also articulate themselves if necessary (translation *into* the language of the proceedings). Insofar as the applicant nevertheless invites all parties on the defendant's side to a hearing in

German language, such an order would therefore run counter to the purpose of simultaneous interpretation and thus ultimately also to Art. 51 para. 2 UPCA.

It is irrelevant that interpreters, as stated by the applicant, generally lack the ability to participate in the proceedings within the meaning of Art. 48 UPCA. Interpreters are not party representatives, but merely a tool to help the party or party representatives to participate in the oral proceedings despite a lack of or at least inadequate knowledge of the language of the proceedings.

The possibility opened up by R. 112.6 VerfO for witnesses to testify in another language of the proceedings does not justify a different assessment. This is a strictly limited possibility to deviate from the language of the proceedings. If a witness does not speak the language of the proceedings, the court may authorise them to testify in another language without the need for an interpreter. This does not affect the possibility of simultaneous interpreting.

However, pursuant to Art. 51 para. 2 UPCA, interpretation is only provided for to the extent that this appears appropriate to support a party in the oral proceedings. Otherwise, it remains necessary to conduct the proceedings in the language of the proceedings and thus in German in the present case in accordance with Art. 49 para. 1 UPCA. The defendant informed the Registry that submissions would be made at the oral hearing by Agathe Michel-de Cazotte and Cameron Marshall. Since the defendant did not contradict the applicant's submission regarding the German language skills of the former, including her several years of work for a German practice (see document of 12 February 2024, p. 4 para. 9), it can be assumed that she can and will negotiate in German at the oral hearing. There is neither reason nor cause to allow her to use English with the assistance of a simultaneous interpreter. The hearing in English with the use of simultaneous interpreting is therefore only to be authorised for the defendant's patent attorney.

ORDER:

1. The defendant's patent attorney, Mr ..., is permitted to conduct the oral proceedings on 26 (and 27) March 2024 in English with simultaneous interpretation into German, while rejecting the further application.
2. The simultaneous interpreter required for this shall be provided by the defendant at its own expense. The defendant is authorised to use the equipment available for this purpose in the courtroom for simultaneous interpreting.
3. The application of the applicant for a declaration that the parties, in particular the defendant, may not be heard in English with simultaneous interpretation into German at the oral hearing, but that all oral submissions are to be made by the respective appointed representatives in the German language of the proceedings, is rejected.

DETAILS OF THE order:

App_14943/2024 for the main file reference

ACT_590953/2023 UPC number: UPC_CFI_463/2023

Type of proceedings: Application for an order for provisional measures

Issued in Düsseldorf on 22 March 2024 NAMES
AND SIGNATURES
Presiding judge Thomas