Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

No. APP_63864/2024
UPC_CFI_583/2024

ORDER
of the President of the Court of First Instance
in the proceedings before the Local Division Paris
pursuant to R. 323 RoP (language of the proceedings)
issued on 09/01/2025

HEADNOTE:

- According to R.19 (c) RoP, the Defendant may lodge a Preliminary objection concerning *"the language of the Statement of Claim [R. 14]"*. By referring to R. 14 which relates to the use of languages under 49 (1) and (2) UPCA, this provision explicitly narrows the scope of a Preliminary objection to these legal requirements.
- In the context of an agreement to change the language of the proceedings and a subsequent request for the translation of existing documents, the Court shall consider the interests of all parties involved, ensuring that the case is handled in a timely manner as a whole in the language in which the patent was granted, and also ensuring that discussions are based on the written submissions and exhibits provided in English by the originally submitting party.
- In the interest of fairness and efficiency, and to avoid unnecessary translations, the parties are granted 10 days from the date of this Order to agree on a list of annexes that should be provided in English.

KEYWORDS:

- Change of the language of the proceedings – translation arrangements

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RESPONDENT (CLAIMANT IN THE MAIN PROCEEDINGS):

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Represented by: Camille Pecnard - Cabinet Lavoix

PATENT AT ISSUE:
Patent n° EP 3290200.

SUMMARY OF FACTS - SUBJECT - MATTER OF THE PROCEEDINGS:

By a statement of claim filed on 18 October 2024, ArcelorMittal brought an infringement action against the abovementioned entities (hereinafter collectively referred to as "the Applicants" or "the Defendants" in reference to their role in the main proceedings). The action is based on EP3290200 titled *"coated steel strips, methods of making the same, method of using the same, stamping blanks prepared from the same, stamps products prepared from the same, and articles of manufacture which contain such a stamped product"* and was filed before the Local Division Paris.

By a generic procedural application dated 2 December 2024 (App_63864/2024) the Defendants in the main action, referring to R. 323 RoP, requested that the language of proceedings be changed from French to English (hereinafter "the Application").

The Application was forwarded by the judge-rapporteur to the President of the Court of First Instance of the UPC pursuant to R. 323.1. RoP. By an order dated 4 December 2024, the Claimant in the main action (No. ACT_54607/2024 UPC_CFI_583/2024) was subsequently invited, in accordance with R. 323.2 RoP, to state within 10 days its position on the admissibility of the Application and on the use of the language in which the patent was granted, namely English, as language of the proceedings.

ArcelorMittal submitted its written comments on 18 December 2024.

The panel of the LD Paris has been consulted in accordance with R. 323.3 RoP.

INDICATION OF THE PARTIES' REQUESTS:

The Defendants in the main proceedings request that:

- the Application be granted pursuant to R. 323 RoP in conjunction with Article 49(5) UPCA, and therefore that the language of the proceedings be changed to English.
- ArcelorMittal be ordered to provide English translations of the statement of claim and all exhibits at its own expense, within 7 calendar days from the date of the order.
- ArcelorMittal be ordered to bear the costs of the present proceedings pursuant to Art. 69 UPCA.

ArcelorMittal requests the Court to:
1. decide on the language of the proceedings having regard to all relevant circumstances of the case.
2. dismiss all other claims made by the Defendants, in particular those relating to translation and costs.

POINTS AT ISSUE:

The Applicants – referring in particular to UPC_CoA_101/2024 (APL_12116/2024) and UPC_CoA_207/2024 (APL_24598/2024) – emphasize that, in the present case, ArcelorMittal chose to file the action in French despite English being the language of the patent, the official language of communication among the Defendants and the most widely spoken international language in the business environment. They state that as the majority of them are not domiciled in French-speaking countries, the use of the chosen language will entail additional expense and efforts. They further point out that being required to deal with a foreign language is affecting the efficient organization of their defense.

They contend that the requested change would not, by contrast, disadvantage ArcelorMittal, which is a multinational company operating on a global scale and active in English-speaking countries and regions.

In support of their request that ArcelorMittal bear the costs incurred for the present Application, they argue that, given the consistent caselaw cited above, it was foreseeable that the proceedings would continue in English.

The comments made by ArcelorMittal can be summarized as follows:

- On the admissibility of the Application, they argue that a request pursuant to R. 323 RoP must demonstrate a need for convenience and simplification irrespective of any procedural requirement, whereas the Applicants refer to a “choice” made by the Claimant between two options. Such a choice should have been challenged by lodging a preliminary objection pursuant to R. 19 RoP.
- On the merits of the request, while stating that the language of the patent is not required to be adopted as a general principle pursuant to Art. 49 (1) before a local division, ArcelorMittal does not object to the requested change for pragmatic and constructive reasons as English is understood and used by all parties.

-As to the additional claims relating to translation and costs, they point out that the Statement of Claim has already been served in the official languages of the country where each Defendant is domiciled (none of which is English) and that a decision on costs is to be made at a later stage.

GROUNDS FOR THE ORDER:

1- Admissibility of the Application

Pursuant to R.19 (c) RoP, the Defendant may lodge a Preliminary objection concerning *"the language of the Statement of Claim [R. 14]".* By referring to R. 14 which pertains to the use of languages under 49 (1) and (2) UPCA, this provision explicitly narrows the scope of a Preliminary objection to these legal requirements. In contrast, R. 323 permits a change in the language of the proceedings as initially selected by the Claimant, as provided under Art. 49 (4) UPCA based *"on grounds of convenience and fairness"* which are invoked by the Applicants in the present case.

The Application is therefore admissible.

2- Merits of the Application

As expressly agreed by ArcelorMittal in its written comments on the Application, the language of the proceedings will be changed to the language in which the patent at issue was granted – namely English.
This change shall be effective as from the date of the present Order and the current proceedings shall therefore continue in English including all further procedural steps.

3- Consequences of the change of the language during the course of the proceedings

Pursuant to R. 324 RoP, an application under R. 321.1 or 323.1 shall specify whether existing pleadings and other documents are to be translated and at which party's costs. If the parties cannot agree, the Judge-rapporteur or the President of the Court of First Instance, as the case may be, shall decide in accordance with R. 323.3 RoP, pursuant to which the deciding judge *"may make the order conditional on specific translation or interpretation arrangements".*

In the present case, the proceedings include to date the Statement of Claim and 34 exhibits, most of which are in French.

In deciding on this point, the Court shall consider the interests of all parties involved, ensuring that the case is handled in a timely manner as a whole in the language in which the patent was granted, and also ensuring that the upcoming discussions are based on the written submissions and exhibits provided in English by the originally submitting party. Moreover, it could reasonably be expected by the Claimant that translations would be requested considering the circumstances of the case (No. ACT_51510/2024 UPC_CFI_525/2024 – Order of 22/10/2024 – LD Hamburg).

It follows from the above that, for reasons of both fairness and convenience, the Claimant should provide an English version of the Statement of Claim. Regarding the nature and number of exhibits already submitted, it seems appropriate in the interest of fairness and efficiency, and to avoid unnecessary translations, that the parties are granted 10 days from the date of this Order to agree on a list of the annexes that should be provided in English. A further time limit of 30 (thirty) days from the date of the agreement shall be granted to the Claimant to provide the respective translations.

The matter should be referred to the Judge rapporteur in the absence of such an agreement pursuant to R. 324 RoP.

At this stage, it does not appear necessary to decide on any additional translation or interpretation arrangements.

4- Costs

The Applicants have not provided the Court with any specific reasons to deviate from the general principle that the decision on costs related to the present Application shall be made at the final stage of the main proceedings.

ON THESE GROUNDS

1- The application is hereby granted, and the language of the proceedings (originally German) shall be changed to English, the language in which the patent was granted.

2- ArcelorMittal is requested to provide, at its own expense, English translations of the Statement of Claim.

3- The Parties shall agree on the list of annexes to be translated into English within a time limit of 10 (ten) days from the date of the present Order.

4- The Claimant is requested to provide the respective translations of the annexes at its own expense within a time limit of 30 (thirty) days.

5- The costs incurred by the Applicants shall be addressed at the final stage of the main proceedings.

6- An appeal may be brought against the present order within 15 calendar days of its notification to the Applicants pursuant to Art. 73. 2 (a) UPCA and R.220 (c) RoP.

INSTRUCTIONS TO THE PARTIES AND TO THE REGISTRY:

The next step requires the Applicants to file the Statement of defence within the time period prescribed by the Rules of Procedure.

ORDER

Issued on 09 January 2025

NAME AND SIGNATURE

Florence Butin

President of the UPC Court of First Instance

FLORENCE ANNE BUTIN

Signé numériquement par FLORENCE ANNE BUTIN
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