



Düsseldorf local division
UPC_CFI_456/2023

Decision

of the Court of First Instance of the Unified Patent Court
issued on 10 February 2025
concerning EP 3 490 258 B1

Plaintiff:

Dolby International AB, represented by its EMEA Finance Director Susan Way, 77 Sir John Rogerson's Quay, Block C, Grand Canal Docklands, Dublin, D02 VK60, Ireland,

represented by: Attorney Dr Volkmar Henke, Attorney Dr Tilmann Müller, Bardehle Pagenberg Partnerschaft mbB, Bohnenstraße 4, 20457 Hamburg,

Contributing: Patent Attorney Dr Georg Anetsberger, Patent Attorney Dr Johannes Möller, Bardehle Pagenberg Partnerschaft mbB, Prinzregentenplatz 7, 81675 Munich,

Electronic address for service: henke@bardehle.de

Defendant:

1. **ASUS Computer GmbH**, represented by its Managing Director Li-Hsiang Chen, Harkortstrasse 21 - 23, 40880 Ratingen, Germany,

- also counterclaimant -
2. **ASUSTek COMPUTER INC.**, represented by the members of the Board of Directors Jonney Shih, Jonathan Tsang, H.C. Hung, Ivan Ho, Tony Chen, Eric Chen, Tze-Kaing Yang, Chung-Jen Cheng, L.H. Yang, 15, Li-Te Rd, Taipei 112, Taiwan,
3. **ASUSTEK (UK) LIMITED**, represented by its directors, 1st Floor, Sackville House, 143 - 149 Fenchurch Street, London, EC3M 6BL England, United Kingdom,

- also counterclaimant -
4. **ASUS FRANCE Société à responsabilité limitée**, represented by its managing directors, Immeuble Copernic 2-Bat Neptune 1 Rue Galilée, 93160 Noisy-le-Grand, France,

- also counterclaimant -

Defendants 1 to 4 represented by: Lawyer Dr Alexander Wiese, Wildanger Kehrwald Graf von Schwerin und Partner mbB, Couvenstrasse 8, 40211 Düsseldorf,

electronic delivery address: wiese@wildanger.eu

PATENT AT ISSUE:

European Patent No. EP 3 490 258 B1

PANEL/CHAMBER:

PANEL JUDGES of the Düsseldorf local division:

This decision was issued presiding judge Thomas, legally qualified judge Dr Thom as rapporteur and legally qualified judge Brinkman.

LANGUAGE OF THE PROCEEDINGS: German

SUBJECT: R. 265 RoP - Withdrawal of the action and of the action for annulment
R. 370.11 RoP - Partial reimbursement of court fees

BRIEF DESCRIPTION OF THE FACTS:

By document dated 30 November 2023, the plaintiff filed an action for patent revocation against the defendants. The subsequent revocation action filed by the defendants 1, 3 and 4 is dated 23 April 2024.

Even before the conclusion of the written procedure, the plaintiff declared the withdrawal of the action, including its application for amendment of the patent in dispute filed in advance, in a document dated 27 December 2024 against the background of an out-of-court settlement. On the same day, the defendants 1, 2 and 4 requested that the withdrawal of the revocation counterclaim be allowed.

The applicant claims that the Court should,

1. confirm that each party is to bear its own costs and that the applicant is to pay the court costs and that there will be no reimbursement of costs between the parties;
2. to reimburse the applicant 60 % of the court costs paid when the action was brought.

The defendants claim,

1. confirm that each party shall bear its own costs and that the counterclaimants shall bear the legal costs of the counterclaim and that there shall be no reimbursement of costs between the parties;
2. to reimburse the counterclaimants 60 % of the court costs paid when the counterclaim was filed.

The parties have each agreed to the withdrawal declared by the other party and to the respective application for partial reimbursement of the court costs.

REASONS FOR THE DECISION:

The decision follows the unanimously expressed will of the parties.

Insofar as R. 265.2 (c) RoP requires a decision on costs pursuant to Part 1 Chapter 5 RoP, the decision takes into account the agreement reached between the parties.

The order for the pro rata reimbursement of court costs is based on R. 370.11 RoP in conjunction with R. 370.11 RoP.

R. 370.9 (b) (i) RoP.

DECISION:

1. The withdrawal of the action, including the applications to amend the patent in suit, is allowed on the application of the plaintiff and with the consent of the defendant.
2. Withdrawal of the action for annulment is permitted on the application of the defendant and with the consent of the plaintiff.
3. All proceedings referred to in items 1 and 2 are hereby declared terminated.
4. This decision is to included in the register.
5. The applicant shall bear the court costs relating to the action.

The defendants 1, 3 and 4 shall each bear 1/3 of the court costs relating to the action for annulment.

The parties shall each bear their own extrajudicial costs. No costs shall be reimbursed between the parties.

6. Orders the Registrar to reimburse the applicant as soon as possible 60 % of the court fees paid by the applicant in these proceedings in respect the action, amounting to EUR 22 200.
7. The Registrar is ordered to reimburse the defendants 1, 3 and 4 as soon as possible 60 % of the court fees paid by them in these proceedings in respect of the action for annulment, totalling EUR 12 000.
8. The amount in dispute for the action and the action for annulment is set at EUR 3,500,000.00 each.

DETAILS OF THE DECISION:

App_67764/2024 and App_68380/2024 concerning the main file references ACT_590109/2023 and CC_21152/2024

UPC number: UPC_CFI_456/2023

Type of proceedings: Action for infringement and action for annulment

Issued in Düsseldorf on 10 February 2025 NAMES

AND SIGNATURES

Presiding judge Thomas	Ronny Thomas Digital signed from Ronny Thomas Date: 2025.02.10 18:23:23 +01'00'
Legally qualified judge Dr Thom	Anna Bérénice Dr THOM Digitally signed by Anna Bérénice Dr. THOM Date: 2025.02.10 11:39:16 +01'00'
Legally qualified judge Brinkman	Edger Frank BRINKMAN Digitally signed by Edger Frank BRINKMAN Date: 2025.02.10 16:38:44 +01'00'
For the Deputy Chancellor Boudra-Seddiki	Rachida Boudra-Seddiki Digitally signed by Rachida Boudra-Seddiki Date: 2025.02.11 07:46:44 +01'00'