



Procedural Order
of the Court of First Instance of the Unified Patent Court
issued on 30 May 2025
concerning EP 4 108 413
concerning App_63407/2024

CLAIMANT:

Sunstar Engineering Europe GmbH, Emil-Fischer-Straße 1 - 86641 - Rain am Lech - DE,

represented by: Holger Stratmann

DEFENDANT:

CeraCon GmbH, Talstraße 2 - 97990 - Weikersheim

represented by: Matthias Sonntag

PATENT AT ISSUE:

European patent EP 4 108 413

PANEL/DIVISION:

Panel of the Local Division in Mannheim

DECIDING JUDGES:

This order was issued by the legally qualified judge and judge-rapporteur Böttcher

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT OF THE PROCEEDINGS: Patent infringement action – language of proceedings

BRIEF SUMMARY OF THE FACTS:

Claimant sues Defendant for alleged infringement of the patent-in-suit, thereby stating infringing acts in several member states to the UPCA. Defendant is domiciled in Germany, the language of the patent-in-suit and the statement of claim is English. Defendant responded to the statement of claim in English.

With regard to a request of Claimant to use the language in which the patent was granted (English) as language of the proceedings, the parties were informed, that, in the judge-rapporteur's preliminary opinion, Claimant validly choose the English language of the patent-in-suit to be the language of the proceedings and that the additional request of Claimant in this regard may be regarded as a mere precaution measure in case the choice is not effective.

The parties were given an opportunity to comment. Defendant did no comment. In its comment, Claimant points out that it has validly chosen the English language in accordance with R. 14 (2) a) RoP and confirms that its request to use the English language as language of the proceedings is a mere precautionary measure. In this context, Claimant specifies its request to the extent that its request should be considered primarily as auxiliary request pursuant Art. 49 (3) UPCA and secondarily as auxiliary request pursuant Art. 49 (5) UPCA. In this respect, Claimant argues that Defendant at least implicitly consented to the use of the English language by submitting all its pleadings in English so far.

REASONS FOR THE ORDER:

Claimant's requests to use English as the language of the proceedings are not subject to a decision because Claimant's choice of language in favour of English is effective, meaning that the conditions under which Claimant has validly submitted its requests are not met. To clarify this, a clarifying order is possible.

1. By filing its statement of claim in English and designating English as the language of the proceedings pursuant to Art. 49 (2) UPCA in its statement of claim, under the section on formalities, Claimant has chosen English as the language of the proceedings.
2. The choice is valid. English is the language of the patent-in-suit. Since Claimant alleges infringement throughout the relevant member states to the UPCA, in particular in Germany and Italy, a situation under R. 14 (b) RoP excluding Claimant's right to choose does not exist. Claimant could also have filed the statement of claim in accordance with Art. 33 (1)(a) UPCA in particular in Italy and was not limited to filing it in Germany being Defendant's principal place of business.

ORDER:

For clarification purposes, it is hereby determined that the Claimant has validly chosen English as the language of the proceedings.

ORDER DETAILS

Order no. ORD_69256/2024 in ACTION NUMBER: ACT_63395/2024

UPC number: UPC_CFI_745/2024

Action type: Infringement Action

Related proceeding no. Application No.: 63407/2024

Application Type: Generic procedural Application

Issued in Mannheim on 30 May 2025

NAME AND SIGNATURE

Böttcher

Legally qualified judge