



No. APP_28457/2025
UPC_CFI_448/2025

ORDER
Of the President of the Court of First Instance
in the proceedings before the Local Division MUNICH
pursuant to R. 323 RoP (language of the proceedings)

Issued on 03/07/2025

HEADNOTE:

- When deciding on an application to change the language of the proceedings to the language in which the patent was granted for reasons of fairness, while all relevant circumstances must be taken into account, the arguments referring to the conditions in which the final decision may be enforced in the territory where the alleged infringement occurred are of less relevance in the overall assessment and balancing of interests, as they relate to the outcome of the trial – which cannot be anticipated – and not to the respective situation of the parties during the proceedings.

KEYWORDS:

Change of the language of the proceedings – Art. 49 (5) UPCA and R. 323 RoP

APPLICANTS (DEFENDANTS IN MAIN PROCEEDINGS):

- 1- Renault Retail Group Deutschland GmbH**
Peter-Huppertz-Straße 5 - 51063 - Köln - DE
- 2- Renault Deutschland AG**
Peter-Huppertz-Straße 5 - 51063 - Köln – DE

3- Renault S.A.S.

122-122 bis Avenue du General Leclerc - 92100 - Boulogne-Billancourt – FR

Represented by: Felix Roediger - Bird & Bird LLP

RESPONDENT (CLAIMANT IN MAIN PROCEEDINGS):

Avago Technologies International Sales Pte. Limited

1 Yishun Avenue 7 - 768923 - Singapore - SG

Represented by: Bernd Dr. Allekotte Grünecker Patent- und Rechtsanwälte PartG mbB

PATENT AT ISSUE: EP3726780

SUMMARY OF FACTS

By a statement of claim filed on 21 May 2025, Avago Technologies International Sales Pte. Limited brought an infringement action against the Applicants (hereinafter collectively referred to as “Renault” or “the Defendants” in reference to their role in the main proceedings) based on EP3726780 titled “Method and system for a centralised vehicular electronics system utilizing Ethernet with audio video bridging” (No. ACT_24280/2025 UPC_CFI_448/2025).

By a generic procedural application dated 13 June 2025, Renault Retail Group Deutschland GmbH, Renault Deutschland AG and Renault SAS, referring to R. 323 RoP, requested for a change of the language of the proceedings from German to English (hereinafter “the Application”).

The Application was forwarded to the President of the Court of First Instance of the UPC pursuant R. 323.1. RoP by email dated 16 June 2025. By an order dated 19 June 2025, the Claimant in the main action (No. ACT_24280/2025 UPC_CFI_448/2025) was subsequently invited, in accordance with R. 323.2 RoP, to state 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.

Avago Technologies International Sales Pte. Limited submitted their written comments on 27 June 2025.

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

INDICATION OF THE PARTIES' REQUESTS:

The Applicants request that the President of the Court of First Instance order as follows:

1. The language of the proceedings shall be the language in which the patent was granted, namely English.
2. The order shall not be subject to specific translation or interpretation arrangements.

Avago Technologies International Sales Pte. Limited requests the Court to dismiss the Application.

POINTS AT ISSUE:

The Applicants state that the change of the language of the proceedings to the language in which the patent was granted is required in the present case for grounds of fairness and having regard to all relevant circumstances as foreseen pursuant to Art. 49 (5) UPCA, for the following reasons:

- English is generally used in the technical field of the patent in question. Relevant documents and prior art are predominantly in this language.
- The parties involved are internationally active companies whose business language is English, used in their internal and external communication notably for the purpose of the present dispute.
- The requested change is procedurally efficient – especially as it is sought at the earliest possible stage – and does not result in any unreasonable disadvantage for Avago.
- The interests of the Defendants in having the proceedings conducted in English shall prevail in the overall balance of interests according to the consistent case-law and principles set out by the Court of Appeal, considering the position of the Claimant enabled to choose the forum, the language of the proceedings and the timing of its action.

Avago contends that the Application should be rejected for the following reasons:

- According to Art. 49(5) UPCA in conjunction with R. 323 RoP, a change of the language of the proceedings can only be made for reasons of fairness and considering all relevant circumstances.
- As the Defendants are domiciled in Germany and France respectively, where English is not an official language, a practical advantage from the requested change is therefore not apparent.
- The system of the UPC grants the right to choose the language in which the action is filed.
- The decisive factor is not the internal organisation of the Claimant but the context of the proceedings and the situation on the Defendant's side. The patent at issue is (allegedly) infringed solely in Germany which is the place where the decision will need to be enforced. The subsequent translation requirements would involve additional effort and possible uncertainties in interpretation.
- Two members of the panel and all the authorized representatives speak German as their native language, in which they have the greatest confidence of expression, terminological precision and negotiating sovereignty. The precise and nuanced communication needed in addressing complex questions, especially during the oral phase, is an essential aspect to be considered while written productions can easily be translated. A procedure in a language that is not equally spoken by all parties involved can lead to an imbalanced level of negotiation and therefore affect the principle of fair access to justice.
- The UPC is designed as a multilingual system where English shall not take precedence and the reasoned choice of the Claimant in favour of German should only be challenged for overriding grounds which are not present here.

Further facts and arguments as raised by the parties will be addressed below if relevant for the outcome of this Order.

GROUNDINGS FOR THE ORDER:

It is first noted that, in the present case, neither the admissibility of the Application nor the Applicant's status for Renault SAS – that is not registered as such in the CMS for technical reasons – are disputed.

Merits of the Application

According to Art. 49(1) UPCA, the language of the proceedings before a local division must be an official language of its hosting Member State or alternately the other language designated pursuant to Art. 49 (2). It is further provided by R. 323 RoP that “1. If a party wishes to use the language in which the patent was granted as language of the proceedings, in accordance with Article 49(5) of the Agreement (...) [t]he President, having consulted [the other parties and] the panel of the division, may order that the language in which the patent was granted shall be the language of the proceedings and may make the order conditional on specific translation or interpretation arrangements”.

Regarding the criteria that may be considered to decide on the Application, Art. 49 (5) UPCA specifies that “(...) the President of the Court of First Instance may, on grounds of fairness and taking into account all relevant circumstances, including the position of parties, in particular the position of the defendant, decide on the use of the language in which the patent was granted as language of proceedings (...)”.

By an order dated 17 April 2024, the UPC Court of Appeal (hereinafter “CoA”) ruled that when deciding on a request to change the language of the proceedings to the language of the patent for reasons of fairness, all relevant circumstances must be taken into account. These circumstances should primarily relate to the specific case, such as the language most commonly used in the relevant technology, and to the position of the parties, including their nationality, domicile, respective size, and how they could be affected by the requested change (UPC_CofA_101/2024, Apl_12116/2024, para. 22-25). It was furthermore stated that the internal working language of the parties, the possibility of internal coordination and of support on technical issues are relevant circumstances, while other proceedings pending before a national court, which do not relate to the dispute, are in themselves of less relevance (UPC_CoA_354/2024, Apl 38948/2024, Order dated 18 September 2024, para. 26-27)

In the event that the result of the balancing of interests is the same in the context of this overall assessment, the CoA found that the emphasis placed “in particular” on the position of the defendant under Art. 49 (5) UPCA is justified by the flexibility afforded to the claimant which frequently has the choice of where to file its action – since any local or regional division in which an infringement is threatened or taking place is competent – and can generally choose the most convenient timeframe to draft its Statement of Claim, while the defendant is directly bound by strict deadlines. The position of the defendant (s) is consequently the decisive factor if both parties are in a comparable situation.

In the same decision, the CoA also held that *“for a claimant, having had the choice of language of the patent, with the ensuing possibility that the claimant/patentee may have to conduct legal proceedings in that language, as a general rule and absent specific relevant circumstances pointing in another direction, the language of the patent as the language of the proceedings cannot be considered to be unfair in respect of the claimant”* (para. 34).

According to the abovementioned caselaw, addressing the issue of fairness involves considering the language of the patent and the language commonly used in the technology in question, alongside all circumstances identified as being relevant in the requested assessment of the respective interests of the parties.

As is indicated by the Applicants and not contested in the present case, English is the language commonly used in the technical field of the patent relating to vehicular electronics and more specifically, to a method and system for a centralized vehicular electronics system utilizing Ethernet with audio video bridging. This is demonstrated by the volume of exhibits submitted in English and the prior art cited, while only the feature analysis and documents referring to the legal entities involved – namely financial statements and registration – are provided in German.

As regards the situation of the parties, the dispute involves companies operating worldwide and consequently, to be considered as equivalent in terms of size, logistic means and financial resources. This is implicitly admitted by the Claimant itself, whose main arguments relate more to the circumstances of the case and in particular, the fact that the alleged infringing acts take place in Germany exclusively. Even though this aspect is validly put forward, as being sued in one of its official local languages is a possible consequence of a choice to operate in a targeted geographical zone, it must be weighted with consideration to the conditions in which the parties will conduct the proceedings as to internal coordination, communication and technical support.

As previously mentioned, these circumstances have been identified as important factors by the CoA in a comparable context (UPC_CoA_354/2024 – APL 38948/2024 – Order dated 8 September 2024).

For the purpose of this internal communication, recourse to technical expertise and organisation among the Defendants, the language commonly used within the group of companies plays a decisive role in this particular case, given that German and French entities need to exchange in English. By contrast, the Claimant – which is a company registered in Singapore – fails to substantiate how it would be affected by the requested change in the course of the proceedings.

The arguments referring to the conditions in which the final decision may be enforced in the territory where the alleged infringement occurred are indeed of less relevance in the overall assessment and balancing of interests, as they relate to the outcome of the trial – which cannot be anticipated – and not to the respective situation of the parties during the management of the case.

The Respondent ultimately alleges that German being the language of the division and of the authorised representatives, it allows for a more precise and nuanced communication on complex legal and technical issues. However, the language skills of the authorised representatives of the parties and the nationality of the judges composing the panel are generally not considered as relevant circumstances in the context of international disputes and multilingual environments (UPC_CoA_101/2024 – APL 12116/2024 – Order dated 17 April 2024 – Para. 26, 27).

It is moreover to be noted that all divisions of the UPC offer the possibility to use English as an alternative to the official language(s) of their respective hosting country, and that this framework is foreseen by the UPC rules of procedure providing for translations and interpretation arrangements where required.

It follows from the above that none of the circumstances invoked by the Claimant suffice to deviate from the general principle established by the abovementioned case law, according to which the position of the defendant shall prevail in the assessment of all interests at stake to balance the advantage primarily enjoyed by the claimant and consider the predictable legal consequences attached to its choice to be granted or to acquire a patent in a given language.

Finally, the requested change will not affect the course of the proceedings nor cause delays as it can be implemented at an early stage (CoA_101/2024 – APL_12116 – order dated 17 April 2024 – para. 25).

The Application shall consequently be granted.

The present order shall not at this stage be conditional on specific translation or interpretation arrangements, with regard to the considerable proportion of exhibits submitted in English and the language skills of all parties involved – including representatives and judges composing the panel.

ON THESE GROUNDS

- 1- The language of the proceedings shall be changed to the language in which the patent was granted, namely English.
- 2- The present order shall not be conditional on specific translation or interpretation arrangements.
- 3- An appeal may be brought against the present order within 15 calendar days of its notification 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 03 July 2025

NAME AND SIGNATURE

Florence Butin
President of the UPC Court of First Instance