



No. APP\_34862/2025  
UPC\_CFI\_481/2025

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

**Issued on 12/09/2025**

**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, all relevant circumstances must be considered. In the event of equal outcome while all interests and arguments have been weighed, the position of the Defendant – having not initiated the action and being borne by strict time limits for its preparation – shall prevail.

**KEYWORDS:**

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

**APPLICANT (DEFENDANT IN MAIN PROCEEDINGS):**

**HMD Global Oy**

Bertel Jungin aukio 9 - 02600 - Espoo – FI

**Represented by:** Oliver Bäcker – Hogan Lovells International LLP

**RESPONDENT (CLAIMANT IN MAIN PROCEEDINGS):**

**Huawei Technologies Co. Ltd.**

Huawei Industrial Base, Bantian Longgang - 518129 - Shenzhen – CN

**Represented by:** Ole Dirks Wildanger Kehrwald Graf v. Schwerin & Partner mbB

**PATENT AT ISSUE:** EP3667981

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**SUMMARY OF FACTS**

By a statement of claim filed on 16 May 2025, Huawei Technologies Co. Ltd. brought an infringement action against the Applicant based on EP3667981 (No. ACT\_25706/2025 UPC\_CFI\_481/2025).

By a generic procedural application dated 12 August 2025 (hereinafter “the Application”), HMD Global OY, referring to R. 323 RoP, requested that the language of the proceedings be changed from German to English.

The Application was forwarded to the President of the Court of First Instance of the UPC pursuant to R. 323.1. RoP. By an order dated 13 August 2025, the Claimant in the main action (No. ACT\_25706/2025 UPC\_CFI\_481/2025) was subsequently invited in accordance with R. 323.2 RoP to indicate within 10 days its position on the admissibility of the request and on the use of the language in which the patent was granted, namely English, as the language of the proceedings.

Huawei Technologies Co. Ltd. submitted their written comments on 22 August 2025.

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

**INDICATION OF THE PARTIES’ REQUESTS:**

The Applicant requests that:

- The language of the proceedings be changed to the language in which the patent was granted, i.e. English.

- The order to change the language of the proceedings will not depend on any translation or interpreting arrangements.

Huawei Technologies Co. Ltd. requests the Court to dismiss the Application.

**POINTS AT ISSUE:**

HMD Global Oy states that the requested change is necessary pursuant to Article 49 (5) UPCA in conjunction with R. 323(1) RoP, for reasons of fairness and considering all relevant circumstances including the position of the parties – in particular the position of the Defendant – for the following reasons:

- The Court of Appeal (“CoA”) in its order dated 17 April 2024 (UPC\_CoA\_101/2024), specified the circumstances to be considered when changing the language of the proceedings, which should relate to the specific case and to the situation of the parties.
- English is the language most used in the field of mobile communications technology. The evidence and annexes submitted, in particular the ETSI standard specifications on which Huawei Technologies Co. Ltd. bases its infringement claim, are predominantly in English.
- The Defendant is based in a non-German speaking country and communicates with its legal representatives in English, which was also the language used in prior negotiations between the parties.
- The current language of the proceedings is considerably detrimental to HMD Global Oy as its proper defence requires a significant amount of translation work, leading to costs and delays.
- The requested change would conversely not disadvantage Huawei Technologies Co. Ltd., which describes itself as a "leading global provider of information and communications technology, infrastructure and intelligent devices" employing around 208,000 people worldwide and operating in over 170 countries and regions.
- The position of the Defendant is decisive in the absence of any other indication.
- The requested change would not affect the course of the proceedings.
- Arrangements in accordance with R. 324 RoP are not required, as the Claimant already provided an English translation of the statement of claim for the purpose of service.

Huawei Technologies Co. Ltd. states that the Application should be dismissed for the following reasons:

- The applicant has chosen German as one of the two languages of the proceedings before the Local Division Mannheim.
- The requested change may be considered should the language originally chosen be "significantly detrimental" to the applicant, which is not the case here.
- Unlike it is stated by the Applicant, the position of the Defendant shall be decisive only if the balance of the respective interests is equal.
- HMD Global Oy is not registered in an English-speaking country.
- In addition to the present action, the parties have so far conducted four infringement and related revocation proceedings against each other before the German national courts, which demonstrates the Defendant's capacity to litigate in this language.
- The Claimant has institutionalized its internal processes coordinated from Munich and deliberately decided to file the present action in German with regard to these parallel disputes involving the same parties.
- Both parties are represented by lawyers and patent attorneys who are German native speakers. The context differs from the situation previously addressed by the CoA involving a British patent attorney and a French lawyer.
- As similar antitrust issues will most probably be addressed in UPC and national proceedings, the requested change would entail additional translation costs for every reference to ongoing disputes.
- The use of German in the context of the action will facilitate the work of the Court and allow more linguistically precise expression.

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

## **GROUND FOR THE ORDER:**

### **1- Admissibility of the Application**

It is first noted that the admissibility of the Application is not disputed in the present case.

## **2- 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\_CoA\_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 with a particular consideration for the Defendant(s).

In the present case, it is not disputed that the language most used in the technology in question – relating to wireless communications – is English as is reflected by the list of annexes already submitted.

It is true that the claimant has in principle the option to use one of the official “local” languages of the division or alternatively, the other language designated pursuant to Art. 49 (2) – namely English for all locations – as language of the proceedings. This right can only be limited if the balancing of all interests justifies the change to the language in which the patent was granted on grounds of fairness (APP\_33670/2025 -UPC\_CFI\_460/2025, order issued on 18/08/2025 – LD Munich, APP 34653/2025 – UPC\_CFI\_583/2025, order issued on 08/09/2025 - LD Paris).

The Claimant mainly states that both parties have been and are still involved in numerous parallel proceedings before German national courts, which justifies their choice of filing in this language with the UPC to facilitate the handling of all disputes. The fact that other proceedings between the parties are pending before a national court, however, was considered as such of less relevance by the CoA – irrespective of identical legal issues likely to be addressed – if they don’t relate to the case in question (UPC\_CoA\_354/2024 – APL\_38948/2024 – order dated 18/09/2024). The same applies to representative’s language skills, as a particular law firm is generally selected for its international multi-disciplinal and multilingual working environment (UPC\_CoA\_101/2024 APL\_12116/2024 \_ order dated 17/04/2025 Para. 26). The nationality of the judges composing the panel is in principle not a relevant factor either, especially in the context of the requested change from German to English which is used by all UPC judges to communicate among themselves.

It follows from the above that none of the circumstances raised by Huawei appear to be decisive and that both Claimant and Defendant, which are international companies operating globally, are in a comparable situation regarding their respective logistic and financial resources to conduct patent disputes in various languages.

In the event of such equal outcome while all interests and arguments have been weighed, the position of the Defendant – having not initiated the action and being borne by strict time limits for its preparation – shall prevail for the aforementioned reasons when deciding on a request to change the language of the proceedings.

Finally, as HMD Global Oy filed the present Application in a timely manner before its Statement of Defense, it can be implemented at an early stage without causing any delays in the course of the proceedings (CoA\_101/2024 – APL\_12116 – order dated 17 April 2024 – para. 25).

The request shall therefore be granted, and the proceedings been continued in English without additional interpretation and translation arrangements pursuant to R. 324 RoP in the absence of apparent need at this stage.

### **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 other 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 Applicant to file the Statement of Defence within the time period prescribed by the Rules of Procedure.

#### **ORDER**

Issued on 12/09/2025

#### **NAME AND SIGNATURE**

**Florence Butin**  
**President of the UPC Court of First Instance**