

Order
of the Court of First Instance of the Unified Patent Court
issued on 11 November 2025
concerning EP 3 835 965 B1

Headnotes:

If an application for provisional measures is to be served under the Hague Convention, and the authority responsible for the service does not effect service for several months, the Court may deem the steps taken so far sufficient for proper service.

This applies in any case where the applicant has credibly demonstrated that the address at which service was attempted is correct, and that attempts to contact the responsible service authority as well as attempts to inform the Defendant of the application for provisional measures outside of the Court, have failed.

Keywords:

R. 275.2 RoP; service; alternative method; application for provisional measures

APPLICANT:

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DEFENDANTS:

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EUROPEAN PATENTS NO. EP 3 835 965 B1

PANEL/DIVISION:

Panel of the Local Division in Düsseldorf

DECIDING JUDGES:

This order was issued by Presiding Judge Thomas acting as judge-rapporteur, the legally qualified judge Dr Schumacher and the legally qualified judge Lopes.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT: R. 275.2 RoP – Order of good service

SUMMARY OF THE FACTS:

1. By way of an application for provisional measures, the Applicant seeks a preliminary injunction and further provisional measures against the Defendants in respect of an alleged infringement of EP 3 835 965 B1 (hereinafter: patent in suit).
2. The application for provisional measures was filed on 13 June 2025. After the Applicant has submitted the translations requested by the Court, service on Defendant 2. was initiated via

the official online portal of the Central Authority of China on 18 June 2025.

3. According to the available online processing history, the documents to be delivered were forwarded within the Chinese authorities to the Supreme People's Court for further processing, where they arrived on 19 June 2025.
4. No further processing by the Chinese authorities could then be detected on the online portal.
5. Therefore, the Applicant asked Defendant 2. to accept service of the application for provisional measures voluntarily. The Applicant set a deadline of 15 September 2025. This request was unsuccessful.
6. Against this background, on 10 October 2025, the Applicant requested the Düsseldorf Local Division to make an inquiry to the Central Authority of China regarding the status of service of the application for provisional measures.
7. The Court complied with this request by submitting corresponding inquiries in Chinese via the online portal on 20 October 2025 and on 4 November 2025. However, both inquiries remained unanswered prior to the issuance of this order.

INDICATION OF THE PARTIES' REQUESTS:

8. The Applicant requests:
 1. that the Court orders that the steps already taken to bring the application for provisional measures ACT_27444/2025 to the attention of Defendant 2. constitute good service pursuant to Rule 275.2 RoP UPC. Service shall be deemed effective as of the date of this order;
 2. the order according to item 1. be published on the Court's website with the names of the parties and the file number, so that the order can be found under the decisions published on the website.

GROUND FOR THE ORDER:

9. Pursuant to R. 275.2 RoP, on a reasoned request by the claimant, the Court may order that steps already taken to bring the statement of claim to the attention of the defendant by an alternative method or at an alternative place is good service.
10. According to its wording, R. 275.2 RoP concerns the service of the statement of claim and, therefore, the proceedings on the merits. However, given the urgent nature of the application for provisional measures, the option to consider the steps already taken as good service must apply all the more so for the Defendant's information about the application for provisional measures and its invitation to lodge an objection (R. 209.1(a) RoP; UPC_CFI_449/2025 (LD Düsseldorf), Order of 16 October 2025, mn. 12 – HP v Zhuhai).
11. This said, the Düsseldorf Local Division has exhausted all available means of formal service which are provided by Rules 270 to 274 RoP. Service in accordance with the Hague Convention, initiated via the online service officially provided by the Central Authority of China on 18 June 2025, is to be regarded as definitely failed.

12. Taking into account the time that has elapsed since the request for service was sent to the Chinese authorities and the unsuccessful attempts to contact the Chinese authorities and Defendant 2., it is justified to consider the steps taken so far as proper service in accordance with R. 275.2 RoP (continuation of UPC_CFI_449/2025 (LD Düsseldorf), Order of 16 October 2025, mn. 24 – HP v Zhuhai; with regard to the refusal of service due to formal complaints, see: UPC_CFI_330/2024 (LD Mannheim), Order of 31 July 2024 – Panasonic v Xiaomi).
13. Art. 15(2) of the Hague Convention does not preclude this. Insofar as this provision stipulates as one condition to be fulfilled that a period of time of not less than six months has elapsed since the date of the transmission of the document, this time limit cannot apply without restriction in PI proceedings. Applying this time limit formally puts the Applicant at risk of its legal protection potentially becoming ineffective. Art. 15(3) of the Hague Convention shows that the Convention also recognises this issue by allowing the order of provisional measures in urgent cases, despite the formal service requirements.
14. In the present case, all efforts to serve the application for provisional measures or otherwise bring it to Defendant's 2. attention have failed.
15. Although the Düsseldorf Local Division has complied with all the formal requirements set out in the Hague Convention, the status of the request for service has remained unchanged on the official portal of the Chinese authorities since 19 June 2025. In its pleading of 7 November 2025, the Applicant comprehensively demonstrated that the address of Defendant 2., as provided by the Applicant in its application for provisional measures, is correct. Two requests for information on the status of the service, even written in Chinese, have also remained unanswered for a total of three weeks. Further delay is incompatible with the urgent nature of PI proceedings. The same applies to the initiation of a further attempt for service. A renewed attempt at formal service would be incompatible with the Applicant's application for provisional measures, given that the first attempt already took three and a half months. Additionally, the Applicant's attempt to inform Defendant 2. of the application for provisional measures by email has remained unanswered. There are no other apparent alternative service options. Therefore, there is also no scope for an order under R. 275.1 RoP.
17. To ensure effective legal protection for the Applicant, it is therefore necessary to order that the steps already taken to bring the application for provisional measures to the attention of Defendant 2. is good service.
18. In order to enable Defendant 2. to take note of the present order without service, it was necessary to order that a separate reference to the present order be made on the Court's publicly available website.

ORDER:

- I. The steps already taken to bring the application for provisional measures in the proceedings UPC_CFI_550/2025 to the attention of Defendant 2. constitute good service pursuant to R. 275.2 RoP.
- II. Service is deemed to be effective as of the date of this order.
- III. This order shall be published on the Court's website with the names and the file number, so that the order can be found under the orders and decisions published on the website.

Issued in Düsseldorf on 11 November 2025
NAMES AND SIGNATURES

Presiding Judge Thomas	
Legally qualified judge Dr Schumacher	
Legally qualified judge Lopes	