



UPC_CFI_804/2025
Local Division Munich

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 18/11/2025

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 taken into account. Considering the UPC rules of procedure involving strict time constraints, the internal working language of the parties and the need for rapid coordination of the Defendants are important factors in this overall assessment.

KEYWORDS:

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

APPLICANTS (DEFENDANTS IN THE MAIN PROCEEDINGS):

1- TP-Link Systems Inc

10 Mauchly, Irvine, CA, 92618, United States of America

2- TP-Link Deutschland GmbH

Niederkaßeler Lohweg 175, 40547 Düsseldorf, Germany

3- TP-Link Entreprises France SARL

16-18 Avenue Morane Saulnier, 78140 Vélizy-Villacoublay, France

4- TP-LINK Enterprises Netherlands B.V

Archimedesbaan 18, 3439 ME Nieuwegein, The Netherlands

5- TP-Link Italia S.R.L.

Via Gobetti 2/A, 20063 Cernusco sul Naviglio MI, Italy

6- TP-LINK Enterprises Nordic AB

Gustav III:s Boulevard 54, 169 74 Solna, Sweden

7- Lianzhou International Co., Ltd.

North 25th Floor, Lianzhou Building, No. 12 Cuixi Road, Science and Technology Park Community, Yuehai Street, Nanshan District, Shenzhen, People's Republic of China

Represented by: Klaus Haft, Martin Kohler, Elisa In den Birken – Hoyng Rokh Monegier

RESPONDENT (CLAIMANT IN THE MAIN PROCEEDINGS):

Huawei Technologies Co. Ltd.

Bantian, Longgang District Shenzhen, 518129, People's Republic of China

Represented by: Christian Harmsen, Tobias Wilcke – Bird&Bird LLP, assisted by Désirée Heitz – Eisenführ Speiser

PATENT AT ISSUE: EP3678321

SUMMARY OF FACTS

By a statement of claim filed on 27 August 2025, Huawei Technologies Co. brought an infringement action against the Applicants (hereinafter collectively referred to as “TP-Link and Lianzhou” or “the Defendants” in reference to their role in the main proceedings) based on EP 3678321 titled “*Resource scheduling method, apparatus and device*”.

By a procedural application dated 30 October 2025 the Defendants, referring to R. 323 RoP, requested that the language of the proceedings be changed from German to English (hereinafter “the Application”).

The Application was forwarded to the President of the UPC Court of First Instance pursuant to R. 323.1. RoP. and the Claimant in the main action was subsequently requested, in accordance with R. 323.2 RoP, to state within 10 days 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.

Huawei Technologies Co. Ltd. submitted their written comments on 10 November 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:

1. The language in which the patent was granted, i.e. English, shall be the language of the proceedings
2. The order shall not be subject to translation of existing pleadings and documents pursuant to R. 324 RoP.

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

POINTS AT ISSUE:

The Applicants state that their request is both admissible and justified on grounds of fairness considering all circumstances of the case, for the following reasons:

- Even though a request to change the language of the proceedings must be submitted with the statement of defence pursuant to R. 323.1 RoP, it may also be filed at an earlier stage in view of the consistent case law and interpretation of the relevant provisions mentioned in points 6 and 7 in support of the Application.
- Particular consideration should be given to the position of the Defendants with regard to their “structural” procedural disadvantage, without one party necessarily being disproportionately affected by the language primarily chosen by the Claimant.
- The patent owner shall expect to conduct proceedings in the language of the title as a legal consequence.
- In the present case, the Applicants are significantly disadvantaged by the language of the proceedings – which affects the preparation of their defence and causes delays – while there are no apparent reasons on the part of the Claimant that would go against the requested change.

- The entity based in Germany is merely a distribution company and as such, is unable to contribute to the technical issues at stake. All communication and cooperation between the Defendants must be carried out in English.
- English is the language generally used in the relevant field of Wi-Fi 6 standard, which is evidenced by the prior art referred to in the grant procedure and technical literature.
- There are no circumstances indicating that the Claimant – a Chinese company – would be disadvantaged by a change of the language of the proceedings. It has already submitted an English version of the Statement of Claim for the purpose of the service and refrained from providing a translation of the exhibits which are predominantly in this language.
- The requested change is also likely to serve the interests of the Court and the general objective of procedural economy.

Huawei Technologies Co. Ltd contends that the Application should be rejected for the following reasons:

- Taking all circumstances into account, including the positions of the parties and particularly the position of the Defendant, the conditions of the requested change are not met as TP Link and Lianzhou fail to demonstrate a significant disadvantage or fairness issue.
- The Claimant is registered in China where neither German nor English is an official language, while filing the action in German is one of the options offered by the Division selected. Moreover, the patent's department of the Claimant's group is established in Munich, which entails regular communication with lawyers and patent attorneys in German.
- Except for the first Defendant based in the USA, none of them have English as an official language and TP-Link Deutschland GmbH is registered in Germany. The Defendant's group deliberately participates in economic and legal transactions in this country, given that it has the whole western European sales and marketing team, support and central warehouse.
- The Defendants are part of an international group closely connected to Germany and have sufficient resources to conduct the present dispute in German.
- Regarding the circumstances of the case, the proportion of exhibits submitted by the Claimant in German (Annexes K 13, K 14 and K 15 and the evidence in para. 75 et seq. of the statement of claim) reflects the Defendant's involvement on the German market.

- The language mainly used in the relevant field of technology is of less relevance compared to the place where the parties are registered (see order of the Court of Appeal of 5 September 2024 – UPC CoA 207/2024 – para. 16), as English is broadly used in all technical areas.

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

GROUNDS FOR THE ORDER:

1- Admissibility of the Application

The admissibility of the Application is not challenged by the Respondent. As R. 323.1 RoP refers to Art. 49 (5) UPCA which – as well as for the case of the initiative coming from both parties, one party or the judge-rapporteur addressed in Art. 49 (3) and (4) UPCA – does not specify any timeframe for such request possibly made “at any time during the written procedure” it cannot be interpreted so as to preclude that an application to use the language in which the patent was granted can be filed before the Statement of Defence is lodged. Rather it is to be understood as a time-limit for the Applicant being requested to ask for such change of the language of the proceedings at the latest when lodging the Statement of Defence (UPC CFI 225/2023 LD, order dated 18 October 2023, UPC_CFI_216/2023, Order dated 27/11/2023, UPC_CFI_373/2023, Order dated 16/01/2024).

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_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).

Considering the abovementioned provisions and relating consistent caselaw, the request made by the Defendants shall be granted for the following reasons.

- *Interpretation of the legal framework provided for by Art. 49 (5) and R. 321 to 324 RoP:*

According to the abovementioned provisions, a decision to change the language primarily selected by the Claimant must involve considerations of fairness, which means that the Applicants need to substantiate that they are significantly disadvantaged in the preparation of their defence by the current language of the proceedings.

Relevant factors to be considered in assessing such fairness issue have been clarified by the CoA and summarised in its decision dated 18 September 2024 (UPC_CoA_354/2024 – APL_38948/2024). The parties don't disregard this consistent case law but disagree on the respective weight given to the circumstances of the present action and to their respective situation.

- Circumstances related to the case and the position of the parties:

The fact that English is the most used language in the field of technology in question – namely wireless local network systems – is not disputed here and is reflected by the proportion of exhibits currently submitted. It is therefore expected that all discussions relating to the scope of protection conferred by the patent will be based on documents and possible expert contributions provided in this language.

With regard to the respective positions of the parties, only one out of the 7 Defendants is headquartered in Germany. Considering its position within the group as a distribution company targeting the German market – this role being confirmed by the Claimant in support of its choice to sue all defendants before the LD Munich in German – TP-Link Deutschland is not expected to provide any technical input in the context of the present dispute irrespective of its working language. Conversely, all TP-Link entities and the remaining other Defendant need to exchange and coordinate with legal, logistic and technical support given by the parent company TP-Link Systems within binding time limits, which entails considerable additional work and efforts in a language other than English. Taking into account the UPC rules of procedure involving strict time constraints, this internal working language and need for rapid coordination have been identified as relevant circumstances by the CoA (UPC_CoA_354/2024 – APL_38948/2024). This also applies to companies which are structured and able to put important resources in international patent litigation.

In response to the Application, Huawei Technologies Co. Ltd. merely invoke the choice made by the defendants to operate in Germany – with organisational structures purposely implemented – and the Claimant's recourse to German law firms and patent attorneys due to its patent department based in Munich. The latter argument, however, was considered of less relevance by the CoA in previous decisions stating that a representative before the UPC is typically chosen not only for his/her own skills, but for the international multi-disciplinary/multilingual environment and the team he/she works in (UPC_CoA_101/2024 APL 12116/2024, para. 26). It is furthermore to be noted that the whole action is directed against several local distributors concerned by the alleged infringement which are responsible for their respective market and region (as detailed in points 11 to 17 of the SoC).

- Balance of respective interests:

With regard to the situation faced by TP-Link and Lianzhou – who did not initiate the action and are bound by strict time limits – the language of the patent as the language of the proceedings cannot be considered unfair to the Claimant, which has registered offices in China and evidently uses English as its main working language, while the conditions under which the Applicants can get prepared and organise their defence are significantly affected by the language primarily chosen by Huawei Technologies.

Against this background, none of the above-mentioned circumstances put forward by the Claimant – location of their patent department, and active presence of the Defendants on the German market – suffice to deviate from the general principle according to which the position of the Defendants in the main action shall prevail in the assessment of all interests at stake, in order to balance the procedural and strategic advantage enjoyed by the patent holder who decided to be granted or acquire a title likely to be challenged – as to validity – or enforced in all probability in a given language.

Finally, the requested change will not affect the course of the proceedings nor cause any delays as it can be implemented at an early stage (CoA_101/2024 – APL_12116 – order dated 17 April 2024 – para. 25). The consequences are furthermore limited as the Statement of Claim is already available in an English version provided for the service, and existing documents currently submitted in German shall not be translated.

The Application must consequently be granted without further specific translation or interpretation arrangements.

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 18 November 2025

NAME AND SIGNATURE

Florence Butin
President of the UPC Court of First Instance