



Appeal Reference number:
UPC_CoA_000911/2025

Order
of the Court of Appeal of the Unified Patent Court
issued on 24 November 2025
on an application for suspensive effect (R. 223 RoP) regarding a cost decision (R. 151 RoP)

APPLICANT (DEFENDANT IN THE R 151 RoP APPLICATION)

Suinno Mobile & AI Technologies Licensing Oy, Helsinki, Finland (hereafter “**Suinno**”)
represented by Petri Eskola, attorney-at-law, Backström & Co,

RESPONDENT (APPLICANT IN THE R 151 RoP APPLICATION)

Microsoft Corporation, Redmond, Washington, USA (hereafter “**Microsoft**”)
represented by Prof. Dr. Tilmann Müller-Stoy and Nadine Westermeyer, attorneys-at-law,
Bardehle Pagenberg, Partnerschaft mbB Patentanwälte Rechtsanwälte.

PATENT AT ISSUE

EP 2 671 173

DECIDING JUDGE

Emmanuel Gougé, Legally qualified judge and standing judge

LANGUAGE OF THE PROCEEDINGS

English

IMPUGNED DECISION OF THE COURT OF FIRST INSTANCE

- ☐ Order of the Court of First Instance of the Unified Patent Court, Central Division, Paris Seat, dated 6 November 2025
- ☐ Numbers attributed by the Court of First Instance:
 - UPC_CFI_724/2025
 - ACT_34440/2025

FACTS, REQUESTS AND SUBMISSIONS

1. On 9 April 2024 Suinno brought an infringement action against Microsoft before the Central Division of the Unified Patent Court, Paris Seat (hereafter “PCD”) for infringement of the patent at issue.
2. On 12 July 2025 the Court of Appeal issued a decision by default against Suinno (UPC_CoA_363/2025, APL_19133/2025), dismissing the infringement action and ordering Suinno to pay the costs of the first instance and appeal proceedings regarding the infringement action (UPC_CFI_164/2024, ACT_18406/2024), against which Suinno lodged an application for rehearing.
3. Following the decision by default issued by the Court of Appeal, the PCD closed the case (UPC_CFI_164/2024) on 24 November 2024.
4. On 7 August 2025, Microsoft filed an application for costs decision under R. 151 RoP to be awarded costs in the amount of € 607 104,27.
5. The Central Division of the Unified Patent Court, Paris Seat (hereafter “PCD”) determined the costs incurred by Microsoft in the infringement action proceedings ACT_18406/2024 UPC_CFI_164/2024, including the related appeal proceedings registered as APL_19133/2025 UPC_CoA_363/2025 (decision by default), APL_55849/2024 UPC_CoA_596/2024 (security for costs), APL_53716/2024 UPC_CoA_563/2024 (legal representative of Suinno) in the amount of € 350 000,00 and ordered Suinno to pay these costs within three weeks from the date of service of its decision (impugned decision, 06 November 2025).
6. On 19 November 2025 Suinno filed an application for leave to appeal against the impugned decision, together with an application under R.223 RoP requesting the Court of Appeal to order suspensive effect until the Court of Appeal has decided on the appeal.
7. Suinno argues that it would be unreasonable if Microsoft could proceed with the enforcement of the “erroneous and grossly excessive cost decision” before the Court has decided on the appeal, that due account should be taken of the proceedings in the “Revocation Counterclaim” which, according to Suinno - though without any further explanation, the CFI is about to decide and in relation to which Suinno considers it “will become a creditor of its legal costs against Microsoft, hence being able to set off such amount, where necessary”.
8. In this order, the Court of Appeal rules only on Suinno’s application for suspensive effect.

GROUND FOR THE ORDER

9. The application for suspensive effect is admissible but must be dismissed for the following reasons.

Admissibility

10. In cases of extreme urgency the applicant may apply at any time without formality for an order for suspensive effect to the standing judge pursuant to R. 223.4 RoP. Nevertheless, for this provision to be applicable, the applicant must first have lodged a Statement of appeal (R. 224.1 RoP) and paid the appeal fee in accordance with R. 228 RoP (Court of Appeal 15 August 2025, UPC_CoA_740/2025

and 741/2025, Sun Patent v. Vivo).

11. Concerning appeals against a cost decision (R. 157 RoP) the decision of the judge-rapporteur as to costs only may be appealed to the Court of Appeal in accordance with Rule 221 RoP which itself sets forth the conditions under which an application for leave to appeal against costs decisions may, within 15 days of service of the decision of the Court, be lodged by a party adversely affected by a decision referred to under R. 157 RoP.
12. Pursuant to the specific provisions governing the appeal against costs decisions, having filed an application for leave to appeal against the impugned decision and paid the corresponding court fee, Suinno has taken the necessary steps in order to file an appeal against the impugned decision. It follows that application for suspensive effect is admissible.

No valid grounds for suspensive effect

13. An appeal shall not have suspensive effect unless the Court of Appeal decides otherwise at the motivated request of one of the parties (Article 74.1 UPCA). According to R 223.2 RoP, the application for suspensive effect shall set out (a) the reasons why the lodging of the appeal shall have suspensive effect and (b) the facts, evidence and arguments relied on.
14. The Court of Appeal therefore grants the application only if the circumstances of the case justify an exception to the principle that an appeal shall have no suspensive effect. It must be examined whether, on the basis of these circumstances, the appellant's interest in maintaining the status quo until the decision on its appeal exceptionally outweighs the respondent's interest. An exception to the principle that an appeal has no suspensive effect may apply, for instance, if the appealed order or decision is manifestly erroneous, or if the appeal becomes devoid of purpose in the absence of suspensive effect (Court of Appeal 20 May 2025, UPC_CoA_430/2025 APL_23093/2025 App_23094/2025, Chint v. Jingao).
15. The requirement of exceptional circumstances has to be established by the applicant. In its application, Suinno has not evidenced the existence of exceptional circumstances which would justify why the lodging of the appeal shall have suspensive effect.
16. Whether the impugned order is based on incorrect conclusions and contradictory reasoning is, provided leave for appeal is granted pursuant to R. 221 RoP, a matter for the Court of Appeal to decide in its order in the main appeal proceedings (Court of Appeal 20 May 2025, UPC_CoA_430/2025 APL_23093/2025 App_23094/2025, Chint v. Jingao).
17. Suinno has merely claimed that it would be unreasonable for Microsoft to proceed with the enforcement of the costs decisions without establishing that the impugned decision is manifestly erroneous and has thus failed to demonstrate that the PCD's findings and considerations constitute manifest errors.

Microsoft not heard

18. The Court of Appeal decides without having heard Microsoft, since the Court of Appeal must decide on an application for suspensive effect without delay (R. 223.3 RoP) and the outcome is in favour of Microsoft.

ORDER

The application for suspensive effect is rejected.

This order was issued on 24 November 2025.

Emmanuel Gougé

Legally qualified judge and standing judge