

**ORDER**  
**of the Court of Appeal of the Unified Patent Court**  
**issued on 19 December 2025**  
**Concerning language of proceedings**

**HEADNOTE:**

- The fact that (most of) the parties are not domiciled in countries where the language of the proceedings chosen by the claimant is an official language is an important factor in a decision on an application to use the language of the patent.
- When deciding on a request to change the language of proceedings into the language of the patent on grounds of fairness, all relevant circumstances shall be taken into account. Relevant circumstances should primarily be related to the specific case and the position of the parties, in particular the position of the defendant. If the outcome of balancing of interests is equal, the position of the defendant is the decisive factor.

**KEYWORDS:**

- Change of language of proceedings (Art.49(5) UPCA)

**APPELLANT (AND CLAIMANT BEFORE THE COURT OF FIRST INSTANCE)**

**UERAN Technology LLC**, Chicago, US

represented by Dr. Eva Maria Thörner, attorney at law, and other representatives from Wildanger Kehrwald Graf v. Schwerin & Partner, Düsseldorf, Germany

**RESPONDENTS (AND DEFENDANTS BEFORE THE COURT OF FIRST INSTANCE)**

- 1. Xiaomi Corporation**, Grand Cayman, Cayman Islands
- 2. Xiaomi Communications Co., Ltd.**, Beijing, China
- 3. Xiaomi Inc.**, Beijing, China
- 4. Xiaomi Technology Netherlands B.V.**, The Hague, The Netherlands
- 5. Xiaomi Technology Germany GmbH**, Düsseldorf, Germany
- 6. Xiaomi Technology France S.A.S.**, Boulogne-Billancourt, France
- 7. Xiaomi Technology Italy S.R.L.**, Milan, Italy

all represented by Eva Acker, attorney at law, and other representatives from Freshfields PartG mbB, Düsseldorf, Germany

## PATENT AT ISSUE

EP 2 385 739

## PANEL AND DECIDING JUDGE

This decision was issued by panel 2:

Rian Kalden, presiding judge

Nathalie Sabotier, legally qualified judge and judge-rapporteur

Ingeborg Simonsson, legally qualified judge

## IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

Order of the President of the Court of First Instance on 28 October 2025 in the proceedings before the Local Division Munich, UPC\_CFI\_610/2025

## LANGUAGE OF THE PROCEEDINGS

English

## ORAL HEARING

17 December 2025

## SUMMARY OF THE FACTS (INSOFAR AS RELEVANT)

1. The parties are parties to infringement proceedings before the Court of First Instance, Local Division Munich, initiated by UERAN Technology LLC on 14 July 2025 (UPC\_CFI\_610/2025).
2. On 30 September 2025, Xiaomi Corporation et al applied for a change of language of the proceedings from German to English. This application was granted by the President of the Court of First Instance on 28 October 2025.

## PARTIES' REQUESTS

3. UERAN Technology has appealed the decision of the President of the Court of First instance and requests the Court of Appeal to set aside the impugned order and dismiss the application for a change of the language of proceedings.
4. Xiaomi et al have lodged a Statement of response and request that the appeal be dismissed.

## PARTIES' SUBMISSIONS

### *UERAN Technology*

5. UERAN Technology advances that the President of the Court of First Instance exercised her discretionary power in a legally erroneous manner when granting a change in the language of the proceedings based on mere aspects of convenience for the defendants, and no significant disadvantage for these companies. Indeed, according to UERAN Technology, Xiaomi Corporation et al are part of a large multinational corporation having prosper financial resources and being routinely managing a lot of parallel proceedings in foreign languages.
6. In addition, UERAN Technology argues that the most important aspect in a proceeding is the presentation of the pleadings. Therefore, the utmost care must be applied to the preparation of written submissions

and oral arguments, and less to internal communication. For that latter purpose, machine translation are immediately available at any time and at very low costs, which is evidenced by the fact that UERAN Technology itself, as an international profit-oriented company would not have chosen German as the language of the proceedings before German-speaking judges if it were to create any additional delays or costs.

7. UERAN Technology also points out that the language of the proceedings should not be used to solve any organizational issue faced by the Court.

#### *Xiaomi Corporation et al*

8. In response, Xiaomi Corporation et al advance that the order should be upheld as the President of the Court of First Instance rightfully exercised her discretionary power, given that English is the language of the patent and the most commonly used in the field of telecommunication. These companies also argue that only one of them is based in Germany and the others are based in six different countries, which lead, alongside the complexity of the case, to the need of a strong coordination that can only be effectively conducted in English, as it is the working language in the Xiaomi group.
9. They add that it is incorrect to allege, as UERAN Technology does, that machine translation is of “high quality”, as these translations often contain inaccuracies and need to be carefully checked, which induces time and costs.
10. Xiaomi Corporation et al finally recall that it is not possible for the Court to unilaterally decide on a change of the language of the proceedings as Art. 49 UPCA requires the consent of at least one party. As a result, the change of the language cannot be seen as used to solve any organizational issues of the Court. As the Court is a supranational court, it is also the defendants’ right to defend themselves before an international panel in a language that all the assigned judges are likely to understand best. This is the case if English, the most common and best-understood foreign language, is used as the language of proceedings.

#### GROUND FOR THE ORDER

11. In the order granting the application for a change of the language of proceedings lodged by the defendants, the President of the Court of First Instance stated that, according to the case law, addressing the issue of fairness involves considering all relevant circumstances relating to the specific case, such as the language commonly used in the technology in question, the position of the parties, including their nationality, domicile, respective size, and how they can be affected by the requested change of language, as well as the internal working language of the parties, the possibility of internal coordination and of support on technical issues, with a particular consideration for the position of the defendant (UPC\_CoA\_354/2024 Order dated 18 September 2024, *Apple v Ona*).
12. The President considered that English is the most used language in the field of technology in question, as reflected by the documents submitted in this language with the statement of claim lodged by UERAN Technology itself, and that the nine defendants are all part of the Xiaomi group in which English is undoubtedly used as the working language. The President added that all the preparatory work will be carried out in this language, and, in this respect, translation into German would lead to significant delays for the defendants. On the other hand, using English rather than German is neutral for UERAN Technology, irrespective of its size and logistic means.
13. The President then rightly exercised her discretion when assessing fairness and granting the request for a change of the language of the proceedings to the language in which the patent was granted.
14. Contrary to UERAN Technology's assertion, the criterion for a change of the language of proceedings is not the inability for the defendant to defend itself in the language chosen by the claimant. Indeed, Art. 49 (5) UPCA provides for the possibility of a change of the language of the proceedings on grounds of fairness, which requires an assessment of all relevant circumstances related to the parties themselves,

including the position of the parties and in particular the position of the defendant, which means that , if the outcome of balancing of interests of both parties is equal, the position of the defendant is the decisive factor (UPC\_CoA\_101/2024, Order dated 17 April 2024, para 28).

15. Apart from the unsubstantiated insinuation that the Court is using Art. 49(5) UPCA applications to solve its organizational problems, UERAN Technology is advancing two lines of arguments, saying that the fairness criterion is applied so broadly by the President of the Court of First Instance that almost every change of language application made by multiple foreign defendants is held to be justified, and that there are discrepancies in the case-law of the Court of Appeal.
16. This argument fails. There are no discrepancies in the case law - the same principles have been applied. Contrary to UERAN Technology's assertions, different outcomes on appeal are fact-related and demonstrate that English does not always prevail as language of the proceedings, because every case is assessed on its own merits.
17. One of the relevant circumstances is the domicile or seat of the parties. Changing the language to English is not necessary to achieve a fair outcome for the defendants in a situation where for the claimant and two of the defendants the official languages of their countries of domicile are German – the language chosen by the claimant as language of the proceedings – and for the other defendant French, and not English, while the head office of the group of companies to which they belong is also located in a country where German is an official language (UPC\_CoA\_207/2024 APL\_24598/2024 Order dated 5 September 2024, Advanced Bionics et al v MED-EL, para 12 and 15).
18. In the present case, the President of the Court of First Instance did not depart from this case law, but rightly took into consideration the different facts of the case and, in particular here, that only one of the seven defendants has its domicile in Germany (while the claimant is based in the US), and that these defendants, including the one domiciled in Germany, use English for their internal communication within the group of companies to which they belong, whose head office is located in China.
19. The size of the parties *relative to each other* is another circumstance that may be relevant. Other than as suggested by UERAN Technology, the mere fact that a company is a multinational with substantial resources is not. Art. 49(5) UPCA applications are not exclusively available to SMEs.
20. The language qualifications of the representatives are not circumstances related to the parties themselves and are therefore of less relevance. It cannot take away that the language of the parties is different from the language of the proceedings.
21. Indeed, as this Court already stated, a party must be able to fully understand what is submitted by a representative on its behalf and what is submitted by the other party. It follows that, if the language of the proceedings is not the language of a party, this is not compensated by the fact that its representative is proficient in the language of the proceedings. The party itself is then still dependent on translations of the statements and evidence lodged on either side. It cannot be accepted that machine translations are sufficient for this purpose. Indeed, it takes time and incurs costs to prepare or, where machine translations are used, to check and correct translations, in a context where the defendant is bound to strict time limits to lodge its Statement of response (UPC\_CoA\_101/2024, Order dated 17 April 2024, Curio Bioscience v 10x Genomics, paras. 23 and 30), both in a preliminary injunction case and in a case on the merit, contrary to what the appellant assumes.
22. Likewise, the fact that the case is pending before the Munich Local Division is not a circumstance related to the parties and therefore not relevant here either. Moreover, all the judges of the panel are also English speaking. In addition, as the defendants rightly advance, it cannot be guaranteed that the third member of the international panel, nor the technically qualified judge, if necessary, is always a German speaking judge, as UERAN Technology wrongly assumes.

23. The Court of Appeal has consulted the panel of the Local Division by way of analogy with R. 323.3 RoP. The Presiding judge, on behalf of the panel, has replied that the choice of German as the language of proceedings does not appear to be motivated by any grounds that the Court should consider and that the panel is able and willing to handle the case in any language, be it German or English.
24. Finally, as this Court could not find any inconsistency in the case law, but only different outcomes based on different facts, there is no reason to follow up on the suggestion made at the oral hearing by UERAN Technology to refer the case to the full Court in accordance with R. 238A RoP.
25. For the reasons set out the appeal shall be dismissed.

#### ORDER

The Court of Appeal dismisses the appeal.

Issued on 19 December 2025

Rian Kalden, presiding judge

Nathalie Sabotier, legally qualified judge and judge-rapporteur

Ingeborg Simonsson, legally qualified judge