

Decision
of the Court of Appeal of the Unified Patent Court
issued on 23 December 2025
Withdrawal pursuant to R. 265 RoP and
Application for reimbursement of Court fees (R. 370.9 RoP)

APPELLANT (AND CLAIMANT BEFORE THE COURT OF FIRST INSTANCE)

Lindal Dispenser GmbH, Schönberg, Germany
(hereinafter 'Lindal')

represented by: Véronique Pede, attorney-at-law, GEVERS IP Law, Ghent, Belgium, and other representatives from that firm; and by patent attorneys from GEVERS Diegem, Belgium

RESPONDENT (AND DEFENDANT BEFORE THE COURT OF FIRST INSTANCE)

Rocep-Lusol Holdings Limited, Glasgow, United Kingdom
(hereinafter 'Rocep')

represented by: Matthew Dixon, Beck Greener LLP, London, United Kingdom, and other representatives from that firm

PATENT AT ISSUE

EP 3 655 346

PANEL AND DECIDING JUDGE

Panel 2
Ingeborg Simonsson, legally qualified judge and judge-rapporteur

IMPUGNED DECISION OF THE COURT OF FIRST INSTANCE

Central Division Paris, Decision on the merits of 29 May 2025, revocation action UPC_CFI_202/2024

LANGUAGE OF THE PROCEEDINGS

English

SUMMARY OF FACTS AND THE PARTIES' REQUESTS

1. Lindal brought a revocation action against Rocep before the Paris Central Division for revocation of the patent at issue.
2. The operative part of the impugned decision reads "The Court, a) rejects the revocation action filed by Lindal Dispenser GmbH on 7 May 2024; b) maintains European patent n° EP 1 552 399 as amended by the First Auxiliary request submitted on 26 July 2024; d) orders that the costs of the proceedings shall be borne by the claimant in the amount of 70%, and by the defendant for the remaining fraction".
3. Lindal appealed and requested that the impugned decision be set aside, that the patent at issue be revoked entirely and that Rocep should bear all the costs.
4. On 19 December 2025, both parties jointly requested the Court of Appeal to permit the withdrawal of the appeal and to declare the proceedings closed. The parties further requested that the decision be entered in the Register, that no order as to costs be made, and that 80% of the court fees be reimbursed to Lindal, or, in the alternative, 60%.

GROUND

Conditions for permitting withdrawal

5. As long as there is no final decision in an action, a claimant may, pursuant to R. 265.1 RoP, apply to withdraw his action. The application to withdraw shall not be permitted if the other party has a legitimate interest in the action being decided by the Court. R. 265.1 RoP also applies mutatis mutandis to the withdrawal of an appeal.
6. In view of the parties' consents, they cannot be considered to have a legitimate interest in the appeal being decided by the Court, and the application to withdraw the appeal can be permitted.

Costs

7. R. 265.2 (c) RoP provides that the Court shall issue a cost decision in accordance with Part 1, Chapter 5. Since both parties agree that there is no need for a cost decision, this can be dispensed with.

Reimbursement of Court fees

8. In case of the withdrawal of an action (R. 265 RoP), the party liable for the Court fees will be reimbursed by 60 % in accordance with R. 370.9(b)(i) RoP if the action is withdrawn before the written proceedings have been concluded. In this case, the application to withdraw was made before the lodging of the Statement of response. Therefore, the withdrawal was made before the closure of the written procedure (R. 370.9 (b)(i) RoP). Reimbursement by 60 % is to be ordered in accordance with this provision.

ORDER

The Court of Appeal:

- permits the withdrawal of the appeal and declares the proceedings closed;
- orders that this decision shall be entered on the Register;
- orders that 60 % of the appeal Court fees be reimbursed to Lindal.

Issued on 23 December 2025

Ingeborg Simonsson, legally qualified judge and judge-rapporteur