



UPC_CFI_1506/2025
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 20/01/2026

HEADNOTE:

- While the domiciliation of parties in countries where the language of the proceedings initially chosen is an official language must be taken into account to decide on an application pursuant to R. 323 RoP, due consideration shall also be given to the need of several Defendants to communicate and coordinate for the purposes of the dispute. The speed and efficiency of this coordination is necessarily affected if the proceedings are not conducted in their usual working language. This drawback is of particular importance in identifying a fairness issue considering the strict time limits set by the UPC rules of procedure.

KEYWORDS:

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

APPLICANTS (1 AND 2) AND DEFENDANTS IN THE MAIN PROCEEDINGS:

1- Pinterest Germany GmbH

Edisonstraße 63, Haus A, 1st floor, 12459 Berlin - Germany

2- Pinterest Europe Ltd

Waterloo Exchange, Waterloo Rd, Ballsbridge, Dublin 4, D04 E5W7- Ireland

3- Pinterest Inc.

651 Brannan Street, San Francisco, CA 94107-1532 - USA

Represented by: Jérôme Kommer, Jan Axtmann, Armin Giesen, Nina Balta, Wiebke Scheve - Quinn Emanuel

RESPONDENT (CLAIMANT IN THE MAIN PROCEEDINGS):

Nagravision Sàrl

Route de Genève 22-24, 1033 Cheseaux-sur-Lausanne - Switzerland

Represented by: Moritz-Melchior Bloser, Julian Würmser - Meissner Bolte

PATENT AT ISSUE: EP3965466

SUMMARY OF FACTS

By a statement of claim filed on 10 November 2025, Nagravision Sàrl brought an infringement action against the Applicants (hereinafter collectively referred to as “Pinterest” or “the Defendants” in reference to their role in the main proceedings) based on EP 3965466 titled *“Bitrate and pipeline preservation for content presentation”*.

By a procedural application dated 17 December 2025 the Defendants 1 and 2, 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 by 5 January 2026 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.

The service was completed regarding Pinterest, Inc. on 2 January 2026.

Nagravision Sàrl submitted their written comments on 5 January 2026 as requested.

By a communication from the Court dated 12 January 2026, the Representative of the Applicants was invited to indicate whether he was instructed to represent Pinterest, Inc. and if so, whether the third defendant intended to comment on the Application.

By a statement dated 13 January 2026, Pinterest, Inc. confirmed their representation and indicated that they support the Application. They further commented on the objections raised by Nagravision. As such additional comments are not foreseen by the RoP nor requested by the Court in the present case, this order is exclusively based on the arguments put forward in the Application and reply lodged by the Claimant, dated 5 January 2026.

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 pursuant to Art. 49 (5) UPCA and R. 323.1 RoP.
2. The order shall not be subject to translation of existing pleadings and documents pursuant to R. 324 RoP. Should such translation be considered necessary, the corresponding costs should be borne by the Claimant.

Nagravision Sàrl requests that the Court dismiss the Application.

POINTS AT ISSUE:

The Applicants state that all relevant circumstances of the case indicate that English should be the language of the proceedings, for the following reasons:

- As Defendants 2 and 3 are companies based in the Republic of Ireland and the USA, and Defendant 1 is a subsidiary of Pinterest Europe, English is the common working language of all employees within the group.
- Nagravision's website is exclusively in English, moreover a subsidiary of the Claimant – and former owner of the patent in question – is suing the third defendant before the US District Court for the District of Delaware. It can therefore be assumed that the representatives in both proceedings will communicate in English.
- The requested change would not cause any delay if it were granted at this early stage.
- The Statement of Claim has already been translated for the purposes of service, and a large proportion of exhibits has been submitted in English without the respective translations.

- The Court has yet not begun issuing orders in the language initially chosen by the Claimant. The language in which the patent was granted is of decisive importance for determining the scope of protection and interpretation of the claims. English is the language most used in the relevant field of technology, as reflected by the prior art cited.
- The Claimant, who consciously decided to acquire property rights, should therefore have expected to conduct proceedings in the language of the patent.

Nagravision Sàrl contends that the Application should be rejected for the following reasons:

- The claimant has a legitimate interest in the proceedings being conducted in German.
- The mere fact the patent is in English is not decisive, as the language regime differs depending on the relevant competent (local or central) divisions.
- Choosing the competent division and corresponding local language of the proceedings are fundamental prerogatives of the Claimant.
- Multinational companies can handle disputes in various languages, and the Pinterest group has a German entity with registered offices in Berlin.
- There is no indication of the disadvantages invoked by the Applicants relating to decision-making processes and specific translation needs if the language remains German.
- The Pinterest Group generates considerable activity on the German market explicitly targeted.
- The benchmark is not “optimal central group coordination” in a preferred language. Rather it addresses fairness issues in a specific context.
- Pinterest is a multinational corporation with an extensive legal and patent department with the respective available expertise.
- The Claimant is based in Switzerland where German is an official language and has less resources compared to the Defendants that are not markedly disadvantaged.
- A mere inconvenience is not sufficient to justify the requested change to the language in which the patent was granted pursuant to Art. 49 (5) UPCA.
- Proceedings conducted in the USA by another company of the Pinterest group is not a relevant argument while in contrast, national disputes involving the same parties before the Munich regional Court should be considered for communication purposes and to avoid conflicting outcomes.
- Absence of translation of English-language exhibits results from the fact that two of the three Defendants are registered in English-speaking countries.

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

GROUNDINGS FOR THE ORDER:

1- 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 considered. 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).

With regard to the abovementioned provisions and caselaw, the Application shall be granted for the following reasons.

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

As rightly recalled by Nagravision, the Claimant is offered the choice to decide in which language he will file an infringement action if another EPO language – in this case English – has been designated pursuant to Art. 49 (2) UPCA. This right conferred to the party initiating the action is not absolute and can be limited for considerations of fairness which must be substantiated by the Applicant(s). Relevant factors to be considered in assessing such fairness issue have been clarified and summarised by the CoA in its decisions dated 17 April 2024 (UPC_CoA_101_2024 – APL_12116/2024) and 18 September 2024 (UPC_CoA_354/2024 – APL_38948/2024). The requested change cannot be granted for reasons of mere convenience or preference. Conversely, the language primarily selected by the Claimant must significantly disadvantage the adverse party in the organisation and preparation of their defence.

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

The patent at issue relates to a method for optimizing content switching, to address situations where during a change in selected content (e.g., caused by a channel change), a delay to get high image quality can occur as certain information is obtained before the new piece of content (program, movie...) is rendered and displayed (description of EP 3679738 and SoC para. 21). The language commonly used in this field of technology is evidently English, as is reflected by the references of prior art cited in the patent. It is therefore most probable that further documents will be submitted in this language.

As stated by the Applicants and consistently recalled by the CoA, the language in which the patent in question has been granted plays an important role in assessing its scope and validity.

Regarding the circumstances related to the parties, the Defendants are part of the Pinterest group in which Pinterest, Inc. is the holding entity and Pinterest Europe is the direct parent company and shareholder of Pinterest Germany. The latter supports the group's overall business strategy in relation to the German market, as indicated in its financial statements (excerpts reproduced page 15 of the CoC). While the first Defendant is registered in Germany, the working language used for all internal communication within the group is undoubtedly English.

The Claimant is a Swiss company part of the Kudelski group that develops access control systems for digital cables and satellite television. They operate in development of digital technologies and indicate possessing a considerable number of intellectual properties in this area.

Even though the Pinterest group is significantly larger, both parties are therefore active internationally and part of entities likely to provide them with adequate resources, legal and technical support in the context of the dispute.

As a general principle, the position of the Defendants shall prevail. However, in order to balance the procedural advantage of the Claimant also expected to be prepared to litigate in the language of the patent that it has decided to acquire, the overall balance of interests requires an assessment of whether there are relevant specific circumstances pointing in another direction.

- *Balance of respective interests in the particular case:*

In support of the requested change, the Applicants mainly contend that they will have to communicate and coordinate in English for the purposes of their Defence. The Claimant opposes its domiciliation and the active presence of Pinterest on the German market.

It is true that as stated by the CoA in decisions dated 5 September 2024 (UPC_CoA_207/2024 – APL_24598/2024) and more recently 19 December 2025 (UPC_CoA_902/2025), the domiciliation of parties in countries where the language of the proceedings initially chosen is or is not an official language is an important factor to decide on an application pursuant to R. 323 RoP. The fact that German (unlike English) is an official and most used language in Switzerland where the whole Kudelski group is headquartered must therefore be taken into account.

However, due consideration must also be given to the need of the Pinterest entities to communicate internally and coordinate in view of their defence. The speed and efficiency of this coordination is necessarily affected if the proceedings are not conducted in their usual working language (UPC_CoA_354/2024_APL_38948/2024, para. 26 and 31). This drawback is of particular importance considering the strict time limits set by the UPC rules of procedure.

In contrast, the requested change can not be considered unfair to the Claimant which is a multinational group operating worldwide and promoting its activities by way of its website in English exclusively.

The fact that other proceedings involving the parties or its affiliates are pending before a national court –in this case the US district court of Delaware and the Munich Regional court – is as such of less importance given that it does not relate to the dispute (UPC_CoA_354/2024 – APL 38948/2024 para. 30). Similarly, the fact that the Pinterest group is active on the German market is not relevant per se. It involves the risk of being sued before German courts and German divisions of the UPC in any language designated pursuant to Art. 49 (2) UPCA. Considering their geographical scope of activities, this possibility extends to other places, as is specified under R. 13.1 (i) RoP, SoC page 9.

Against this background, none of the circumstances put forward by the Claimant can justify deviating 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.

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). Furthermore, the Statement of Claim is already available in an English version provided for the service, and it is agreed by the Defendants that 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 20 January 2026

NAME AND SIGNATURE

Florence Butin
President of the UPC Court of First Instance