



UPC\_CFI\_1064/2025  
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 26/01/2026**

**HEADNOTE:**

- When deciding on a request to change the language of the proceedings to the language of the patent on grounds of fairness, all relevant circumstances – in particular those related to the case and the respective position of the parties – shall be considered. If the outcome of balancing of interest is equal, the position of the defendant is the decisive factor.

**KEYWORDS:**

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

**APPLICANT AND DEFENDANT IN THE MAIN PROCEEDINGS:**

**Nordmeccanica S.p.A.**

Strada Dell'Orsina 16, 29122, Piacenza – Italy

**Represented by:** Boris Kreye – Bird&Bird LLP

## **RESPONDENT (CLAIMANT IN THE MAIN PROCEEDINGS):**

### **Bobst Manchester Limited**

Pilsworth Road, Pennine Business Park, OL10 2TL, Heywood, GB

**Represented by:** Michael SCHRAMM – 2S-IP mbB

**PATENT AT ISSUE:** EP3067437

## **SUMMARY OF FACTS**

By a statement of claim filed on 07 October 2025, Bobst Manchester Limited brought an infringement action against Nordmeccanica S.p.A. (hereinafter also referred to as “the Applicant” or “the Defendant” in reference to their role in the main proceedings) based on EP 3067437 titled “*improved vacuum coating method*”.

By a procedural application dated 9 January 2026, Nordmeccanica S.p.A., 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.

Bobst Manchester Ltd. submitted their written comments on 16 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 the language of the proceedings be changed from German to English in accordance with Art. 49 (5) UPCA and R. 323.1 RoP.

Bobst Manchester Ltd. requests that the Court decide on the Application dated 9 January 2026 on the basis of the files.

### **POINTS AT ISSUE:**

The Applicant state that their request to change the language of the proceedings is justified for the following reasons:

- The Claimant is an English limited company based in Great Britain while the Defendant is an Italian entity. None of the parties has therefore a business connection with the current language of the proceedings. The requested change would allow the defendant – who should be able to fully understand the documents submitted – to follow the dispute in its entirety without having to rely on translations. It would furthermore benefit to Bobst Manchester Ltd. that submitted annexes in English.
- The prominent language in the field of technology concerned is English, as reflected by the two priority documents, prior art cited and exhibits provided as evidence of the alleged infringing acts.
- The requested change would contribute to procedural economy and would not cause delays in case management.
- The language used when filing a patent application has predictable legal consequences that should be foreseen by the Claimant.
- English is one of the official languages offered by the Local Division and ensures easier selection of a suitable technically qualified judge among the pool.

Bobst Manchester Limited did not submit additional comments on the merit of the Application.

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

### **GROUND FOR THE ORDER:**

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 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 (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 above, the Application shall be granted for the following reasons.

The defendant has registered offices in Italy, and the Claimant is an English company. Both parties are thus confronted with a language they don’t use internally in the context of their respective activities.

As the question of their respective size and resources is not addressed in the submissions, it can be assumed that this is not a relevant factor in the balancing of interests for the purpose of the present Application.

The fact that English is commonly used in the concerned field of technology – namely methods of operating a vacuum coater – is evidenced by the references cited by the patent and the proportion of exhibits submitted in this language.

There are therefore no relevant specific reasons in the present case to deviate from the general principle derived from the decisions previously cited, according to which the language of the patent cannot be considered unfair to the Claimant, while the adverse party – that did not initiate the proceedings and must comply with strict time limits – is considerably disadvantaged by its position combined with the obligation to prepare for its defence in a language making its internal communication less efficient.

Finally, the requested change will not affect the course of the proceedings as it is implemented at an early stage and does not require subsequent measures. This absence of negative impact is of importance in deciding on the Application to change the language initially chosen (CoA\_101/2024 – APL\_12116 – order dated 17 April 2024 – para. 25).

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 26 January 2026

**NAME AND SIGNATURE**

**Florence Butin**  
**President of the UPC Court of First Instance**