



Action number:
UPC_CoA_360/2025

DECISION
of the Court of Appeal of the Unified Patent Court
concerning an application for withdrawal under Rule 265.1 of the RoP
and an application for reimbursement of court fees under Rule 370.9 of the RoP
issued on 17 July 2026

APPELLANT AND CROSS-RESPONDENT (CLAIMANT AND COUNTER-DEFENDANT IN THE PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

Lionra Technologies Ltd., Dublin, Ireland,

hereinafter 'Lionra'

represented by Dr Thomas Adam, Attorney-at-law, of Peterreins Schley Patent- und Rechtsanwälte PartG mbB

RESPONDENT ON APPEAL AND APPELLANT ON CROSS-APPEAL (DEFENDANT AND COUNTER-CLAIMANT IN THE PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

1. **Cisco Systems GmbH**, Munich, Germany

2. **Cisco Systems, Inc.**, San Jose, CA,

USA, hereinafter referred to as 'Cisco'

represented by Johannes Heselberger, Attorney-at-law and professional representative before the European Patent Office, of Bardehle Pagenberg

PATENT AT ISSUE
EP 2 201 740

APPEAL PANEL AND DECIDING JUDGES

Panel 1a

Klaus Grabinski, President of the Court of Appeal
Peter Blok, judge-rapporteur and legally qualified judge
Emmanuel Gougé, legally qualified judge
Udo Matter, technically qualified judge
Klaus Loibner, technically qualified judge

LANGUAGE OF THE PROCEEDINGS

German

CONTESTED DECISION OF THE COURT OF FIRST INSTANCE

- ☐ Decision of the Court of First Instance of the Unified Patent Court, Hamburg local division, dated 19 February 2025
- ☐ Action number of the Court of First Instance:
ACT_7940/2024 UPC_CFI_58/2024
ORD_65550/2024

BRIEF SUMMARY OF THE FACTS AND THE PARTIES' APPLICATIONS

1. On 19 February 2025, the Hamburg local division dismissed Lionra's infringement claim against Cisco and Cisco's counterclaim for a declaration of invalidity.
2. Lionra lodged an appeal against the contested decision on 17 April 2025.
3. By a procedural order dated 17 February 2026, the date for the oral hearing was set for 25 June 2026.
4. On 24 June 2026, the parties informed the court by email that they had reached a settlement and that the oral hearing should not take place. In view of this email of 24 June 2026, the aforementioned date for the oral hearing was cancelled by a procedural order of the same date.
5. The procedural order of 24 June 2026 also required the parties to inform the Court of Appeal, within 10 calendar days of the date of the order, by filing an application in accordance with the Rules of Procedure, of how they intended to bring the proceedings to a close.
6. By a document dated 6 July 2026, Lionra filed an application to withdraw the appeal and stated that the parties had reached an out-of-court settlement. Lionra submits that, in view of the settlement, the parties have no interest in the court ruling on the appeal. Lionra requests that the withdrawal of its appeal be permitted and that the court costs it has paid for the appeal proceedings, amounting to 20 per cent, be refunded.
7. Lionra further states that the parties will not be making any applications for costs and that, consequently, there is no need for a decision on costs pursuant to Rule 265.2(c) of the RoP.
8. In a document dated 6 July 2026, Cisco consented to the withdrawal of Lionra's appeal and stated that it had no interest in a decision on the appeal.
9. Cisco further submits that the cross-appeal should be regarded as settled and, in the alternative, withdraws the cross-appeal in the name of and on behalf of Cisco.

10. Cisco further states that the parties have agreed not to make any applications for costs.

REASONS FOR THE DECISION

Withdrawal

11. Pursuant to Rule 265.1 of the RoP, an appellant may apply to withdraw its appeal provided that no final decision has yet been handed down on the appeal. This provision applies *mutatis mutandis* to an appellant who applies to withdraw their appeal (UPC_CoA_234/2024 APL_27805/2024 App_38102/2024, 10x – Curio). The application to withdraw the appeal will not be granted if the other party has a legitimate interest in the court ruling on the appeal.
12. In its document of 6 July 2026, Cisco expressly stated that it has no legitimate interest in the court ruling on the appeal.
13. The Court of Appeal therefore grants the withdrawal of the appeal on an application by Lionra and with the consent of Cisco.
14. If the appeal is withdrawn, any cross-appeal is also deemed to be withdrawn in accordance with Rule 237.5 of the RoP. Cisco's cross-appeal is therefore deemed to be withdrawn.

Costs

15. Rule 265.2(c) of the RoP does provide that a decision on costs is to be made in accordance with Part 1, Chapter 5.
16. However, as Liora and Cisco have waived their right to a decision on costs, no such decision is required in this case.

Reimbursement of court fees

17. Liora's application for a refund of 20 per cent of the court fees is unfounded.
18. Pursuant to Rule 370.9 (b) (iii) of the RoP, as in force until 31 December 2025, the party liable for payment of court fees shall, in the event of the withdrawal of the claim (Rule 265 of the RoP), receive a refund of 20 per cent if the claim was withdrawn before the conclusion of the oral proceedings.
19. This provision was repealed as part of the amendments to Rule 370.9 of the RoP, which came into force on 1 January 2026. The amendments apply to claims and applications filed after 31 December 2025 (see page 4 of the Administrative Committee's decision of 4 November 2025 on the amendment of the table of court fees and related amendments to the Rules of Procedure and the Guidelines).
20. If the application for withdrawal and reimbursement is made after 1 January 2026, the reimbursement must be ordered in accordance with Rule 370.9 of the RoP in its current version (see the order of the Court of Appeal of 6 July 2026, UPC-CoA-29/2026 and UPC-CoA-30/2026, Bekaert Combustion Technology B.V., NV Bekaert SA v Polidoro S.p.a.; Order of the Court of Appeal of 26 May 2026,

UPC_CoA_916/2025, Hurom v NUC; Order of the Court of Appeal of 9 January 2026, CoA_257/2025, VMR Products LLC v NJOY Netherlands BV).

21. Contrary to Lionra's view, the application of the new court fees scale from 1 January 2026, including in respect of a claim for a refund, following the date of withdrawal, whereby the date of the application for withdrawal is decisive, as it is the withdrawal itself that triggers the claim for a refund. Nor do considerations of legal certainty require that Rule 370.9(b)(i) of the RoP, in the version applicable until 31 December 2025, be applied to appeal proceedings that were pending at that time, as there is no general principle according to which an individual may rely on the complete absence of legislative changes, and Lionra has neither demonstrated, nor is it otherwise apparent that the abolition of the entitlement to a 20 per cent refund of court fees where the action (or, in the present case, the appeal) is withdrawn before the conclusion of the oral proceedings disproportionately impairs the claimant's procedural rights (see ECJ, 17 December 2015, C-330/14 – Szemerey, para. 48; 11 June 2015, C-98/14 – Berlington Hungary, para. 78).
22. As the application for withdrawal was made on 6 July 2026 and thus after 1 January 2026, the refund must be assessed in accordance with Rule 370.9 of the RoP, as in force on 1 January 2026. Rule 370.9 of the RoP, in its current version, provides for a refund of court fees (amounting to 50 per cent) only if the action is withdrawn before the conclusion of the written procedure.
23. The application for a refund of 20 per cent of the court fees must therefore be dismissed.

DECISION

The Court of Appeal

- I. allows the withdrawal of the appeal;
- II. finds that the cross-appeal is deemed to have been withdrawn;
- III. declares the appeal and cross-appeal proceedings to be terminated;
- IV. orders that the decision be entered in the register;
- V. rejects the application for a refund of 20 per cent of the court fees.

This decision was issued on 17 July 2026.

Klaus Grabinski, President of the Court of Appeal

Peter Blok, judge-rapporteur and legally qualified judge

Emmanuel Gougé, legally qualified judge

Udo Matter, technically qualified judge

Klaus Loibner, technically qualified judge