



Action number:
UPC-COA-0894/2025

DECISION

of the Court of Appeal of the Unified Patent Court concerning the admissibility of an appeal issued on 21 August 2026

HEADNOTE:

- (i) In proceedings before the UPC, it is not sufficient for a party's representative to log in to the Case Management System (CMS) via a secure two-factor authentication process – which constitutes a strong multi-factor authentication mechanism – and to confirm their identity. It is necessary for all documents to be signed. In the absence of such a signature, a document submitted via the CMS does not meet the requirements for a valid submission.
- (ii) It follows that a document submitted as a notice of appeal which is not duly signed cannot be regarded as a notice of appeal filed in accordance with Rule 224 of the RoP and cannot be admitted.
- (iii) The presence of the signature required under Rule 4.1 of the RoP on the notice of appeal to be filed electronically is not part of the examination of the formal requirements under Rule 229 of the RoP.

KEYWORDS:

Filing and signing of documents (Rule 4 of the RoP), time limits for filing the notice of appeal (Article 73(1) of the UPC Agreement and Rules 224 and 9.4 of the RoP).

APPELLANT (DEFENDANT IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

Windhager Handelsgesellschaft m.b.H., Industriestraße 2, 5303, Thalgau, Austria

(hereinafter 'Windhager')

represented by Matthias Geitz, Attorney-at-law, of the law firm LS-MP von Puttkammer Berngruber Loth Spuhler Partnerschaft von Patent- und Rechtsanwälten mbB

RESPONDENT ON APPEAL (CLAIMANT IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

bellissa HAAS GmbH, Birkenstraße 22, 88285, Bodnegg-Rotheiden, Germany

(hereinafter "bellissa"),

represented by Thomas Adrian, Attorney-at-law, and Thomas Daub, patent attorney, of the law firm Daub PartG mbB

PATENT AT ISSUE:

EP 2 223 589

PANEL AND DECIDING JUDGES

Panel 1a

Klaus Grabinski, President of the Court of Appeal
Emmanuel Gougé, legally qualified judge and judge-rapporteur
Peter Blok, legally qualified judge
Stefan Wilhelm, technically qualified judge
Bernard Ledebøer, technically qualified judge

LANGUAGE OF THE PROCEEDINGS

German

CONTESTED DECISION OF THE COURT OF FIRST INSTANCE

- ☐ Decision of the local division of the Court of First Instance of the Unified Patent Court, Mannheim local division, dated 12 September 2025
- ☐ Action numbers of the Court of First Instance:
UPC_CFI_338/2024 and CC_65106/2024, UPC_CFI_778/2024

ORAL HEARING

16 July 2026

FACTS OF THE CASE AND THE PARTIES' APPLICATIONS

1. bellissa brought proceedings against Windhager and two other individuals before the Mannheim local division ('local division') for infringement of European patent EP 2 223 589 ('the patent at issue'), seeking an injunction, a recall and permanent removal from the distribution channels, destruction, disclosure of information and publication of the decision.
2. Windhager has filed a counterclaim for revocation (CC_65106/2024, UPC_CFI_778/2024).
3. By its decision of 12 September 2025 (the 'contested decision'), the local division largely upheld the infringement claim against Windhager. The local division dismissed the counterclaim for nullity.
4. By a document dated 24 October 2025, Windhager lodged an appeal against the contested decision in respect of both the infringement claim and the counterclaim for revocation. The document was not electronically signed. In addition, on 28 October 2025, Windhager filed an application for suspensive effect with the Court of Appeal, which was also unsigned.
5. On 29 October 2025, the court's registry requested, via the electronic case management system (Case Management System – 'CMS'), that Windhager rectify the formal defects in accordance with Rule 225(c) of the RoP and pay the court fee for the appeal.

6. On 12 November 2025, Windhager submitted a corrected notice of appeal and proof of payment of the court fees. The corrected notice of appeal had also not been electronically signed.
7. On 17 November 2025, the court registry sent a further request via the CMS to remedy the deficiencies, in which Windhager was asked to submit duly signed versions of these documents as part of a 'subsequent filing' via the CMS.
8. On 28 November 2025, Windhager submitted a notice of appeal signed by her legal representative, together with the other signed pleadings.
9. In its response to the appeal dated 11 April 2026, belissa applied for the appeal to be dismissed as inadmissible, as it had not been lodged within the two-month time limit provided for in Article 73(1) UPC Agreement and Rule 224.1(a) of the RoP, following service of the contested decision, by lodging a document signed by a legal representative in accordance with Rule 4.1 of the RoP.
10. belissa argues that the subsequent submission of a signed notice of appeal after the expiry of the appeal period is no longer admissible. The examination of the notice of appeal in accordance with Rule 229.1 of the RoP to ensure compliance with Rules 224.1, 225, 227 and 228 of the RoP, and a corresponding request to remedy deficiencies within the 14-day period pursuant to Rule 229.2 of the RoP, is expressly limited to the requirements set out in Rules 225, 227 or 228 of the RoP; it does not, however, apply to remedy the failure to lodge a valid notice of appeal within the time limit set out in Rule 224.1 of the RoP.
11. By a provisional procedural order of the Court of Appeal dated 15 April 2026, Windhager was given the opportunity to submit written comments on the question of the admissibility of the appeal.
12. In her submission of 23 April 2026, Windhager argued that the appeal was admissible, as the notice of appeal had been lodged within the time limit on 24 October 2025 and the formal defect (missing signature) criticised by the court had been rectified within the grace period set for that purpose. The representative's signature on a document is merely a formal requirement which may be remedied even after the expiry of the time limit set out in Rule 224 of the RoP; consequently, provided that a document was filed within the time limit, the absence of the representative's signature is, in accordance with the general principles of UPC procedural law, remediable upon the court's request.
13. In a procedural order dated 30 April 2026, the judge-rapporteur pointed out that Windhager had not yet considered the possibility of making an application for reinstatement to the previous state of proceedings, and gave Windhager the opportunity to comment on this.
14. In a document dated 8 May 2026, Windhager stated that, given the specific procedural situation and the course of the proceedings, an application for reinstatement was not necessary.
15. In view of belissa's objection regarding admissibility, the Court of Appeal deemed it appropriate to first hear and rule on the admissibility of the appeal, for which a date was set for an oral hearing.

16. During the oral hearing, Windhager applied for reinstatement to the previous stage of the proceedings and requested that she be granted an extension to submit her written pleadings in this regard.

REASONS

17. The appeal must be dismissed as inadmissible.
18. Pursuant to Rule 224.1 of the RoP, the appellant must lodge the notice of appeal within two months of service of a decision referred to in Rule 220.1(a) or (b) of the RoP.
19. Under Rule 9.4 of the RoP, the time limit set out in Rule 224.1 of the RoP is a cut-off date, meaning that, once it has expired, the appellant can no longer lodge an appeal, notwithstanding the possibility of reinstatement to the previous status under Rule 320 of the RoP.
20. The notice of appeal, which must be filed within the time limit set out in Rule 224.1 of the RoP, must, like all documents, be signed in accordance with Rule 4.1 of the RoP and filed in electronic form with the Registry or the relevant branch office. The requirement for pleadings to be signed, which was first provided for in the 18th version of the draft Rules of Procedure, was incorporated into Rule 4.1 of the RoP in the final version of the RoP, adopted by decision of the Administrative Committee on 8 July 2022, in order to ensure the authenticity and integrity of the document submitted.
21. Accordingly, the UPC Court of Appeal has already ruled that, for the reasons stated, a document must bear an electronic signature (see UPC Court of Appeal judgment of 22 May 2026, SharkNinja v SEB, CoA_61/2026, para. 12).
22. It is therefore not sufficient in proceedings before the UPC for the party's representative to log in to the Case Management System (CMS) via a secure two-factor authentication process – which constitutes a strong multi-factor authentication mechanism – and to confirm their identity (see also UPC Court of Appeal, SharkNinja v. SEB, para. 11). Furthermore, it is necessary for all pleadings to be signed. In the absence of such a signature, a document submitted via the CMS does not meet the requirements for a valid submission.
23. It follows that a document submitted as a notice of appeal which is not duly signed cannot be regarded as a notice of appeal filed in accordance with Rule 224 of the RoP and cannot be admitted.
24. The presence of the signature required under Rule 4.1 of the RoP on the notice of appeal to be filed electronically is not part of the examination of the formal requirements under Rule 229 of the RoP. Although, under Rule 229.1 of the RoP, the Registry must check as soon as possible after the notice of appeal has been filed whether the requirements of Rules 224.1, 225, 227 and 228 of the RoP have been met, compliance with other requirements, such as those under Rule 4.1 of the RoP, is not included in the scope of that check. Compliance with these requirements is, rather, the sole responsibility of the party's representative. The law firm may, of course, draw a party's attention to the fact that a document or other document has not been signed if it notices this. Irrespective of this, however, it is solely the responsibility of the party or its representative to ensure that a document is filed which meets the requirements of the Rules of Procedure and, in particular, the signature requirement under Rule 4.1 of the RoP.

25. In the present case, neither the fact that the law firm requested Windhager to submit duly signed copies of the notice of appeal at a later date, nor the fact that the Court of Appeal continued the proceedings and permitted bellissa to submit its signed response to the appeal and its applications for the appeal to be declared inadmissible, be regarded as grounds for the admissibility of the appeal or as an acknowledgement that the procedural defect had been remedied.
26. This is because, at those points in time, the two-month time limit under Rule 224.1(a) of the RoP – which is a cut-off deadline – had already expired, meaning that no expectation of an extension of the two-month time limit under Rule 224.1(1) of the RoP could have arisen in the first place.
27. Nor can the judge-rapporteur's order of 2 December 2025, which rejected the application for suspensive effect, nor the procedural order of 10 March 2026, by which the parties were summoned to the oral hearing on 16 July 2026, can retrospectively remedy the present defect, as these did not address the admissibility of the appeal nor did they rule on it.
28. A notice of appeal signed by Windhager's representative was not filed until 28 November 2025 and thus after the expiry of the two-month time limit under Rule 224.1(a) of the RoP, which had expired on 12 November 2025 following service of the contested decision on 12 September 2025.
29. The technical difficulties encountered by Windhager's representative when submitting the notice of appeal via the CMS are irrelevant to the question of the notice of appeal's signature, as the signing of documents takes place electronically outside the CMS, and Windhager has not provided any detailed explanation as to why it is alleged to have encountered technical difficulties in submitting a signed notice of appeal via the CMS, whilst it was readily possible to do so without the representative's signature on 24 October and 12 November 2025 and, albeit after the expiry of the two-month time limit under Rule 224.1(a) of the RoP, on 28 November 2025, with the signature of the same representative, was readily possible.
30. In the event that a notice of appeal has not been filed within the time limit laid down in Rule 224 of the RoP, Rule 320.1 of the RoP does provide for the possibility of reinstatement of the previous status. Accordingly, where a party has, despite exercising all due care, failed to meet a time limit laid down in the Rules of Procedure or by the court for a reason beyond its control, and has, as a direct consequence of that failure, lost a right or a remedy, the competent panel may, upon application, grant reinstatement to the previous status. Under Rule 320.2 of the RoP, the application must be lodged within one month of the cause of the failure to meet the time limit having been removed, but no later than six months after the expiry of the time limit in question. Even after the Court of Appeal had drawn attention to this possibility in its order of 30 April 2026, Windhager did not lodge such an application within six months of the expiry of the missed deadline on 12 November 2026; consequently, there is no need to examine whether the conditions for reinstatement were met.
31. Nor does the application for reinstatement to the previous status made by Windhager during the oral hearing on 16 July 2026 alter this, in any event because the aforementioned six-month period had already expired by that date.

32. The application for an extension to submit written submissions, which was further made by Windhager's representative during the oral hearing in this context, is rejected, as Windhager had already been afforded sufficient opportunity to comment on the admissibility of the appeal by the court's order of 15 April 2026, to comment on the admissibility of the appeal, and by the court's notice of 30 April 2026 regarding the possibility of applying for reinstatement to the previous status, had been given sufficient opportunity to submit written submissions.

Costs

33. As the unsuccessful party, Windhager must also bear the costs of the appeal proceedings.

DECISION

The Court of Appeal

- (i) dismisses the appeal lodged by Windhager as inadmissible;
- (ii) dismisses the application for reinstatement to the previous stage of proceedings and the application for a reduction in the costs of the written pleadings as inadmissible;
- (iii) orders that Windhager shall bear the costs of the appeal proceedings.

Issued on 21 August 2026

**KLAUS STEFAN
MARTIN
Grabinski**

Digitally signed by
KLAUS STEFAN MARTIN
Grabinski
Date: 21 August 2026
10:36:44 +02'00'

Klaus Grabinski, President of the Court of Appeal

Emmanuel Gougé

Digitally signed by
EMMANUEL, LUCIEN, RENÉ
GOUGE
Date: 21 August 2026 13:46:47
+02'00'

Emmanuel Gougé, legally qualified judge and judge-rapporteur

**Peter
Hendrik Blok**

Digitally signed by
Peter Hendrik Blok
Date: 21 August 2026
13:06:35 +02'00'

Peter Blok, legally qualified judge

**Stefan Maria
Wilhelm**

Digitally signed by Stefan
Maria Wilhelm
Date: 21 August 2026
12:21:32 +02'00'

Stefan Wilhelm, technically qualified judge

Digitally signed

Ledeboer Bernard Christiaan
21 August 2026 11:23:52
+02'00'

Unified Patent Court
Einheitliches Patentgericht
Jurisdiction unifiée du brevet

Bernard Ledeboer, technically qualified judge