

ORDER
of the Court of Appeal of the Unified Patent Court
issued on 3 September 2026

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

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represented by Michał Przyłuski, JD&P Patent Attorneys Joanna Dargiewicz & Partners

RESPONDENT (CLAIMANT IN THE INFRINGEMENT PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

Amycel, LLC, 260 Westgate Drive, 95076 Watsonville, California, United States of America

represented by H.W.J. Lambers, Vossius & Brinkhof UPC Litigators, and other representatives of that firm

PATENT AT ISSUE

EP 1 993 350

PANEL

1b

Klaus Grabinski, presiding judge and president of the Court of Appeal

Paolo Catallozzi, legally qualified judge and judge-rapporteur

Emmanuel Gougé, legally qualified judge

Rainer Friedrich, technically qualified judge

Paolo Gerli, technically qualified judge

DECIDING JUDGE

This order has been issued by the judge-rapporteur

LANGUAGE OF THE PROCEEDINGS

English

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

- Decision by default of the Court of First Instance of the Unified Patent Court, The Hague Local Division, dated 21 October 2025
- Orders of the Court of First Instance of the Unified Patent Court, The Hague Local Division, dated 19 December 2024 (Rule 275 RoP), 1 April 2025 (Rule 320 RoP), and 9 December 2025 (Rules 353 and 356 RoP)

Numbers attributed by the Court of First Instance: UPC_CFI_499/2024 ACT_48877/2024

SUMMARY OF FACTS

1. By order of 6 July 2026, the judge-rapporteur scheduled the oral hearing for 23 September 2026.
2. By application dated 31 August 2026, the appellant requested interpretation facilities between English and Polish during the oral hearing pursuant to Art. 51(2) UPCA.
3. The appellant submits that he is a natural person and that his command of English is insufficient both to convey all the information that he wishes to provide and to follow the oral submissions of the parties' representatives and the questions from the Court. He further submits that interpretation would ensure equal access to the Court and facilitate the conduct of the proceedings.
4. In the alternative, should interpretation not be provided by the Court, the appellant requests permission to use an external interpreter and asks that the Registry provide any necessary practical assistance.

GROUND FOR THE ORDER

Admissibility.

5. Pursuant to Rule 109.1 RoP, a request for simultaneous interpretation shall be lodged no later than one month before the oral hearing (see Court of Appeal, order of 21 August 2025, UPC_CoA_317/2025 and UPC_CoA_376/2025, *Barco v Yealink*, paras. 7 and 10).
6. The present request was lodged on 31 August 2026, less than one month before the oral hearing scheduled for 23 September 2026. The date of the hearing had been fixed on 6 July 2026, and the appellant has neither requested a shortening of the applicable period pursuant to R. 9.3 RoP nor provided any reasons why the request could not have been lodged within the period prescribed by R. 109.1 RoP.
7. It may, however, be left open whether the request is inadmissible on that ground. Even assuming that the request is admissible, the conditions for ordering interpretation facilities are not met in the circumstances of the present case.

Principal request.

8. The principal request is unfounded.
9. Pursuant to Art. 51(2) UPCA, at the request of one of the parties and to the extent deemed appropriate, the Court of Appeal shall provide interpretation facilities to assist the party concerned at oral proceedings. Pursuant to R. 109.2 RoP, the judge-rapporteur shall decide whether and to what extent simultaneous interpretation is appropriate and, where appropriate, shall instruct the Registry to make all necessary arrangements (see *Barco v Yealink*, paras. 6 to 9).
10. Whether simultaneous interpretation is appropriate must be assessed in the circumstances of the individual case. In making that assessment, regard must be had to the legitimate interests of the parties and to the need to organise the proceedings in an efficient and cost-effective manner (see Court of Appeal, order of 3 April 2026, UPC_CoA_4/2026 and UPC_CoA_13/2026, *Valeo v Bosch*, para. 12).
11. Account must also be taken of the system of representation before the Court. The parties are required to be represented in accordance with Art. 48 UPCA and R. 8.1 RoP, and their representative will normally be a lawyer or European patent attorney familiar with the language of the proceedings (see *Barco v Yealink*, para. 14).
12. The present case differs from *Barco v Yealink* in that the person for whose benefit interpretation is requested is not an employee or company officer attending the hearing voluntarily, but the appellant himself, who is a natural person. In *Barco v Yealink*, the Court held that difficulties experienced by employees, in-house counsel or company directors in following the hearing do not generally make it appropriate for the Court to order simultaneous interpretation, since the attendance of such persons is voluntary (see *Barco v Yealink*, para. 15).
13. The fact that the appellant is a natural person and wishes to attend the hearing personally is relevant to the assessment under Art. 51(2) UPCA. It does not, however, in itself render interpretation facilities arranged by the Court appropriate.
14. The appellant is duly represented in these proceedings by a professional representative. The request does not allege that the appellant's representative is unable to conduct the hearing, present the appellant's case or answer the Court's questions in the language of the proceedings.
15. The appellant relies on his limited command of English, which, according to him, may prevent him from following the oral submissions and the Court's questions and from conveying all the information that he wishes to provide.
16. Those circumstances show that interpretation would assist the appellant in following the hearing and communicating with his representative. However, the appellant has not put forward any further circumstances indicating that his personal attendance at the hearing renders it appropriate for interpretation facilities to be arranged by the Court. Nor has he indicated that he is to be heard as a witness or that the Court has consented to hear him personally in a language other than the language of the proceedings.
17. In the absence of any further circumstances, the appellant's legitimate interest in understanding the hearing and communicating readily with his representative is not sufficient to render interpretation facilities arranged by the Court appropriate within the meaning of Art. 51(2) UPCA

and R. 109.2 RoP. The Court has previously held that considerations relating to improved communication and fairer and more efficient proceedings do not, as such, make simultaneous interpretation appropriate (see *Barco v Yealink*, para. 17).

18. In those circumstances, the Court finds that the conditions for ordering interpretation facilities pursuant to Art. 51(2) UPCA and R. 109.2, first sentence, RoP are not met.

Alternative request.

19. In the alternative, the appellant requests permission to engage an external interpreter and asks the Registry to provide information concerning the practical arrangements necessary for the interpreter's participation in the hearing.

20. R. 109 RoP distinguishes between arrangements for simultaneous interpretation made by the Court under R. 109.2 RoP and the engagement of an interpreter by a party at its own expense under R. 109.4 RoP. If the judge-rapporteur grants a request under R. 109.1 RoP, the Registry makes the necessary arrangements pursuant to R. 109.2, first sentence, RoP. If that request is refused, a party may request that arrangements be made, so far as practically possible, for simultaneous interpretation at its cost pursuant to R. 109.2, second sentence, RoP. Under R. 109.4 RoP, by contrast, the party itself engages an interpreter at its own expense (see Court of Appeal, order of 11 December 2024, UPC_CoA_520/2024, *Scandit v Hand Held Products*, paras. 5, 6 and 10).

21. The appellant's alternative request concerns an external interpreter to be engaged by him, rather than interpretation arrangements to be made by the Court. It therefore falls under R. 109.4 RoP and does not require authorisation by the Court (see *Scandit v Hand Held Products*, paras. 6 and 12).

22. Should the appellant wish to avail himself of that possibility, he shall inform the Registry no later than 9 September 2026, in order to allow the necessary practical arrangements to be made.

ORDER

- i) The request for interpretation facilities pursuant to Art. 51(2) UPCA and R. 109.2 RoP is dismissed.
- ii) Should the appellant wish to engage an interpreter at his own expense pursuant to R. 109.4 RoP, he shall inform the Registry no later than 9 September 2026.

Issued on 3 September 2026.

Paolo Catallozzi

Firmato digitalmente da Paolo
Catallozzi
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Paolo Catallozzi, legally qualified judge and judge-rapporteur