



Brussels Local Division

UPC_CFI_871/2026

Order

Pursuant to Rule 296.3 of the Rules of Procedure
Of the Court of First Instance of the Unified Patent Court (UPC)
Brussels Local Division
Issued on 3 September 2026

HEADNOTES

Rule 296.3 of the Rules of Procedure (RoP) must be interpreted as meaning that, following the resumption of suspended proceedings, the running of the procedural time limits is resumed from the date of the order for resumption, taking into account the time limits that had already elapsed prior to the suspension of the proceedings.

KEYWORDS

- Rule 296.3 of the Rules of Procedure
- Order to resume suspended proceedings
- Procedural time limits

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Hereinafter referred to as:
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DEFENDANT(S):

1. Esko-Graphics BV
2. Esko Software BV

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Hereinafter referred to collectively
as Hereinafter referred to
individually as:

Defendants or ESKO Defendant 1 or
ESKO-GRAPHICS Defendant 2 or
ESKO-SOFTWARE

PATENT(S) AT ISSUE

<i>Patent No.</i>	<i>Patent holder(s)</i>
EP 3 841 735	IN(K)CONTROL BV



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PANEL/DIVISION:

Chair and Judge rapporteur
Legally Qualified Judge
Legally Qualified Judge

Samuel Granata
Marije Knijff
Daniel Voß

PRESIDING JUDGE:

This *order* is issued by the Judge rapporteur.

I. COURSE OF PROCEEDINGS AND SUBMISSIONS OF THE PARTIES

1. On 29 May 2026, the Claimant and the Defendants jointly filed a Rule 295(d) of the Rules of Procedure (RoP) application seeking a stay of proceedings. The parties sought a stay for an indefinite period in light of settlement negotiations that were to be conducted.
2. The application related both to the infringement proceedings and to the ancillary proceedings concerning the application for security (and specifically *“time limits for submissions on the application for security, as imposed by the (Reporting Judge) on 20 May 2026”*).
3. By Order of 1 June 2026 pursuant to Rule 295(d) of the Rules of Procedure, both the infringement proceedings and the proceedings concerning the application for security were suspended with effect from 29 May 2026 until 1 September 2026. The parties were requested to inform the Court of the outcome and/or progress of the negotiations by 1 September 2026 at the latest.
4. On 31 August 2026, the parties informed the Court that no amicable settlement could be reached and requested the resumption of the proceedings.
5. Whilst the Claimant indicated that it would abide by the Tribunal’s ruling regarding the consequences of the resumption for the suspended procedural time limits, the Defendants requested that *“the deadline for submitting the Statement of Defence be set at 30 November 2026”*. The Defendants argued *“that once the suspension ends, the procedural time limits shall recommence in full (‘time shall begin to run afresh/von neuem zu laufen/‘les délais recommencent’)”*.
6. Before issuing an order under Rule 296.3 of the Rules of Procedure, the Court, on 1 September 2026, requested the Claimant to state its position by 3 September 2026 at the latest regarding the interpretation of Rule 296.3 of the Rules of Procedure, and more specifically the consequences for the procedural time limits following the resumption of the proceedings.
7. The Claimant had already communicated its position on 1 September 2026, stating that Rule 296.3 of the Rules of Procedure refers to a “suspension” and not to an “interruption” of procedural time limits. In this regard, she refers, amongst other things, to (i) the structure of Rule 296.3 of the Rules of Procedure taken as a whole, (ii) the translations of the English-language Rules of Procedure into French and German, (iii) the



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general principles of proportionality and fairness (Article 42 of the UPCA) and the adverse time implications for proceedings before the UPC should the Defendants' interpretation be followed, and (iv) the circumstances of the case (i.e. the reason why the suspension was requested).

II. REASONS

II.A. INTERPRETATION OF Rule 296.3 of the Rules of Procedure

8. Rule 296.3 of the Rules of Procedure provides as follows in its English, French and German versions (followed by a translation into the language of the proceedings (Dutch) using DeepL):

English

While proceedings are stayed, time shall cease to run for the purposes of procedural periods. Time shall begin to run afresh for the purposes of procedural periods from the date on which the stay of proceedings comes to an end.

Zolang de procedure is opgeschort, wordt de loop van de proceduretermijnen gestaakt. De proceduretermijnen beginnen opnieuw te lopen vanaf de datum waarop de opschorting van de procedure eindigt.

French

Pendant la période de sursis, les délais de procédure cessent de courir. Les délais recommencent à courir à compter de la date à laquelle le sursis cesse.

Tijdens de opschortingsperiode worden de proceduretermijnen opgeschort. De termijnen beginnen opnieuw te lopen vanaf de datum waarop de opschorting eindigt.

German

Solange das Verfahren ausgesetzt ist, laufen die prozessualen Fristen nicht. An dem Tag, an dem die Aussetzung des Verfahrens endet, beginnen die prozessualen Fristen erneut zu laufen.

Zolang de procedure is opgeschort, lopen de procestermijnen niet door. Op de dag waarop de opschorting van de procedure afloopt, beginnen de procestermijnen opnieuw te lopen.

It should be noted in passing that the Rules of Procedure do not contain a provision specifying which language version is 'official' or 'authentic'. On the other hand, it appears that the English version was approved by the Administrative Committee on 8 July 2022 and the amended version on 4 November 2025. The French version was approved by the Administrative Committee on 31 August 2022, though apparently not its amended version. Neither the original nor the amended version of the German version appears to have been approved by the Administrative Committee.

9. Different divisions of the UPC have interpreted the aforementioned rule in various ways. It can be inferred from some decisions that the resumption of proceedings, once



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the suspension has been lifted, means that the initial procedural time limit starts running afresh in full (see Decision LD Munich 26 August 2025, UPC CFI 559/2025 (Shangrao v LONGi) and Decision of the Munich Local Division of 16 January 2025, UPC CFI 169/2024 (Daedalus v Xiaomi)). From another decision, however, a more nuanced interpretation can be derived (Decision of the Nord-Baltic Regional Division of 16 August 2024, UPC_CFI_8/2023 (Edwards v Merill)), which is based on a deliberately vague provision that would allow the Court to interpret it taking into account the circumstances of the case, procedural economy and flexibility.

10. The Court rules that Rule 296.3 of the Rules of Procedure (RoP) must be understood to mean that, following the resumption of suspended proceedings, the running of procedural time limits resumes from the date of the order to resume proceedings, taking into account the time limits that had already elapsed prior to the suspension. The Court gives the following reasoning:

- Rule 293.3 (first sentence) of the Rules of Procedure refers to a suspension of proceedings, expressly stating that *'time shall cease to run for the purpose of procedural periods'*. According to the Court, this does not refer to an 'interruption' but to a 'suspension'. That a 'suspension' is intended is evident from the Court of Appeal's decision of 1 July 2025 (UPC_CoA_542/2025 (Easee v. Visibility)), which states that *"during a stay of proceedings all time limits are automatically suspended (...)"*.
- 'Suspension' refers to the temporary interruption of an event or (as applied to Rule 293.3 (first sentence) of the Rules of Procedure) of a procedural time limit.
- Rule 293.3 (second sentence) of the Rules of Procedure must be read in conjunction with the first sentence. The interpretation of the terms *'begin to run afresh'* must therefore be determined with due regard to the first sentence. This first sentence states that the time limits are *suspended* (temporarily interrupted). The terms *'begin to run afresh'* therefore refer to the consequences for the time limits following the resumption of the proceedings, whereby the temporary interruption is lifted and the time limit begins to run 'again' (i.e. resumes). If the terms *'begin to run afresh'* were to refer to the restarting of a new time limit, the first sentence would be meaningless.
- Such an interpretation is not contradicted by the translations of the terms *'(...) to run afresh for the purposes of procedural periods'*. After all, the term 'afresh' can have a dual meaning in English as 'anew' or 'again' ([AFRESH | English meaning - Cambridge Dictionary](#)). The interpretation adopted by the Defendants follows the 'anew' interpretation; however, this does not appear to be consistent with the first sentence of Rule 293.3 of the Rules of Procedure, which refers to a 'suspension'. Only if the first sentence of Rule 293.3 of the Rules of Procedure were to refer to an 'interruption' could 'afresh' be understood as 'anew'. However, this first sentence of Rule 296.3 of the Rules of Procedure indicates that 'afresh' should be interpreted as 'again'.
- Now that it is clear how *"time shall cease to run for the purpose of procedural periods"* is to be interpreted in the sense of the suspension (temporary interruption) of a procedural time limit, and how *"begin to run afresh"* is to be interpreted as *"begins to run again"*, the consequences for the time limits following the resumption of the proceedings can be specified in accordance with Rule 293.3 (second sentence) of the Rules of Procedure. The lifting of a temporary interruption of proceedings (in an order directing the resumption of the proceedings) means that the proceedings must be resumed, taking into account the procedural time limits that had elapsed prior to their suspension.



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- This interpretation is further supported by the French and German translations of the Rules of Procedure, which can be found on the UPC's website. The French text states that "*Les délais recommencent à courir*", which means that the time limits resume. If the intention were to refer to a time limit that would once again have its original duration without taking into account the period that had already elapsed prior to the suspension, either "*à courir*" would have been omitted or the term "*de nouveau*" would have been added. The German text states that "*beginnen die prozessualen Fristen erneut zu laufen*", which also refers to the resumption of the time limits. Whilst the Defendants interpret the German text as "*von neuem zu laufen*", this translation cannot be found as such in the translation available on the UPC's website.

II.B. APPLICATION OF TIME LIMITS TO THE INFRINGEMENT PROCEEDINGS

11. Given that (i) the Statement of Claim was served on 26 March 2026, (ii) the Defendants were required to file their Statement of Defence within three months at the latest (i.e. 26 June 2026 pursuant to Rule 300 (c) of the Rules of Procedure), (iii) the proceedings were stayed with effect from 29 May 2026 by Order of 1 June 2026, and (iv) Rule 300(a) of the Rules of Procedure regarding the calculation of relevant days, the Defendants must file their Statement of Defence and any Counterclaim for Revocation by 2 October 2026 at the latest.

The suspension commenced on 29 May 2026, as set out in the Order of 1 June 2026. On 29 May 2026, the Defendants had 29 days remaining (including 29 May 2026 in the calculation) to file their Statement of Defence and any Counterclaim for Revocation, taking into account that May has 31 days. This order is made on 3 September 2026 (with the calculation of the 29 days commencing on the following day), which means that the deadline for filing the Statement of Defence and any Counterclaim for Revocation must be set at 2 October 2026.

12. The Court identifies no special circumstances – or at least none have been put forward by the Defendants – which would require the Court to deviate from the above revised procedural timetable on grounds of proportionality or equity (pursuant to Preamble No. 2 of the Rules of Procedure), whilst the Court notes that the Rules of Procedure still allow the Defendant to request an amended time limit (pursuant to Rule 9.3 of the Rules of Procedure). Such a request will follow the normal procedural course, whereby the Claimant will be given the opportunity to respond.

II.C. APPLICATION FOR SECURITY

13. The application for security was made by the Defendants on 12 May 2026. In a communication from the Court, the following time limits were imposed:
 - For the Claimant (in response to the Defendants' application for security): 27 May 2026



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- For the Defendants (in response to the Claimant’s application for security): 1 June 2026
 - For the Claimant (defendant in the application for security): 4 June 2026
14. Following the submission of the Claimant’s first statement of case on 27 May 2026, by order of 1 June 2026, both the ancillary proceedings (application for interim relief) and the infringement proceedings were stayed, with effect from 29 May 2026.
15. In their respective applications for the resumption of proceedings, neither party specified or proposed any specific dates regarding the procedural timetable for the ancillary proceedings (application for security).
16. Given that the stay was ordered with effect from 29 May 2026, the Defendants must, pursuant to Rule 296.3 of the Rules of Procedure, submit their submissions by 7 September 2026. The Claimant is subsequently requested to submit her submissions by 10 September 2026 (6.00 pm).

The stay took effect on 29 May 2026, as set out in the Order of 1 June 2026. On 29 May 2026, the Defendants had four days remaining (including 29 May 2026 in the calculation) to submit their submissions by the deadline of 1 June 2026. This order is made on 3 September 2026 (with the calculation of the remaining four days commencing on the following day), which means that the deadline for the Defendants must be set at 7 September 2026.

III. ORDER

1. The Court orders the resumption of the infringement proceedings, setting the deadline for the filing of the Statement of Defence at 2 October 2026 (6.00 pm).
2. The Court orders the resumption of the ancillary proceedings relating to the application for security and imposes the following schedule on the parties:
- For the Defendants: no later than 7 September 2026 (6.00 pm)
 - For the Claimant, by 10 September 2026 (6.00 pm) at the latest

Order issued on 3 September 2026 by:

Samuel GRANATA President and Reporting Judge	Samuel Rocco M Granata 07:25:59	Digitally signed by Samuel Rocco M Granata Date: 3 September 2026 +02'00'
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