

Decision
of the Court of Appeal of the Unified Patent Court
issued on 9 October 2026
Withdrawals pursuant to R. 265 RoP

APPELLANTS (DEFENDANTS IN THE INFRINGEMENT ACTION AND CLAIMANTS IN THE COUNTERCLAIM FOR REVOCATION BEFORE THE COURT OF FIRST INSTANCE)

1. **Beko Germany GmbH.**, Eschborn, Germany
2. **Arçelik A.Ş, Elektronik Plant**, Istanbul, Turkey

(hereinafter jointly referred to as “Beko”)

represented by attorney at law Tilman Pfrang, Meissner Bolte, Munich, Germany

RESPONDENT (CLAIMANT IN THE INFRINGEMENT ACTION AND DEFENDANT IN THE COUNTERCLAIM FOR REVOCATION BEFORE THE COURT OF FIRST INSTANCE)

Dolby International AB, Dublin, Ireland

(hereinafter referred to as “Dolby”)

represented by attorney at law Dr. Volkmar Henke, Bardehle Pagenberg, Hamburg, Germany

PATENT AT ISSUE

EP 3 605 534

DECIDING JUDGES

Panel 2

Rian Kalden, presiding judge and legally qualified judge

Ingeborg Simonsson, legally qualified judge and judge-rapporteur

Patricia Rombach, legally qualified judge

Torsten Duhme, technically qualified judge

Andrea Perronace, technically qualified judge

IMPUGNED DECISION OF THE COURT OF FIRST INSTANCE

Date: 18 March 2026, Local Division Düsseldorf

Action numbers attributed by the Court of First Instance:

- UPC_CFI_135/2024 (Infringement action) and
- UPC_CFI_477/2024 (Counterclaim for revocation action)

LANGUAGE OF THE APPEAL PROCEEDINGS

English

SUMMARY OF FACTS AND PARTIES' REQUESTS

1. By the impugned decision the Local Division Düsseldorf upheld the infringement action brought by Dolby, dismissed the counterclaim for revocation and ordered Beko to bear the costs of the proceedings.
2. Beko appealed and essentially requested that the decision be set aside, that the infringement action be dismissed in its entirety, that the patent at issue be revoked insofar as claims 1 and 6 are concerned, that the application to amend the patent be dismissed, that the cost decision be reversed and that the Court order that Beko be compensated for costs on appeal. In addition Beko made requests in relation to the value of the dispute and the ceiling for recoverable representation costs.
3. On 20 July 2026, Beko lodged the Statement of grounds of appeal and, on the same date, the parties were summoned to an oral hearing to be held on 13 April 2027.
4. On 23 July 2026, Dolby informed the Court that the parties have reached a settlement agreement and that the parties will withdraw their respective claims and/or applications as soon as all corresponding obligations under the settlement have been met. Accordingly, Dolby requested that the appeal proceedings be stayed.
5. After having heard Beko, the Court ordered on 28 July 2026 the stay of the proceedings and requested the parties to inform once the respective obligations arising under the settlement agreement have been fulfilled.
6. With reference to the out-of-court settlement, Dolby applied on 23 September 2026 for leave to withdraw the infringement action against Beko, stating that neither party will file any request for the reimbursement of costs, except for court fees.
7. On 30 September 2026, Beko consented to the withdrawal of the infringement action pursuant to R. 265 RoP and requested the withdrawal of its appeal in its entirety, closure of the appeal proceedings, permission to withdraw its counterclaim for revocation in its entirety and the closure of the proceedings relating to that counterclaim. Beko confirmed that there will be no request for costs reimbursement, and requested reimbursement of 50% of the court fee paid for the appeal, pursuant to R. 370.9(b) RoP in conjunction with R. 370.11 RoP.
8. On 7 October 2026, Dolby agreed to the withdrawal of the counterclaim for revocation.

GROUNDS

Conditions for permitting withdrawal

9. As long as there is no final decision in an action, a claimant may, pursuant to R. 265.1 RoP, apply to withdraw his action. The application to withdraw shall not be permitted if the other party has a legitimate interest in the action being decided by the Court. An application to withdraw an action pursuant to R. 265 RoP can also be filed in appeal proceedings. It is only after the final decision has become legally binding that a withdrawal application is inadmissible. A withdrawal of a counterclaim for revocation has the effect that requests for amendment of the patent become ineffective. With the closure of the proceedings, the impugned decision will become ineffective (UPC CoA Order of 24 January 2025, UPC_CoA_569/2024, *Dexcom vs Abbott*).
10. In view of the parties' consents, they cannot be considered to have a legitimate interest in the actions being decided by the Court, and the applications to withdraw the actions can thus be permitted.

Costs

11. No decision on costs is required here, since both parties have declared that a cost decision is not requested.

Reimbursement of Court fees

12. The party seeking reimbursement under R. 370.9 RoP and R. 370.10 RoP shall, pursuant to R. 370.11 RoP, lodge a reasoned Application for reimbursement to the Court. It follows that a request for reimbursement of court fees is provided for only in the situations listed in R. 370.9 RoP and R. 370.10 RoP.
13. Amendments to R. 370.9 RoP entered into force on 1 January 2026. They apply only to those actions and applications filed after 31 December 2025 (see page 4 of the AdminComm Amendment of the table of court fees and other related changes to the Rules of Procedure and Guidelines, D-AC/08/02072025 _rev. I_E). In this case, the application to withdraw was filed after this date, which makes the new rule applicable.
14. In the event of withdrawal of the action (R. 265 RoP), pursuant to R. 370.9(b) RoP, the party liable for the Court fees will be reimbursed by 50% if the action is withdrawn before the closure of the written procedure. Just as R. 265 RoP applies by analogy in the event of withdrawal of an appeal (see CoA, 5 July 2024, CoA_234/2024, para 9), R. 370.9(b)(i) RoP likewise applies correspondingly in the event of withdrawal of an appeal.
15. In the present case, the withdrawal in the appeal proceedings was requested during the written phase and, thus, before the closure of the written procedure.
16. The request for reimbursement of Court fees shall therefore be granted.

DECISION

The Court of Appeal:

- permits the withdrawal of the infringement action UPC_CFI_135/2024 and the counterclaim for revocation UPC_CFI_477/2024;
- declares the proceedings closed;
- declares that there is no need for a cost decision;
- orders the reimbursement of 50% of the court fees paid by Beko for appeal UPC-CoA-77/2026;
- orders the reimbursement of 50% of the court fees paid by Beko for appeal UPC-CoA-78/2026;
- orders that this decision shall be entered on the Register; and
- instructs the Registrar to make the reimbursements as soon as possible.

Issued on 9 October 2026

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Rian Kalden

Rian Kalden, presiding judge and legally qualified judge



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Unified Patent Court
Einheitliches Patentgericht
Jurisdiction unifiée du brevet

Torsten Duhme, technically qualified judge

Andrea
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