Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Hamburg - Local Division

UPC_CFI_1646/2025
Procedural order
of the Court of First Instance of the Unified Patent Court, delivered on: 30/10/2026

CLAIMANT

Helios Streaming, LLC, (Claimant) - 2601 Main St., Suite 960, Irvine, CA 92614, USA — Represented by: Dr. Tilman Müller

DEFENDANT

1. **Rakuten TV Europe, S.L.U.** (Defendant) - CL Badajoz,num. 58-64, 08005, Barcelona, Spain — Represented by: Dr. Clemens Tobias Steins
2. **Viki, Inc.** (Defendant) - 800 Concar Drive, Suite 175, San Mateo, California 94402, USA — Represented by: Dr. Clemens Tobias Steins
3. **Rakuten Group, Inc.** (Defendant) - Rakuten Crimson House, 1-14-1 Tamagawa, Setagaya-ku, Tokyo 158-0094, Japan — Represented by: Dr. Clemens Tobias Steins

PATENT IN SUIT

Patent-No.	*Proprietor*
EP2613543	**Electronics And Telecommunications Research Institute**

DECIDING JUDGE

Judge-rapporteur

LANGUAGE:

English

PRESENT APPLICATION:

Request for security for costs, R. 158 RoP,

SHORT SUMMARY OF FACTS

1 With submission 21 September 2026 Defendants requested to order Claimant to provide within six weeks security in the amount of EUR 200,000 for Defendants' legal costs and expenses. Defendants referred as reasoning to their submissions provided under item 5.3 of the Statement of Defense. There Defendants argued that Claimant is an IP licensing service based in the United States, with no known fixed establishment in the European Union. Defendants refer to Claimant's homepage, according to which its business model rests on "service providers with portfolio license covering various necessary and needed technologies".

2 Defendants claim that there are severe doubts as to whether Claimant itself as the debtor of claims for cost recovery has sufficient funds for covering defendants' recoverable costs in the current lawsuit up to the applicable ceiling, i.e. EUR 200,000 for the first instance alone. They assert that Claimant was founded in 2018 and has no more than 10 employees, if any. They further assert to have checked the patent registries of the major European jurisdictions and have found few registrations in the name of Claimant but for the patent family it is currently asserting. Defendants argue that it appears Claimant is only tasked with monetizing the patents but is not entrusted by the patent proprietors with the patents themselves. Defendants stated to have no knowledge of any other possible assets of Claimant that could be used as a collateral for satisfying Defendants' claims and given that monetizing the patents (which are not even owned by Claimant) is the only apparent business, it appears unlikely that Claimant owns any significant assets at all.

3 Claimant was invited to comment on the application. It responded that defendants' request must be rejected as their submissions are not sufficient to fulfil the burden of substantiation and proof why an order for security for costs is appropriate in the particular case. The main line of argument is ultimately limited to the fact that Claimant's business model is the monetarization of patent rights, i.e., the fact that Claimant is a so-called non-practicing entity. Claimant is of the opinion that the mere fact that it is a non-practicing entity does, in itself, not justify ordering a security for the costs of the proceedings. It argues that Defendants do not offer any specific evidence regarding the alleged concerns with respect to the Claimant's financial situation.

GROUNDS FOR THE ORDER

4 The application for an order to provide a security is admissible, but not justified on the merits.

1. Principles

5 Article 69(4) UPCA provides that the Court may, upon application by the defendant, order the claimant to provide adequate security for the court costs and other expenses incurred by the defendant and to be borne by the claimant, in particular in the cases referred to in Articles 59 to 62 UPCA. Rule 158.1 RoP incorporates this provision into the Rules of Procedure and provides that, at any stage of the proceedings, the Court may, upon a reasoned application by a party, order the other party to provide, within a specified period, adequate security for the legal costs and other expenses incurred and/or to be incurred by the applicant, which the other party may be required to bear.

6 The purpose of security for costs under Art. 69(4) UPCA is to protect the opposing party from difficulties in enforcing a claim for reimbursement of costs. This justifies to order security for costs if the financial position of the claimant/appellant gives rise to a legitimate and real concern that a possible order for costs may be recoverable and/or the likelihood that a possible order for costs by the UPC may not, or in an unduly burdensome way, be enforceable (CoA, Order of 28 April 2026 – UPC_CoA_21/2026 – Sunnio v Microsoft, mn. 15). The scope of application of Art. 69(4) UPCA and Rule 158.1 RoP is thus not limited to the prevention of enforcement risks, but also covers the risk of insufficient solvency of the opposing party.

7 The granting of an application for security is consistent with European Union law and international treaties, provided that the application of the relevant provisions is not discriminatory and allows the Court to take into account the specific facts of the case (LD Hamburg, Order of 14 May 2024 – UPC_CFI_151/2024 – Ballino v Kinexon).

2. U.S. domicile

8 Defendants rightfully did not rest they application on the fact that Claimant's place of business is in the United States. It is standing practice of the UPC that the fact that a claimant is domiciled in the U.S. does not justify an order under Rule 158 RoP (see LD Hamburg, order of 10 Juni 2026 – UPC_CFI_360/2026, Nixu v Infoblox et al.).

3. Financial situation

9 Defendants' allegations regarding Claimant's financial situation do not justify the ordering of security for costs.

10 The burden of proof as to why an order for security for costs is appropriate in a particular case lies with the defendant making such an application. Once the grounds and facts have been credibly set out in the application, it is for the claimant to challenge those grounds and facts in a reasoned manner, particularly as that party generally has knowledge of and evidence regarding its financial situation (Court of Appeal, 17 September 2024 – UPC_CoA_217/2024_APL_25919/2024).

11 In accordance with these principles, Defendants have failed to set out sufficient facts in their application to show that the Claimant's financial position gives rise to a legitimate and genuine concern that a potential order for costs might not be recoverable.

12 First, the fact that Claimant was incorporated eight years ago (in 2018) is not a basis to substantiate any doubts about its financial situation. The same applies to the allegation that it has no more than 10 employees.

13 Second, the allegation that Defendants have checked the patent registries of the major European jurisdictions and to have found "few registrations in the name of Claimant but for the patent family it is currently asserting" does not substantiate the scope of Claimant's assets, either. Neither are these patents specified in the application nor – even more important – evaluated. As the value of a patent portfolio is often volatile, its evaluation typically hinges on the question whether they are used lucratively or subject to law suits of uncertain outcome (LD Hamburg, order of 10 Juni 2026 – UPC_CFI_360/2026, Nixu v Infoblox et al., mn. 36). Defendants did not provide any facts in that regard, apart from conceding that Claimant is "monetizing the patents".

14 Third, while Defendants stated that they have no knowledge of any other possible assets of Claimant, this does not prove that Claimant is in fact assetless. A lack of publicly available information concerning the claimant's assets and financial position may indicate a risk that a future costs order cannot be satisfied (BeckOK UPC/Härmand/Looft, 4. Ed. 1.10.2026, UPC RoP Rule 158 mn. 12-12.2). However, Defendants have not proven that there is no public data on Claimant available. As a Limited Liability Company based in California, Claimant is very likely subject to the legal obligation to issue annual reports. It is also hard to imagine that an eight year old company has not left any traces in the business domain, generated publicly available data or at least a researchable credit record. This might be the case or not, but for a successful application under R. 158 RoP information of that sort has to be collected, or at least attempted to be collected, to assess Claimant's financial situation. Without that, Claimant is not obliged to disclose detailed information about its financial situation.

ORDER

Defendants' application to order Claimant to provide security for Defendants' legal costs and expenses is dismissed.

INFORMATION ON THE APPEAL

Since an order pursuant to R. 158 RoP is a case management order it is as such subject to panel review, not an appeal (CoA, Order of 14 January 2025 - UPC_CoA_651/2024 – Total Semiconductors v Texas Instruments, mn. 16).

ISSUED IN HAMBURG, 30 OCTOBER 2026

STEFAN SCHILLING

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Judge rapporteur Dr. Stefan Schilling