



Central Division
Paris Seat

ORDER
of the Court of First Instance of the Unified Patent Court
Central division (Paris seat)
issued on 13 March 2025
concerning the generic procedural application No. App_7866/2025
UPC_CFI_164/2024

HEADNOTES: 1. The lack of a valid representation of a party requires the Court to grant that party an opportunity to remedy the deficit and, therefore, does not lead to the declaration of the inadmissibility of the action or the application filed by this party.

KEYWORDS:

Manifest inadmissibility; party's representation.

APPLICANT:

Microsoft Corporation - One Microsoft Way, Redmond Washington 98052-6399, USA
represented by Tilman Müller-Stoy and Nadine Westermeyer, Bardehle Pagenberg

RESPONDENT:

Suinno Mobile & AI Technologies Licensing Oy - Fabianinkatu 21, 00130 Helsinki, Finland.
represented by Mikko Kalervo Väänänen

PATENT AT ISSUE:

European patent n° EP 2 671 173

PANEL:

Panel 2

Paolo Catalozzi	Presiding judge and judge-rapporteur
Tatyana Zhilova	Legally qualified judge
Wiem Samoud	Technically qualified judge

DECIDING JUDGE:

This order has been issued by the panel

SUMMARY OF FACTS AND PARTIES' REQUESTS:

1. On 17 February 2025 the applicant, defendant in the infringement action and counterclaimant for revocation (UPC_CFI_164/2024 and UPC_CFI_433/2024), requested that the claimant's action is rejected as being manifestly inadmissible, that leave to appeal is granted in case the application is rejected and that the claimant bears the costs of the proceedings.
2. The request is based on the ground that the statement of claim, as well as any other written submission in the proceedings, were not duly lodged, because the person acting as claimant's representative may not serve as a representative of that legal person since he has extensive administrative and financial powers within the legal person

GROUND FOR THE ORDER

Lack of valid representation of a party and its consequences.

3. The applicant relies on the order of the Court of Appeal of 11 February 2025 which dismissed the appeal filed by the Suinno Mobile & AI Technologies Licensing Oy against the order of this Court declaring their application for confidentiality protection, stating that "No corporate representative of a legal person or any other natural person who has extensive administrative and financial powers within the legal person, whether as a result of holding a high-level management or administrative position or holding a significant amount of shares in the legal person, may serve as a representative of that legal person, regardless of whether said corporate representative of the legal person or natural person is qualified to act as a UPC representative in accordance with Art. 48(1) or (2) UPCA". Consequently, the Court of Appeal upheld the impugned order, confirming that the claimant's appointed representative held extensive administrative and financial powers within Suinno Mobile & AI Technologies Licensing Oy and, therefore, was ineligible to represent the company in that proceedings.
4. The Court of Appeal's order further specified that it is for the Court of First Instance to decide as to whether the claimant's appointed representative may represent Suinno Mobile & AI Technologies Licensing Oy in the pending infringement proceedings and that in making this determination, the Court of First Instance may consider the interpretation of the rules concerning party representation as set out in the Court of Appeal's order of 8 February 2024, UPC_CoA_404/2023, App_584498/2023, paras. 10 et seq.

5. In this latter order it was held that a member of the public requesting access to the register pursuant to Rule 262 (1) (b) 'RoP' must be represented before the Unified Patent Court. The Court of Appeal added that in a situation where the statement of response was lodged by an unrepresented respondent, this written submission shall be disregarded and the party shall be granted a time period to appoint and instruct a representative and that representative, within the same period, the opportunity to lodge the relevant writ.
6. As stated by order no. ORD_8385/2025 of 3 March 2025, issued by this Court in the current main proceedings, the Court of Appeal's order of 8 February 2024 is to be interpreted as the lack of a valid representation of a party requires the Court to grant that party an opportunity to remedy the deficit and, therefore, must not lead to the declaration of the inadmissibility of the action or the application filed by this party.
7. It follows that the ground of inadmissibility asserted by the applicant does not exist.
8. It may also be noted that according to Rule 361 of the Rules of Procedure, the Court may give a decision by way of order "where it is clear that the Court has no jurisdiction to take cognisance of an action or of certain of the claims therein or where the action or defence is, in whole or in part, manifestly inadmissible or manifestly lacking any foundation in law".
9. With particular regard to the condition of the 'manifest inadmissibility' provided this Rule 'RoP', this panel considers that the word 'manifest' implies that the inadmissibility must be clearly evident from the pleadings without any particular in-depth analysis. In other words, it must be a *prima facie* inadmissibility which follows from simple factual findings (such as verifying that a peremptory deadline has not been met without any justified reason) and which does not require accurate and complex factual findings and/or legal assessments whose outcome is debatable (see CoA, order issued on 15 October 2024, UPC_CoA_570/2024 and Paris CD, order issued on 16 September 2024, UPC_CoA_164/2024, both concerning the same issue).
10. Consequently, even assuming, *arguendo*, that the issue of the consequences of the lack of a valid representation have not been definitively adjudicated, it is clear that this matter necessitates further in-depth analysis.

Request to grant leave to appeal.

11. The panel decides not to grant leave to appeal, as there is no compelling need for a ruling by the Court of Appeal. The Court of Appeal has already adjudicated the facts of the case and has clearly provided its interpretation of the pertinent rules; hence, there is no requirement for further clarification in light of the consistent jurisprudence on these matters.
12. Furthermore, the panel observes that an immediate appeal of this order could result in a decision by the Court of Appeal being rendered after the oral hearing in the current proceedings has been concluded, which would render such a decision of no practical use to the parties.

ORDER

The panel,

rejects the request to declare the infringement action manifestly inadmissible.

Issued on 13 March 2025.

The Presiding judge and judge-rapporteur

Paolo Catalozzi

The legally qualified judge

Tatyana Zhilova

The technically qualified judge

Wiem Samoud

ORDER DETAILS

Order no. ORD_12267/2025 in ACTION NUMBER: ACT_18406/2024

UPC number: UPC_CFI_164/2024

Action type: Infringement Action

Related proceeding no. Application No.: 7866/2025

Application Type: Generic procedural Application