



Order
of the Court of First Instance of the Unified Patent Court
Local Division in Düsseldorf
issued on 10 October 2024
concerning EP 1793917

HEADNOTES:

As an order concerned the security of costs is not mentioned in Art. 74 (3) UPCA, there is no indication that the Court must await a final order of the Court of Appeal before rendering its own decision on the merits.

KEYWORDS:

Security for costs; Order of Court of Appeal; adjournment

CLAIMANT:

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DEFENDANT:

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PATENT AT ISSUE:

European patent n° 1793917

PANEL/DIVISION:

Panel of the Local Division in Düsseldorf

DECIDING JUDGES:

This Order was made by presiding judge Thomas, legally qualified judge Dr Thom and legally qualified judge Kupecz.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT OF THE PROCEEDINGS:

Patent infringement action – R. 336, 334 (b) RoP

GROUNDS OF THE ORDER:

The Court may adjourn the oral hearing upon request of a party.

The Defendant requests an adjournment of the oral hearing with regard to the outstanding order of the Court of Appeal concerning their dismissed request for security for costs.

However, the Defendant does not put forward any convincing reasons why an adjournment will be necessary. In particular, there is no indication that it may not be efficient and cost effective to hold the oral hearing at this stage. Contrary to the opinion of Defendant the Court must not await a final order of the Court of Appeal on the security of costs before making its own decision on the merits in this case.

Art. 74 (3) UPCA rules that an appeal against an order referred to in Art. 49 (5), 59 to 62 and 67 UPCA shall not prevent the continuation of the main proceedings, but the Court of First Instance shall not give a decision in the main proceedings before the decision of the Court of Appeal concerning an appealed order has been given. As an order concerned the security of costs is not mentioned here, there is no indication that the Court must await a final order of the Court of Appeal before rendering its own decision on the merits. Therefore there is certainly no reason why it will be inefficient to hold the oral hearing as planned. Even if one would argue otherwise, the Court is not hindered to delay the announcement of its decision on the merits depending on the course of the oral hearing.

ORDER:

The request for adjournment is dismissed.

DETAILS OF THE ORDER:

App_ 55249/2024 related to the main proceedings ACT_580849/2023

UPC-Number: UPC_CFI_373/2023

Subject of the Proceedings: Infringement action

Issued in Düsseldorf on 10 October 2024

Names and Signature

Presiding Judge Thomas	
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Legally Qualified Judge Dr Thom	
Legally Qualified Judge Kupecz	
for the Sub-Registrar Boudra-Seddiki	