



Reference numbers:
App_13099/2025
APL_10300/2025
UPC_CoA_194/2025

Order
of the Court of Appeal of the Unified Patent Court
concerning an application for withdrawal of an application for leave to appeal
issued on 3 April 2025

APPLICANT (APPLICANT IN THE COST PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

EOFLOW CO., LTD.
302Ho, Humax Village, 216 - 13595 - Hwangsaeul-ro, Bundang-gu, Seongnam-si, Gyeonggi-do –
Republic of Korea

hereinafter: EOFlow,
represented by attorney-at-law Dr. Mirko Weinert (Hoyng ROKH Monegier)

RESPONDENT (RESPONDENT IN THE COST PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

INSULET CORPORATION
100 Nagog Park - 01720 Acton MA - USA

hereinafter: Insulet,
represented by attorney-at-law Dr. Marc Grunwald (Peterreins Schley)

PATENT AT ISSUE

EP 4201327

DECIDING JUDGE

Peter Blok, legally qualified judge and standing judge

LANGUAGE OF THE PROCEEDINGS

English

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

- Order of the Central Division, Milan Section, dated 15 February 2025
- Reference numbers attributed by the Court of First Instance:
 - UPC_CFI_380/202
 - App_65673/2024
 - ORD_65815/2

FACTS AND REQUESTS OF THE PARTIES

1. By order of 22 November 2024, the Central Division, Milan Section, of the Court of First Instance rejected Insulet's request for provisional measures against EOFlow and decided that Insulet was to bear the costs of the proceedings (ACT_39640/2024 UPC_CFI_380/2024). EOFlow subsequently filed an application for a cost decision pursuant to R. 151 of the Rules of Procedure of the Unified Patent Court (hereinafter: RoP) (App_65673/2024 UPC_CFI_380/2024).
2. With the impugned order of 15 February 2025, the Central Division, Milan Section, dismissed EOFlow's application for a cost decision without examination of the substance.
3. On 28 February 2025, EOFlow filed an application for leave to appeal against the impugned order pursuant to R. 221 RoP (APL_10300/2025 UPC_CoA_194/2025).
4. EOFlow requests withdrawal of its application for leave to appeal. EOFlow does not request a decision on the costs of the leave to appeal proceedings.
5. Insulet agreed to the withdrawal of the application for leave to appeal. Insulet likewise does not seek a decision on the costs of the leave to appeal proceedings.

GROUNDINGS FOR THE ORDER

6. Pursuant to R.265 RoP, as long as there is no final decision in an action, a claimant may apply to withdraw his action. This provision also applies (mutatis mutandis) to the party seeking leave to appeal against a cost decision (cf. UPC_CoA_234/2024 APL_27805/2024 App_38102/2024, 10x - Curio).
7. On application by EOFlow and with the agreement of Insulet, the Court of Appeal permits the withdrawal of the application for leave to appeal.
8. A decision under R.265.2(c) RoP as to the costs of the leave to appeal proceedings is not required, as neither party has applied for such a decision.

ORDER

The Court of Appeal

- I. permits the withdrawal of EOFlow's application for leave to appeal;
- II. declares the leave to appeal proceedings closed;
- III. orders that this order be entered in the register.

This order was issued on 3 April 2025.

Peter Blok, standing judge