



Action n°:
UPC_CoA_80/2025PR_APL_4
956/2025

DECISION BY DEFAULT

**of the President of the Court of Appeal of the Unified Patent
Court issued on 1 April 2025 pursuant to Rule 229.4 RoP
concerning EP 2 875 740**

APPELLANT AND CLAIMANT :

NJOY Netherlands B.V., Westerdoksdijk 423, 1013BX Amsterdam, Netherlands

Represented by Hon.-Prof. Dr. Henrik Holzapfel, Rechtsanwalt, McDermott Will & Emery, Düsseldorf, Germany

RESPONDENT AND DEFENDANT:

VMR Products LLC, 3050 Biscayne Boulevard, 8th Floor, Florida 33137, Miami, United States of America

Represented by Bernhard Thum, europäischer Patentanwalt, Thum Mötsch Weickert Patentanwälte PartG mbB, Munich, Germany

PATENT AT ISSUE

European Patent n° 2 875 740, hereafter: EP'740

DECIDING JUDGE:

Dr. Klaus Grabinski, President of the Court of Appeal

IMPUGNED DECISION OR ORDER OF THE COURT OF FIRST INSTANCE

Order of the Court of First Instance (Paris Central Division) dated 29 November 2024, Order no. ORD_598496/2023, in the proceedings UPC_CFI_307/2023, ACT_571537/2023

SUMMARY OF FACTS

By decision of 29 November 2024, the Court of First Instance dismissed the Appellant's revocation action against EP'740.

The Appellant filed an appeal against this decision on 29 January 2025 requesting that

- I. The decision of 29 November 2024, Order no. ORD_598496/2023, in the proceedings UPC_CFI_307/2023, ACT_571537/2023 is to be set aside.
- II. European patent n° EP 2 875 740 be revoked with effect for the territories

of France and Germany.

III. The Defendant be ordered to bear the legal costs of the proceedings.

On 25 February 2025 the Appellant was invited by the Court to pay the court fee for the appeal proceedings, in the amount of 20.000 EUR, within 14 days.

By submission of 11 March 2025, the Appellant informed the Court that he “will not pay the court fees” because he “does not wish to pursue the appeal”. Furthermore, the Appellant’s representative stated that he “expects and suggest that the Court will reject the appeal as inadmissible by a decision by default under RoP 229.4.” and that the Appellant “waives its right to be further heard on this point under Rule 229.4”.

GROUNDS FOR THE DECISION

R. 229.4 RoP states that the President of the Court of Appeal shall reject the appeal as inadmissible by a decision by default if the appellant fails to pay the fee. Since the appellant was, in accordance with R. 229.2(b) and .3 RoP and R. 228 RoP, invited by the Court to pay the fee and failed to do so within 14 days, the requirements for a decision by default are met.

Appellant did not need to be heard given the waiver in its submission of 11 March 2025.

As a result, the appeal must be rejected as inadmissible pursuant to R. 229.2(b), .3 and .4, R. 357.1 and .3, and R. 355.1(a) RoP.

DECISION

The appeal is rejected as inadmissible.

Done and delivered on 1 April 2025

President of the Court of Appeal of the Unified Patent Court