



Düsseldorf Local Division
UPC_CFI_99/2024
UPC_CFI_392/2024

Procedural Order
of the Court of First Instance of the Unified Patent Court
issued on 14 April 2025
concerning EP 2 263 098 B1

CLAIMANT:

Ona Patents SL, represented by its CEO Raúl Diaz Morales, Carrer de Calàbria 149 En. 1, 08015 Barcelona, Spain,

represented by:

Attorney-at-law Dr Christof Augenstein, Attorney-at-law Dr Benedikt Walesch, Attorney-at-law Dr Melissa Lutz, Kather Augenstein Rechtsanwälte PartGmbH, Bahnstraße 16, 40212 Düsseldorf, Germany,

Electronic address for service:

augenstein@katheraugenstein.com

DEFENDANTS:

1. **Apple Inc.**, represented by its CEO Tim Cook, One Apple Park Way, Cupertino, CA 95014, USA,
2. **Apple Distribution International Ltd.**, represented by its Directors Cathy Kearny, Michael O'Sullivan and Peter Denwood, Hollyhill Industrial Estate, Hollyhill, Cork, T23 YK84, Republic of Ireland,
3. **Apple Retail Germany B.V. & Co. KG**, represented by its personally liable partner Apple Holding B.V., represented by its CEO Alexander Niemczyk, Michael Joseph Boyd und Peter Ronald Denwood, Maximilianstraße 54, 80538 Munich, Germany,
4. **Apple GmbH**, represented by its CEOs Michael Joseph Boyd und Peter Ronald Denwood, Katharina-von-Bora-Str. 3, 80333 Munich, Germany,
5. **Apple Retail France EURL**, represented by its CEOs Peter Ronald Denwood und Éamonn Clancy, 3-5 rue Saint Georges, 75009 Paris, France,

All Defendants represented by:

Attorney-at-law Prof Dr Tilman Müller-Stoy, Attorney-at-law Dr Tobias Wuttke, Bardehle Pagenberg Partnerschaft mbB, Prinzregentenplatz 7, 81675 Munich, Germany,

Electronic address for service: mueller-stoy@bardehle.com

PATENT IN SUIT: European Patent No. EP 2 263 098 B1

PANEL/DIVISION: Panel of the Local Division in Düsseldorf

DECIDING JUDGES:

This order was issued by Presiding Judge Thomas acting as judge-rapporteur, the legally qualified judge Dr Thom and the legally qualified judge Kokke.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT OF THE PROCEEDINGS: Rule 37.1 RoP, Article 33 (3) UPCA

FOUNDATIONS FOR THE ORDER:

Pursuant to Rule 37.2 RoP, the local division takes an earlier decision on the question of how to proceed with regard to Art. 33(3) UPCA within the meaning of Art. 33(3)(a) UPCA before the end of the written procedure.

According to Rule 37.2 RoP, the panel may take an earlier decision by order, provided that it takes into account the party's submissions and gives them the opportunity to be heard.

In the present case, the local division exercises its discretion to hear both the infringement action and the counterclaim for revocation (Art. 33(3)(a) UPCA). Such a joint hearing of the infringement action and the counterclaim seems to be appropriate in particular for reasons of efficiency. It is also preferable because it allows both issues – validity and infringement – to be decided on the basis of a uniform interpretation of the patent by the same panel composed of the same judges.

An early decision on the bifurcation issue will set the framework for possible issues. This will enable the parties and the Court to manage the case accordingly.

ORDER:

With the consent of the parties, the Düsseldorf Local Division will hear both the infringement action and the counterclaim for revocation.

Instructions to the Judge-Rapporteur:

The Judge-Rapporteur shall request the President of the Court of First Instance to allocate to the panel a technically qualified judge with appropriate qualifications and experience in the field of technology related to the patent in suit.

DETAILS OF THE ORDER:

ORD_9091/2025 referring to the main proceedings ACT_11910/2024, CC_40010/2024 and App_59586/2024

UPC-Number: UPC_CFI_99/2024 and UPC_CFI_392/2024

Subject of the Proceedings: Infringement action and counterclaim for revocation

Issued in Düsseldorf on 14 April 2025
NAMES UND SIGNATURES

Presiding Judge Thomas	
Legally Qualified Judge Dr Thom	
Legally Qualified Judge Kokke	