



Procedural Order

of the Court of First Instance of the Unified Patent Court

Local Division Mannheim

issued on 2 April 2025

concerning EP 3 511 174

CLAIMANT:

FUJIFILM Corporation, 26-30, Nishiazabu 2-chome, Minato-ku, Tokyo 106-8620, Japan,

represented by: Tobias Hahn, HOYNG ROKH MONEGIER, Steinstraße 20,
40212 Düsseldorf, Germany

electronic address for service: tobias.hahn@hoyngrokh.com

DEFENDANTS:

1. Kodak GmbH, Kesselstraße 19, 70327 Stuttgart, represented by its CEOs, at the same place,

represented by: Elena Hennecke, Freshfields Bruckhaus Deringer
Rechtsanwälte Steuerberater PartG mbB, Feldmühleplatz 1,
40545 Düsseldorf, Germany

electronic address for service: elena.hennecke@freshfields.com

2. Kodak Graphic Communications GmbH, Kesselstraße 19, 70327 Stuttgart, represented by
its CEOs, at the same place,

represented by: Elena Hennecke, Freshfields Bruckhaus Deringer
Rechtsanwälte Steuerberater PartG mbB, Maximiliansplatz
13, 80333 Munich, Germany

electronic address for service: elena.hennecke@freshfields.com

3. Kodak Holding GmbH, Kesselstraße 19, 70327 Stuttgart, represented by its CEOs, at the
same place,

represented by: Elena Hennecke, Freshfields Bruckhaus Deringer
Rechtsanwälte Steuerberater PartG mbB, Maximiliansplatz
13, 80333 Munich, Germany

electronic address for service: elena.hennecke@freshfields.com

PATENT AT ISSUE:

European patent EP 3 511 174

PANEL/DIVISION:

Panel of the Local Division in Mannheim

DECIDING JUDGES:

This order is issued by the presiding judge Tochtermann, the legally qualified judge Böttcher as judge-rapporteur, the legally qualified judge Agergaard and the technically qualified judge Wismeth.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT OF THE PROCEEDINGS: Patent infringement – separation of proceedings

REASONS FOR THE ORDER:

The order is based on R. 302.1, R. 303.2, R. 340.2 RoP applied accordingly.

The decision of the European Court of Justice in re C-339/22 (BSH Hausgeräte) had not been delivered until the end of the oral hearing but only thereafter on 25 February 2025. With the decision pending, no guidance was available concerning a fundamental question of European Law concerning the international jurisdiction under the Brussels Ia Regulation to be applied by the UPC pursuant Art. 71a, Art. 71b (1) Brussels Ia Reg. Although the ECJ delivered its decision before the date foreseen for the delivery of the decision in the proceedings at hand, it would be inadmissible, at least questionable in the light of parties' right to be heard if the panel would now base its decision on the ECJ's decision without the parties having had the opportunity to comment on this decision and its implications. However, it seems to be likewise inappropriate to hold a second oral hearing for the whole case although the panel could deliver a decision regardless of the outcome of said ECJ decision. The panel believes that, in any situation where the infringement proceedings is ready for decision with regard to single national parts only, such decision should not be withheld on a regular basis, if this would result in delaying in part the enforcement of claimant's potential patent rights – as the case may be, after being successful before the Court of Appeal. In addition, a defendant has also an interest worthy of protection in the non-delay of the proceedings in particular with regard to its counterclaim for revocation, especially if it is successful at the first instance. Therefore, in the panel's opinion, such situation calls for R. 302.1, R. 303.2, R. 340.2 RoP to be applied accordingly in order to separate the proceedings with regard to national parts of traditional European bundle patents which are not ready for decision yet.

The parties were informed by order of 22 January 2025 that, with regard to UK, the panel may deal with the questions concerned by the pending ECJ decision in re C-339/22 (BSH Hausgeräte) in separate proceedings after the separation of cases in the event that no decision of the ECJ should be delivered until the oral hearing has taken place. The parties did not oppose.

ORDER:

Claimant's requests based on the national part of the patent-in-suit in relation to the United Kingdom and Defendants' requests relating to said national part are separated and will be dealt with in separate proceedings.

Issued in Mannheim on 2 April 2025

NAMES AND SIGNATURES

Presiding judge Tochtermann	
Legally qualified judge Böttcher	
Legally qualified judge Agergaard	
Technically qualified judge Wismeth	