

EIP

Interpretation allowed only at party's own cost

CEAD B.V. & CEAD USA B.V. v BEGO Medical GmbH (UPC_CFI_367/2023)

Order of 10 May 2024 (ORD_24708/2024)[1]

The UPC is an international system in which a large number of languages may be employed, and so the issue may frequently arise in which the parties' representatives, and perhaps even sometimes the judges, may not be proficient in the language of the proceedings. Article 51(2) UPCA (together with Rule 109.1 RoP) provides that the Court may, at the request of a party, provide simultaneous interpretation at oral hearings "to the extent deemed appropriate". The cost of such interpretation becomes a cost of the proceedings and is eventually paid for by the party that loses the case. If the Court does not consider such interpretation "appropriate", then Rule 109.2 RoP allows that the party may arrange for simultaneous interpretation at their own cost.

In this case, a Dutch claimant (together with its subsidiary in the USA) brought an action for revocation of EP 2681034 at the Paris Central Division. The language of proceedings was German, since the patent was granted in German. The patentee was also based in Germany. The claimant was represented in the proceedings by a German firm of litigators. However, the relevant employees of the claimant did not speak German, and neither did their Dutch patent attorney. They therefore requested simultaneous interpretation into Dutch, or English, pursuant to Article 51(2) UPCA.

The Court noted that the claimant was represented by three German-speaking legal representatives. This was seen as sufficient to guarantee an orderly and efficient course of proceedings. The fact that the claimant had a fourth legal representative (the Dutch patent attorney) who did not speak German was not enough to make it "appropriate" for the Court to provide simultaneous interpretation. Neither was such interpretation

justified by the interest in the relevant employees of the claimant to follow the proceedings. It would be disproportionate for the Court to provide simultaneous interpretation under these circumstances.

The Court on the other hand allowed the claimant to provide simultaneous interpretation at their own expense pursuant to Rule 109.2 RoP, into either Dutch or English.

The judgment notes that its analysis is consistent with an earlier decision from the Düsseldorf Local Division.[2]

The UPC regime in this respect is significantly stricter than that of the European Patent Office, which must provide simultaneous interpretation at its own cost between any of the official languages of English, French and German upon timely request by a party. Translation involving any other language (which must be an official language of a Contracting State of the European Patent Convention) must be paid for by the party requesting it.

[1] <https://www.unified-patent-court.org/en/node/718>

[2] <https://www.unified-patent-court.org/en/node/622>