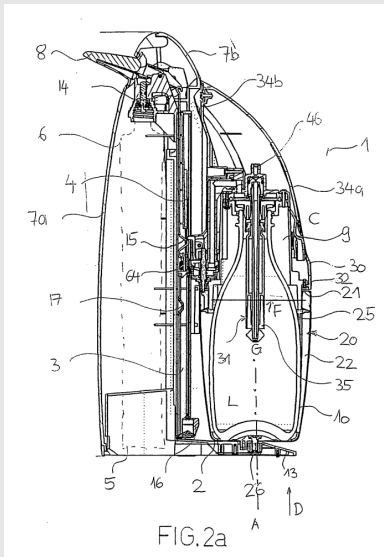


UPC CFI, Local Division Düsseldorf, 10 October 2024, Sodastream v Aarke



## PATENT LAW – PROCEDURAL LAW

**Request for adjournment of oral hearing because of outstanding order of the Court of Appeal concerning request for security for costs dismissed ([Article 74\(3\) UPCA](#), [R. 334 RoP](#))**

- **No indication that it may not be efficient and cost effective to hold the oral hearing at this stage. Contrary to the opinion of Defendant the Court must not await a final order of the Court of Appeal on the security of costs before making its own decision on the merits in this case.**

[Art. 74 \(3\) UPCA](#) rules that an appeal against an order referred to in [Art. 49 \(5\)](#), [59](#) to [62](#) and [67 UPCA](#) shall not prevent the continuation of the main proceedings, but the Court of First Instance shall not give a decision in the main proceedings before the decision of the Court of Appeal concerning an appealed order has been given. As an order concerned the security of costs is not mentioned here, there is no indication that the Court must await a final order of the Court of Appeal before rendering its own decision on the merits.

**Therefore there is certainly no reason why it will be inefficient to hold the oral hearing as planned. Even if one would argue otherwise, the Court is not hindered to delay the announcement of its decision on the merits depending on the course of the oral hearing.**

Source: [Unified Patent Court](#)

UPC Court of First Instance,  
Local Division Düsseldorf, 10 October 2024  
(Thomas, Thom, Kupecz )  
UPC\_CFI\_373/2023

### Order

of the Court of First Instance of the Unified Patent Court issued on 10 October 2024 concerning [EP 1793917](#)

### HEADNOTES:

As an order concerned the security of costs is not mentioned in [Art. 74 \(3\) UPCA](#), there is no indication that the Court must await a final order of the Court of Appeal before rendering its own decision on the merits.

### KEYWORDS

Security for costs; Order of Court of Appeal; adjournment

### CLAIMANT:

**SodaStream Industries Ltd.**, 1 Atir Yeda Street, Kfar Saba 4464301, Israel

Represented by: Rechtsanwalt Dr. Andreas von Falck, Dr. Alexander Klicznik, Hogan Lovells International LLP, Kennedydamm 24, 40476 Düsseldorf, Germany  
electronic address for service:  
alexander.klicznik@hoganlovells.com

### DEFENDANT:

**Aarke AB**, Östgötagatan - 100, 11664 Stockholm, Sweden

Represented by: Advokaterna Jens Olsson, Magnus Dahlman and Emelie Rexelius, Advokatbyrå Gulliksson AB, P O Box 4171, SE-203 13 Malmö, Sweden

electronic address for service:  
jens.olsson@gulliksson.se

### PATENT AT ISSUE:

European patent [n° 1793917](#)

### PANEL/DIVISION:

Panel of the Local Division in Düsseldorf

### DECIDING JUDGES:

This Order was made by the Presiding Judge Thomas, the legally qualified judge Dr Thom as judgerapporteur and the legally qualified judge Kupecz.

**LANGUAGE OF THE PROCEEDINGS:** English

### SUBJECT OF THE PROCEEDINGS:

Patent infringement action – [R. 336](#), [334 \(b\) RoP](#)

### CLAIMANT:

**SodaStream Industries Ltd.**, 1 Atir Yeda Street, Kfar Saba 4464301, Israel

Represented by: Rechtsanwalt Dr. Andreas von Falck, Dr. Alexander Klicznik, Hogan Lovells International LLP, Dreischeibenhaus 1, 40211 Düsseldorf, Germany  
electronic address for service:  
alexander.klicznik@hoganlovells.com

### DEFENDANT:

**Aarke AB**, Östgötagatan - 100, 11664 Stockholm, Sweden

Represented by: Advokaterna Jens Olsson, Magnus Dahlman and Emelie Rexelius, Advokatbyrå Gulliksson AB, P O Box 4171, SE-203 13 Malmö, Sweden  
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jens.olsson@gulliksson.se

### PATENT AT ISSUE:

European patent n° [1793917](#)

### PANEL/DIVISION:

Panel of the Local Division in Düsseldorf

### DECIDING JUDGES:

This Order was made by presiding judge Thomas, legally qualified judge Dr Thom and legally qualified judge Kupecz.

**LANGUAGE OF THE PROCEEDINGS:** English

**SUBJECT OF THE PROCEEDINGS:**

Patent infringement action – [R. 336, 334 \(b\) RoP](#)

**GROUND OF THE ORDER:**

The Court may adjourn the oral hearing upon request of a party. The Defendant requests an adjournment of the oral hearing with regard to the outstanding order of the Court of Appeal concerning their dismissed request for security for costs.

However, the Defendant does not put forward any convincing reasons why an adjournment will be necessary. In particular, there is no indication that it may not be efficient and cost effective to hold the oral hearing at this stage. Contrary to the opinion of Defendant the Court must not await a final order of the Court of Appeal on the security of costs before making its own decision on the merits in this case.

[Art. 74 \(3\) UPCA](#) rules that an appeal against an order referred to in [Art. 49 \(5\)](#), [59](#) to [62](#) and [67 UPCA](#) shall not prevent the continuation of the main proceedings, but the Court of First Instance shall not give a decision in the main proceedings before the decision of the Court of Appeal concerning an appealed order has been given. As an order concerned the security of costs is not mentioned here, there is no indication that the Court must await a final order of the Court of Appeal before rendering its own decision on the merits. Therefore there is certainly no reason why it will be inefficient to hold the oral hearing as planned. Even if one would argue otherwise, the Court is not hindered to delay the announcement of its decision on the merits depending on the course of the oral hearing.

**ORDER:**

The request for adjournment is dismissed.

**DETAILS OF THE ORDER:**

App\_ 55249/2024 related to the main proceedings

ACT\_580849/2023

UPC-Number: UPC\_CFI\_373/2023

Subject of the Proceedings: Infringement action

Issued in Düsseldorf on 10 October 2024

Names and Signature

Presiding Judge Thomas

Legally Qualified Judge Dr Thom

Legally Qualified Judge Kupecz

[...]

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