

UPC Court of Appeal, 27 December 2024, Sumi Agro v Syngenta



PATENT LAW – PROCEDURAL LAW

Rule 13.1(q) RoP (request that document need not be translated in Statement of claim) applies mutatis mutandis for other submissions

- **although not explicitly for a Statement of response in appeal proceedings. (R. 236 RoP)**

Submission of new evidence in appeal proceedings is however the exception, given that evidence which has not been submitted by a party during proceedings before the Court of First Instance may be disregarded by the Court of Appeal (R.222.2 RoP).

- **A party in appeal proceedings will only be relieved from the duty to provide translations of documents filed first with the Court of Appeal if the Court of Appeal accepts this (R. 7 RoP)**

Source: Unified Patent Court

**UPC Court of Appeal,
27 December 2024**

(Simonsson)
UPC_CoA_523/2024
APL_51115/2024

ORDER

of the Court of Appeal of the Unified Patent Court issued on 27 December 2024 on a request that a document need not be translated (R.13.1(q) RoP)

APPELLANT (AND RESPONDENT BEFORE THE COURT OF FIRST INSTANCE)

1. Sumi Agro Limited

2. Sumi Agro Europe Limited

1–2 both UK registered companies with registered branch offices in Allershausen, Germany (hereinafter jointly ‘Sumi Agro’)

1–2 represented by: Gareth Williams, European Patent Attorney (Marks & Clerk LLP, London, UK), Johannes Heselberger, Rechtsanwalt, Dr. Axel B. Berger, Patentanwalt, Dr. Kerstin Galler, Rechtsanwältin and Dr. Markus Ackermann, European Patent Attorney (Bardehle Pagenberg, Munich, Germany)

RESPONDENT (AND APPLICANT BEFORE THE COURT OF FIRST INSTANCE)

Syngenta Limited, Bracknell, Berkshire, UK (hereinafter ‘Syngenta’)

represented by: Dr. Jörn Peters, Benjamin Grzimek and Aylin Cremers, Rechtsanwälte (Fieldfisher, Düsseldorf,

Germany), Prof. Dr. Aloys Hüttermann, Patentanwalt (Michalski, Hüttermann & Partner, Düsseldorf, Germany), Dr. Filip Alois J. De Corte, and Dr. Christopher Andrews, Patentanwälte (Syngenta Crop Protection AG, Basel, Switzerland)

PATENT AT ISSUE

EP 2 152 073

PANEL AND DECIDING JUDGE

This order has been adopted by Ingeborg Simonsson, legally qualified judge and judge-rapporteur

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

Local Division Munich, 27 August 2024, ACT 23636/2024, UPC CFI 201/2023

SUMMARY OF FACTS AND INDICATION OF THE PARTIES’ REQUESTS

1. With the Statement of response, Syngenta attached (insofar as is relevant here), Exhibit FF25 in German and requested to be allowed not to prepare a translation.

2. When requested by the judge-rapporteur at the interim conference, Sumi Agro had no views about the need for translation but left this to the discretion of the Court of Appeal.

REASONS

3. Under R.13.1(q) RoP, a Statement of claim shall contain a list of the documents, including any witness statements, referred to in the Statement of claim, together with any request that all or part of any such document need not be translated and/or any request pursuant to Rule 262.2 or Rule 262A. Furthermore, the judge-rapporteur shall decide on any request made pursuant to paragraph 1(q) as soon as practicable after his or her designation.

5. Nevertheless, pursuant to R.7 RoP, written pleadings and other documents, including written evidence, shall be lodged in the language of the proceedings unless the Court or these Rules otherwise provide. Where the Rules or the Court require a pleading or other document to be translated it shall not be necessary to provide a formal certification by the translator as to the accuracy of such translation unless the accuracy is challenged by a party or such certification is ordered by the Court or required by the Rules.

6. From this can be deduced that a party in appeal proceedings will be relieved from the duty to provide translations of documents filed first with the Court of Appeal only if the Court of Appeal accepts this.

7. In the present case there is no need for translation of Exhibit FF25.

ORDER

The judge-rapporteur decides that Exhibit FF25 does not need to be translated by Syngenta.

Issued on 27 December 2024

Ingeborg Simonsson, legally qualified judge and judge-rapporteur
