



UPC - Court of Appeal
UPC_CoA_469/2024
App_47039/2024

ORDER
of the Court of Appeal of the Unified Patent Court issued on
21 August 2024
concerning an application under Rule 9.1 RoP

GUIDING PRINCIPLE:

1. R.9.1 RoP cannot be interpreted as giving the parties the right to submit applications on their own initiative. Rather, it follows from R.36 RoP that additional submissions require a reasoned application by a party and authorisation by the judge.
2. The documents provided for in R.220.4 RoP are an application and, if the Permanent Judge hears the other party, a reply. Any further submissions must be authorised by the Permanent Judge.

APPELLANTS (AND DEFENDANTS IN THE MAIN PROCEEDINGS BEFORE THE CFI):

1. **AYLO PREMIUM LTD**, Nicosia, Cyprus
 2. **AYLO Billing Limited**, Dublin, Ireland
 3. **AYLO FREESITES LTD**, Nicosia, Cyprus
- (hereinafter collectively referred to as the Aylo Companies)

1-3 represented by: Prof Dr Tilman Müller-Stoy, lawyer, Bardehle Pagenberg, Munich, Germany, and Conor McLaughlin

APPELLANT (AND PLAINTIFF IN THE MAIN PROCEEDINGS BEFORE THE CFI):

1. **DISH Technologies L.L.C.**, Englewood, USA
 2. **Sling TV L.L.C.**, Englewood, USA
- (hereinafter jointly referred to as the Dish and Sling companies)

1-2 represented by: Denise Benz, A&O Shearman, Munich, Germany STREITPATENT
EP 2 479 680

LANGUAGE OF THE PROCEEDINGS

German

DECIDING JUDGE:

This Order was issued by Ingeborg Simonsson, Permanent Judge.

ORDER CONTESTED BY THE COURT OF FIRST INSTANCE

- Date: 22 July 2024, Mannheim local division
- Action numbers of the Court of First Instance: UPC_CFI_471/2023; ACT_ 594191/2023, App_40530/2024, ORD_42880/2024

BRIEF PRESENTATION OF THE FACTS

1. The Aylo companies have filed an application for discretionary review of the local division's decision and request that the appeal against the Order be allowed (APL_45142/2024).
2. The companies Dish and Sling were heard in accordance with R.220.4 RoP.
3. On 14 August 2024, the Aylo companies submitted an application in accordance with R.9.1 RoP and made further submissions.

REASONS FOR THE DECISION

4. According to R.9.1 RoP, the court is authorised to order procedural measures at any time during the proceedings, either of its own motion or in response to an application by a party stating its reasons, for example to order a party to take certain steps, answer questions or provide clarifications or evidence within a period of time to be specified.
5. R.9.1 RoP cannot be interpreted as giving the parties the right to submit applications on their own initiative. Rather, it follows from R.36 RoP that additional submissions require a reasoned application by a party and authorisation by the judge.
6. The documents provided for in R.220.4 RoP are an application and, if the Permanent Judge hears the other party, a reply. Any further submissions must be authorised by the Permanent Judge.
7. There is no reason to admit this argument here.

ORDER

The application is rejected.

Issued on 21 August 2024

Åsa
Ingeborg
Simonsson

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by Åsa Ingeborg
Simonsson
Date: 2024.08.21
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Ingeborg Simonsson
Permanent judge