



UNIFIED PATENT COURT
MILAN LOCAL DIVISION

proceeding no. CFI 57/2023

ACTOR

Ocado Innovation limited, a company incorporated under the laws of England and Wales, with registered office at Buildings One & Two, Trident Place, Mosquito Way, Hatfield, AL10 9UL, United Kingdom, represented by Giovanni Guglielmetti, Alessio Bottero, Maria Giulia De Rosa, Simon Ayrtton, Tom Oliver, and Joel Coles

DEFENDANTS

Autostore AS, a company under Norwegian law with its registered office at Stokkastrandvegen 85, Nedre Vats, 5578, Norway

Autostore SP. Z.O.O., a company under Polish law with registered office at ul. Ignacego Łukasiewicza 4, 75-202 Koszalin/Köslin, Poland

Autostore System s.r.l., a company incorporated under the laws of Italy with registered office at 8 Via Agnello, 20121 Milan, Italy

Autostore System GmbH, a company under German law with its registered office at Im Striep 10, 41069 Mönchengladbach, Germany

Autostore System AB, a company under Swedish law with its registered office at Hannes Snellman Advokatbyrå AB, Box 7801, 103 96 Stockholm, Sweden

Autostore SAS, a company under French law with registered office at 55 Ter Avenue René Cassin, 69009 Lyon, France

Autostore System AT GmbH, a company under Austrian law with its registered office at St. Peter Gürtel 4, 8042 Graz, Austria

Autostore System S.L., a company under Spanish law with registered office in Edificio Coronales, Bahía de Pollensa 12, 2nd floor, Madrid 28042, Spain

all represented and defended by attorneys Gabriele Cuonzo, Vittorio Cerulli Irelli and Lorenzo Battarino.

PATENT SUBJECT OF TRIAL Patent.

European No. EP4101791.

PARTICIPATING JUDGES

This order was issued by the Board in the following composition:

- Pierluigi PERROTTI presiding judge and judge rapporteur
- Camille GARROS LIGNIERES Judge
- AlimaZANA judge

LANGUAGE OF THE PROCEEDINGS

Italian.

SUBJECT OF THE PROCEEDINGS

Action to establish patent infringement.

BRIEF STATEMENT OF FACTS

In a writ of summons filed on 2.6.2023, the plaintiff brought an action against the defendants to establish infringement of European patent EP 4101791. At present, the writ appears to have been duly served on only some of the defendants.

On 3.8.2023, the plaintiff filed a motion for waiver of the action under Rule 265 RoP, with attached statement of defendants' consent to the waiver, in which he also requested the court to refund part of the *Court fees* previously paid.

REQUESTS FROM THE PARTIES

The plaintiff requests that the court:

- Issue a decision declaring these proceedings terminated;
- Directs that the decision be entered in the register;
- If necessary, order that each party bear its own costs;
- reimburse the appellant 37,800 euros, equal to 60 percent of the court costs incurred in these proceedings.

The defendants have consented to the waiver of action and have stated that they do not seek reimbursement of costs. Should the court find it necessary to make a ruling on costs, they request that each party be required to bear its own costs.

REASONS FOR THE DECISION

The court shall make the declaration of termination of the proceedings in accordance with the concurrence of the parties.

As for litigation costs, Rule 265(2)(c) RoP generally provides that following the discontinuance of the action, the court must make a decision on costs pursuant to Rules 150 et seq. RoP. Under Rule 151 RoP, however, this type of order is issued only at the request of one of the parties, which in the present case, on the other hand, is expressly ruled out by the agreement of the parties. It follows that no decision on litigation costs is necessary.

The request for the issuance of an order for partial reimbursement of the plaintiff's court costs incurred is also well-founded, as I meet the conditions set forth in Rule 370(9)(b) and (11) RoP.

DECISION

The Unified Patent Court - Milan Local Division:

- Declares these proceedings closed;
- Orders that this decision be entered into the registry;
- orders the Registrar to proceed as soon as possible to refund to Ocado Innovation limited the amount of 37,800 euros, equal to 60 percent of the Court fees paid by it in these proceedings;
- states that the value of the dispute is 8,000,000 euros.

DETAILS OF THE DECISION

Decision on Application App. No. 557045/2023, related to Main File Act. No. 463658//2023 -
UPC Proceedings No. CFI 57/2023.

Subject: action to establish patent infringement

APPEAL INFORMATION

This decision may be appealed to the Court of Appeals by any party that has been unsuccessful, in whole or in part, in its claims within two months from the date of notification of the decision (Art. 73(1), UPCA; rule 220(1)(a), RoP).

Thus decided in Milan, September 11, 2023.

Pierluigi Perrotti
presiding judge and judge rapporteur

Camille Garros Lignieres Judge

Alima Zana judge