



UPC_CFI_1146/2026
Local Division Milan

ORDER
of the President of the Court of First Instance
in the proceedings before the Local Division MILAN
pursuant to R. 323 RoP (language of the proceedings)

Issued on 28/07/2026

HEADNOTE:

- Considering that Art. 49 (5) does not require the application for a language change to be included in the Statement of Defence, R. 323.3 must accordingly be interpreted in such a manner that it does not preclude the lodging of the application beforehand. This interpretation ensures that the requested change, should it be granted, is implemented as early as possible to limit its impact on the course of the proceedings.
- In the event where the outcome of the balancing of interests is equal, the position of the Defendant(s) prevails in the overall assessment.
- The domiciliation of parties in countries where the language of the proceedings initially chosen is or is not an official language is important to decide on an application pursuant to R. 323 RoP. However, consideration must also be given to the need for coordination and rapid communication among all Defendants.

KEYWORDS:

Change of the language of the proceedings – Art. 49 (5) UPCA and R. 323 RoP

APPLICANTS AND DEFENDANTS IN THE MAIN PROCEEDINGS:

1- Bystronic Laser AG

Industriestrasse, 21, 3362, Niederönz – CH

2- Bystronic Austria GmbH

Schärdinger Straße 15, 4061, Pasching – AT

3- Bystronic Italia S.r.l.

Via Giuseppe Di Vittorio 29 , 20072, Milano – IT

4- Isochronic AG

Route de la Pâle 14, 1026, Denges – CH

Represented by: Niccolo FERRETTI – Nunziante Magrone

RESPONDENT (CLAIMANT IN THE MAIN PROCEEDINGS):

ASTES4 SA

Via Passeggiata 3a, 6828, Balerna - Ticino, CH

Represented by: Lorenzo BATTARINO – Trevisan & Cuonzo

PATENT AT ISSUE: EP2164678

SUMMARY OF FACTS

1. By a statement of claim filed on 2 April 2026, ASTES4 SA brought an infringement action against the Applicants (hereinafter collectively referred to as “Bystronic and Isochronic” or “the Defendants” in reference to their role in the main proceedings) based on EP2164678 titled *“loading/unloading system serving a sheet cutting centre and relative handling method”*.
2. By a procedural application dated 30 June 2026 the Defendants, referring to R. 323 RoP, requested that the language of the proceedings be changed from Italian to English (hereinafter “the Application”). The Application was forwarded to the President of the UPC Court of First Instance pursuant to R. 323.1. RoP. and the Claimant in the main action was subsequently requested, in accordance with R. 323.2 RoP, to state within ten days its position on the admissibility of the Application and on the use of the language in which the patent was granted, namely English, as language of the proceedings.

3. ASTES4 SA submitted their written comments on 16 July 2026.
4. The panel of the Local Division Milan was consulted in accordance with R. 323.3 RoP.

INDICATION OF THE PARTIES' REQUESTS:

5. The Applicants request that the language in which the patent was granted, i.e. English, shall be the language of the proceedings pursuant to Art. 49 (5) UPCA and R. 323.1 RoP.
6. ASTES4 SA requests that the Court dismiss the Application.

POINTS AT ISSUE:

7. The Applicants state that English should be the language of the proceedings, for the following reasons:
 - Even though Rule 323(1) RoP states that an application to change the language pursuant to Article 49(5) of the UPCA shall be included in the Statement of Defence, it can also be filed at an earlier stage. A more restrictive interpretation of this provision would be counter to the general principles of flexibility, fairness and efficiency that govern the Rules of Proceedings of the UPC.
 - Bystronic Italia S.r.l. is the only Italian company involved in the dispute and none of the parties use Italian as their first language. The person in charge of patent matters within the Bystronic group does not speak Italian. All pre-contentious exchanges took place in English (reference is made to documents 15 to 17 of the Statement of Claim).
 - The use of the language in which the patent was granted facilitates its technical and legal interpretation and access to all respective documentation. An important proportion of exhibits especially on technical aspects is filed in English.
 - As substantiated in the Preliminary Objection, Bystronic Italia S.r.l. is not involved in any activities and/or commercial relationships with the other Defendants relating to the disputed products.
 - Continuing the proceedings in English would avoid significant translation costs and ensure a fair and efficient access to justice. It would also facilitate the coordination between the Defendants and their representatives.

- Following the Preliminary Objection filed by the Defendants, part of the proceedings may be heard before another Local Division and therefore conducted in English.
8. ASTES4 SA contends that the Application should be rejected for the following reasons:
- The request is inadmissible. It should have been submitted with the Statement of defense according to R. 323 (1) RoP. Reference made to R. 321 and R. 322 RoP is not relevant as it relates to situations where all parties agree to change the language of the proceedings. R. 323 RoP is not in contradiction with Art. 49 (5) UPCA, rather it provides for further details regarding formal requirement and time limits.
 - Filing with a given Local Division in the corresponding language is an option offered to the Claimant. The Legislator did not intend to establish a system where the language of the proceedings is determined by the nationality of the Defendants. Instead, it sought to promote linguistic pluralism as a distinctive feature of the European patent litigation framework.
 - The Claimant has its registered office in the Canton of Ticino – an Italian-speaking canton of the Swiss Confederation – and conducts its business in Italian, which is the company’s working language in day-to-day communication. Switching to English would therefore represent a significant inconvenience for ASTES4 SA.
 - Bystronic Italia S.r.l., a company incorporated under Italian law with registered office in Milan, operates on a permanent basis in Italy and Italian is its usual language for business and communication. The other Defendants are evidently able to litigate in this language too, considering that the Chairman and Chief executive officer of the Bystronic group is a native Italian speaker.
 - The Defendants themselves have proven their ability to conduct the dispute in Italian. They have already requested the alignment of deadlines for defence and lodged their Preliminary Objection on jurisdiction and competence in this language.
 - Prior exchanges in English represent a standard practice between companies which operate in an international context and could not be decisive for the purpose of the present application.
 - The requested change to English would lead to inconsistencies and impact the clarity and coherence of the argumentation. In addition to being devoid of practical justification, it would affect the effectiveness of the adversarial process and increase the costs incurred by the Claimant to enforce its rights.
 - A change of the language of the proceedings should not be granted in order to merely facilitate the Defendants’ position. The Applicants must demonstrate that they are significantly disadvantaged by the language currently used.

Further facts and arguments as raised by the parties will be addressed below if relevant for the outcome of this Order.

GROUNDINGS FOR THE ORDER:

1- Admissibility:

9. Considering that Art. 49 (5) UPCA – which shall prevail in the event of a conflict between this provision and corresponding Rules – does not require the application for a language change to be included in the Statement of Defence, R. 323.3 RoP must accordingly be interpreted in such a manner that it does not preclude the lodging of the application beforehand. This interpretation ensures that the requested change, should it be granted, is implemented as early as possible to limit its impact on the course of the proceedings (UPC_CoA_207/2024 – order dated 5/09/2024; UPC_CFI_871/2026 order dated 27/04/2026). The consistent case law cited above is aligned with the general principles of efficiency and flexibility, as provided for by Art. 41 (3) and 52 (1) UPCA and point 2 of the Preamble of the UPC RoP.
10. It follows from the above that the Application is admissible.

2- Merits of the Application:

11. According to Art. 49(1) UPCA, the language of the proceedings before a local division must be an official language of its hosting Member State or alternately the other language designated pursuant to Art. 49 (2). It is further provided by R. 323 RoP that “1. If a party wishes to use the language in which the patent was granted as language of the proceedings, in accordance with Article 49(5) of the Agreement (...) [t]he President, having consulted [the other parties and] the panel of the division, may order that the language in which the patent was granted shall be the language of the proceedings and may make the order conditional on specific translation or interpretation arrangements”.
12. Regarding the criteria that may be considered to decide on the Application, Art. 49 (5) UPCA specifies that “(...) the President of the Court of First Instance may, on grounds of fairness and taking into account all relevant circumstances, including the position

of parties, in particular the position of the defendant, decide on the use of the language in which the patent was granted as language of proceedings (...)."

13. By an order dated 17 April 2024, the UPC Court of Appeal (hereinafter "CoA") ruled that when deciding on a request to change the language of the proceedings to the language of the patent for reasons of fairness, all relevant circumstances must be considered. These circumstances should primarily relate to the specific case, such as the language most commonly used in the relevant technology, and to the position of the parties, including their nationality, domicile, respective size, and how they could be affected by the requested change (UPC_CoA_101/2024, Apl_12116/2024, para. 22-25). It was furthermore stated that the internal working language of the parties, the possibility of internal coordination and of support on technical issues are relevant circumstances (UPC_CoA_354/2024, Apl 38948/2024, Order dated 18 September 2024, para. 26-27).
14. In the event that the result of the balancing of interests is the same in the context of this overall assessment, the CoA found that the emphasis placed "in particular" on the position of the defendant under Art. 49 (5) UPCA is justified by the flexibility afforded to the claimant which frequently has the choice of where to file its action and can generally choose the most convenient timeframe to draft its Statement of Claim, while the defendant is directly bound by strict deadlines. The position of the defendant(s) is consequently the decisive factor if both parties are in a comparable situation.
15. In the same decision, the CoA also held that "for a claimant, having had the choice of language of the patent, with the ensuing possibility that the claimant/patentee may have to conduct legal proceedings in that language, as a general rule and absent specific relevant circumstances pointing in another direction, the language of the patent as the language of the proceedings cannot be considered to be unfair in respect of the claimant" (para. 34).
16. With regard to the abovementioned provisions and caselaw, the Application shall be granted for the following reasons.
 - Interpretation of the legal framework provided for by Art. 49 (5) UPCA and R. 321 to 324 RoP:
17. As a general principle, the Claimant is offered the possibility to choose any of the languages that have been designated pursuant to Art. 49 (1) and/or Art. 49 (2) UPCA as the language of the infringement proceedings. This right, however, may be limited

for considerations of fairness which must be substantiated by the Applicant(s). Relevant factors to be considered in assessing such fairness issue have been clarified by the CoA in its decisions dated 17 April 2024 (UPC_CoA_101_2024 – APL_12116/2024) and 18 September 2024 (UPC_CoA_354/2024 – APL_38948/2024). The requested change cannot be granted for reasons of mere convenience or preference. Conversely, the circumstances put forward by the Applicant(s) must lead to the conclusion that the adverse party is significantly disadvantaged in the organisation of their defence by the language primarily chosen.

- Circumstances related to the case and the position of the parties:

18. According to its Statement of Claim, ASTESA4 is a Swiss company founded in 2013 and since 2018 has been controlled by Mitsubishi Electric which holds a leading position in the automotive industry sector. They describe themselves as providing advanced and innovative solutions in laser cutting process automation (SoC, para. 8 and information accessible in four languages under the link <https://www.astes4.ch/home-astes4-mitsubishi-electric/>, TC 04).
19. The Bystronic group operates in the same area. Its CEO is a native Italian speaker (TC 34). Both parties are active worldwide, as reflected by their respective websites (links provided under footnote 6, SoC P. 7, TC06/Bystronic, TC 07/Isochronic homepage).
20. Bystronic Laser AG and Isochronic AG have registered offices in Switzerland (Niederörsz and Denges, respectively) where four official languages are spoken, while the other Defendants are domiciled in Italy and Austria.
21. As part of international groups, all entities involved in the dispute are in a comparable situation regarding their multilingual environment, as well as their logistical and financial resources. They are therefore equally capable of litigating in English. They can understand what is submitted by each party and follow all developments of the dispute alongside their representatives in either Italian or English.
22. The possible outcome of the preliminary objection, for which both parties have submitted their respective arguments, cannot be anticipated and is therefore of no relevance for the purposes of the present Application (UPC_CFI_448/2025, order dated 3/07/2025).
23. The language used in the relevant field of technology addressed by the patent – metal sheet cutting performed by laser devices – is not called into question. A significant proportion of exhibits relating to technical aspects is in English (as is the case for

annexes 14, 27, 28b, 29, 30). It is thus to be expected that further documentation submitted at a later stage will also be available in this language. Upcoming discussions on the scope of the protection conferred by the patent and possibly its validity, would obviously be facilitated by the adoption of English in which the title was granted, as consistently recalled by the CoA.

- *Balance of respective interests in the case at hand:*

24. In the event where the outcome of the balancing of interests is equal, for the abovementioned reasons identified by the CoA, the position of the Defendant(s) is the decisive factor in the overall assessment.

25. The domiciliation of parties in countries where the language of the proceedings initially chosen is or is not an official language plays an important role in the decision on an application pursuant to R. 323 RoP (UPC_CoA_207/2024, order dated 5/09/2024, UPC_CoA_902/2025, order dated 19 /12/2025). However, consideration must also be given to the need for coordination and rapid communication among all Defendants (UPC_CFI_1506/2025, order dated 20/01/2026).

26. In the present case, even though the Applicants started to organise themselves to handle the dispute in Italian as evidenced by their initial submission, it involves significant efforts on their part to communicate internally on legal and technical matters in this language within the strict time limits applicable to UPC proceedings. In this respect, it should be noted that the language skills of the representatives do not change the fact that the parties themselves will exchange more efficiently in their common working language (UPC_CoA_101/2024, para. 40 - order dated 17/04/2024).

27. It follows from the above that the Application must be granted without further specific translation or interpretation arrangements (which have not been requested at this stage).

ON THESE GROUNDS

- 1- The language of the proceedings shall be changed to the language in which the patent was granted, namely English.
- 2- The present order shall not be conditional on specific translation or interpretation arrangements.

- 3- An appeal may be brought against the present order within 15 calendar days of its notification pursuant to Art. 73. 2 (a) UPCA and R.220 (c) RoP.

INSTRUCTIONS TO THE PARTIES AND TO THE REGISTRY

The next step requires the Applicants to file the Statement of Defence within the time period prescribed by the Rules of Procedure.

ORDER

Issued on 28 July 2026

NAME AND SIGNATURE

Florence Butin
President of the UPC Court of First Instance