

**EIP**

# Termination of Proceedings

## **Ocado Innovation Limited v. Autostore AS**

### **Order of 11 September 2023[1] (Order ref ORD\_571090/2023)**

Ocado filed an infringement action against Autostore on 2 June 2023 in the Milan local division. On 3 August Ocado applied to withdraw the action, pursuant to Rule 265 RoP, and filed the consent of Autostore. Ocado requested a partial refund of the court fees pursuant to Rule 370 (9)(b) RoP, which provides for a 60% refund if the action is withdrawn before the closure of the written procedure.

In view of the defendant's consent, the judge declared the proceedings closed pursuant to Rule 265(2)(a) RoP. The requested partial fee reimbursement was also ordered.

In principle, Rule 265 (2)(c) RoP requires the Court to issue a cost decision. However, the judge noted that Rule 151 indicates that a cost decision is only issued at the request of a party, whereas neither party had requested a costs order – both parties had indicated their wish that each party bear their own costs. Therefore, no decision on costs was considered necessary.

The parties have announced settlement of all claims in their global patent dispute, so it is expected that the other two pending cases (at the Dusseldorf local division and the Nordic-Baltic local division) will be disposed of in similar terms. However, it is not possible (yet) to see publicly any final orders in these cases. It will be interesting to see whether the same approach is taken over the issue of costs.

[1] Posted on the "Decisions and Orders" section of the UPC website bearing the incorrect date of 26 June 2023 and consequently also appearing in the wrong order in the

chronological decision list

[https://www.unified-patent-court.org/sites/default/files/upc\\_documents/23-09-11-ld-milan-decision-557045\\_2023-upc\\_cfi\\_57\\_2023-anonymized.pdf](https://www.unified-patent-court.org/sites/default/files/upc_documents/23-09-11-ld-milan-decision-557045_2023-upc_cfi_57_2023-anonymized.pdf)