

EIP

Language change not allowed if not language of the patent

F. Hoffman-La Roche AG, Roche Diabetes Care GmbH v Tandem Diabetes Care, Inc, Tandem Diabetes Care Europe B.V., VitalAire GmbH, Dinno Santé s.a.i., Air Liquide Healthcare Nederland B.V, Rubin Medical ApS UPC_CFI_ 504/2023

Orders of 11 April 2024 (ORD_13986/2024 and ORD_13996/2024) [1]

The claimants (together “Roche”) began an infringement claim filed at the Düsseldorf Local Division in the German language against six defendants in respect of EP1970677. Two groups of defendants, Rubin Medical ApS and Tandem Diabetes Care Europe B.V. on the one hand and VitalAire GmbH, Air Liquide Healthcare Nederland B.V, Dinno Santé s.a.i., each group being represented by a shared representative, filed requests for the language of proceedings to be changed from German to English.

This case differs from the previous requests for language change because the language of the patent was German. The judge-rapporteur issued two orders in identical terms, one in respect of the application of each group of defendants, denying the request for language change.

The judge-rapporteur noted that the claimants in the infringement action were entitled to make a choice between English and German as the language of the proceedings, choosing between the possibilities set out in Rule 14(1)(a) RoP (official language of the country hosting the division, in this case German) and Rule 14(1)(b) RoP (another language designated by the country, in this case English). Roche having made this election of the Rule 14(1)(a) option, the only legal basis for a party to request a change in language is Rule 323 RoP. However, this only applies to a change to the language in which the patent was granted.

Since the patent at issue was granted in German, no legal route was seen to change the language to English. Therefore the requests were refused.

[1] <https://www.unified-patent-court.org/en/node/706> and <https://www.unified-patent-court.org/en/node/708>