



Procedural Order
of the Court of First Instance of the Unified Patent Court
issued on 23 April 2024
concerning EP 2 697 391 B1

HEADNOTES:

1. As Germany has issued an indication within the meaning of Rule 14.2 (c) RoP, the judge-rapporteur may, in the interest of the panel, issue an order to the effect that the judges may, inter alia, issue and deliver any decision and order in German together with a certified translation into English within the meaning of Rule 118.8 RoP.
2. If the language of the proceedings is changed to English after the oral hearing and immediately before the final order is issued, the judge-rapporteur may make use of this possibility in order to ensure that the Application for provisional measures can be decided immediately.

KEYWORDS:

Language change; language of the proceedings; indication; Rule 14.2 (c) RoP; Application for provisional measures; certified translation

APPLICANT:

10x Genomics, Inc., 6230 Stoneridge Mall Road, 94588-3260 Pleasanton, CA, USA, legally represented by the Board of Directors, this represented by the CEO Serge Saxonov, *ibid*,

represented by: Attorney-at-law Prof. Dr. Tilman Müller-Stoy, Attorney-at-law Dr. Martin Drews, Patent attorney Dr. Axel Berger, Prinzregentenplatz 7, 81675 Munich, Germany

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DEFENDANT:

Curio Bioscience Inc., 4030 Fabian Way, Palo Alto, CA 94303, USA, represented by its CEO Stephen Fodor, *ibid*,

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PATENT AT ISSUE:

European patent n° EP 2 697 391 B1

PANEL/DIVISION:

Panel of the Local Division in Düsseldorf

DECIDING JUDGES:

This order was issued by Presiding Judge Thomas acting as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT OF THE PROCEEDINGS: Rule 14.2 (c) RoP – Use of languages under Rule 49(2) UPCA

SUMMARY OF THE FACTS:

The applicant has applied for an order on provisional measures. This application is based on a patent issued in the English language. The applicant has chosen German as the language of the proceedings.

On 30 January 2024 the defendant applied for a change of language of the proceedings from German to English. This application was rejected on 26 February 2024 by the President of the Court of First Instance (App_5164/2024; UPC_CFI_463/2023).

The oral hearing therefore took place on 26 March 2024 in German language.

Following the defendant's appeal, the Court of Appeal set the order of the President of the Court of First Instance of 26 February 2024 and decided that the language of the proceedings is English.

The Local Division in Düsseldorf has set 30 April 2024 as the date for issuing an order in this case.

GROUNDS FOR THE ORDER:

Pursuant to Art. 49(1) UPCA in conjunction with Rule 14.1 (a) RoP, the language of proceedings before a local division shall be an official language of the European Union which is an official language of the Contracting State in which the division is located. Therefore, actions and applications before the Local Division in Düsseldorf may be conducted in German.

In addition, Contracting Member States may designate one or more of the official languages of the European Patent Office as the language of proceedings of their local division (Art. 49(2) UPCA in conjunction with Rule 14.1 (b) RoP). Germany has availed itself of this possibility. It has authorised English as an additional language of proceedings before its local divisions. At the same time, Germany has issued an indication within the meaning of Rule 14.2 (c) RoP (<https://www.unified-patent-court.org/en/court/language-proceedings>, page accessed on 21 April 2024; cf: Tilmann/Plassmann, Einheitspatent, Einheitliches Patentgericht, Rule 14 EPGVerfO, para 46). This enables the judge-rapporteur, in the interest of the panel, to issue an order to the effect that the judges may, inter alia, issue and deliver any decision and order in German together with a certified translation into English within the meaning of Rule 118.8 RoP.

In order not to delay the final order on the Application for provisional measures, the Düsseldorf Local Division is making exceptional use of this possibility in the case at hand. The Court of Appeal changed the language of the proceedings to English on 17 April 2024, less than 2 weeks before the date on which the Düsseldorf Local Division is due to issue its order on the Application for provisional measures. This is a complex case in the field of genetic engineering. The entire preparation of the case, the oral hearing and the deliberations were conducted in German. Moreover, work on the final order had already started at the time of the order to change the language of the proceedings. In order to make effective use of this preparatory work and not to delay the proceedings unnecessarily, it is justified and necessary to make exceptional use of the possibility offered by Rule 14.2 (c) RoP (see also UPC_CoA_101/2024, order issued on 17 April 2024, Rec. 42). This means that the final order may be issued in German, provided that a certified translation is attached.

ORDER:

The Local Division in Düsseldorf may make any order and deliver any decision in German together with a certified translation into English for the purposes of Rule 118.8 RoP.

DETAILS DER ANORDNUNG:

ORD_22211/2024 related to the main proceeding ACT_590953/2023

UPC-Number: UPC_CFI_463/2023

Subject of the Proceedings: Application for provisional measures

Issued in Düsseldorf on 23 April 2024

NAMES AND SIGNATURES

Presiding Judge Thomas