

UPC Court of Appeal, 19 February 2025, NTS v Audi**PATENT LAW – PROCEDURAL LAW****Release of security ([R. 352 RoP](#)) applied by way of analogy**

- After applications for withdrawal of the infringement action were submitted at the Munich LD

Source: [Unified Patent Court](#)

UPC Court of Appeal, 19 February 2025

(Kalden)

APL_68522/2024

UPC_CoA_844/2024

App_1387/2025

ORDER

of the Court of Appeal of the Unified Patent Court issued on 19 February 2025

Withdrawal pursuant to [R. 265 RoP](#) and

Application for release of security

APPLICANT AND RESPONDENT (CLAIMANT IN THE MAIN PROCEEDINGS BEFORE THE CFI)

Network System Technologies LLC, Portland, ME, United States of America hereinafter also referred to as “NTS”

represented by: attorney at law Dr. Thomas Gniadek, Simmons&Simmons, Munich, Germany

APPELLANT (DEFENDANT IN THE MAIN PROCEEDINGS BEFORE THE CFI)

AUDI AG, Ingolstadt, Germany hereinafter also referred to as “Audi”

represented by: attorneys at law Dr. Jan Bösing, Saskia Mertsching, Monika Harten, Bardehle Pagenberg, Munich, Germany

PATENTS AT ISSUE

EP 1 875 683

EP 1 552 399

EP 1 552 669

LANGUAGE OF THE PROCEEDINGS

English

DECIDING JUDGE

This order was issued by Rian Kalden, presiding judge of panel 2 and judge-rapporteur

SUMMARY OF FACTS AND INDICATION OF THE PARTIES’ REQUESTS

1. Audi requested pursuant to [Art. 69 \(4\) UPCA](#) and [R.158.1 RoP](#) that the Munich LD order NST to provide adequate security for legal costs and other expenses incurred by Audi. The Munich LD denied the requests. Leave to appeal was granted in the orders.
2. Audi appealed the orders of the Munich LD.
3. On **17 September 2024**, the Court of Appeal set aside the impugned orders and ordered NST to provide security for costs to Audi in an amount of EUR 100,000

in APL_25926/2024, ACT_597691/2023, in an amount of EUR 100,000 in APL_25923/2024, ACT_597693/2023, and in an amount of EUR 300,000 in APL_25919/2024, ACT_597692/2023. Those amounts were deposited at the Court of Appeal’s bank account on 1 October 2024.

4. On 17 January 2025 NTS filed an application for release of Security pursuant to [Rule 352.2 RoP](#) after applications for the withdrawal of the infringement actions were submitted at the Munich LD.

5. On 27 January 2025 NST informed the Court of Appeal that the Munich LD issued the orders by which it permitted the withdrawal of the infringement actions and declared the proceedings closed.

6. GROUNDS

NTS requests that the security deposit referred to above be released. [R.352.2 RoP](#) provides that the Court may upon the application of a party release a security by order. This provision applies to security for enforcement, but should be applied by way of analogy in the present case. There is reason to do so in view of the withdrawals of the infringement actions in which the securities were ordered.

ORDER

The Court of Appeal orders that the amounts deposited by NST at the Court of Appeal’s bank account on 1 October 2024 pursuant to the orders of 17 September 2024 referred to above shall be returned in full.

Issued on 19 February 2025,

Rian Kalden, presiding judge and judge-rapporteur
