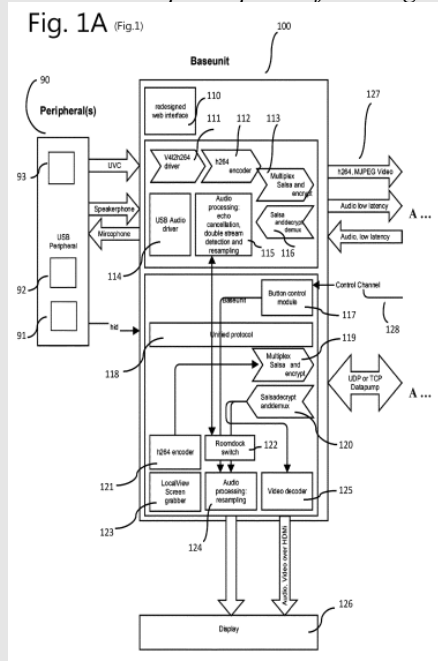


UPC Court of Appeal, 17 April 2025, Barco v Yealink

method and system for making functional devices available to participants of meetings

Fig. 1A (Fig.1)



PATENT LAW – PROCEDURAL LAW

Application to grant suspensive effect for appeal of cost order up to the applicable ceiling of € 112,000 in order dismissing provisional measures rejected ([Article 74 UPCA](#))

- [The risks of problems of enforcement put forward by Barco are not such as to make the appeal devoid of purpose absent suspensive effect \(ICPillar vs. ARM, para 11\).](#)

Source: [Unified Patent Court](#)

UPC Court of Appeal,
17 April 2025

(Simonsson)

UPC_CoA_329/2025

App_16915/2025

ORDER

of the Court of Appeal of the Unified Patent Court issued on 17 April 2025 concerning an application for suspensive effect ([R. 223.3 RoP](#))

APPLICANT (AND APPLICANT IN THE PROCEEDINGS BEFORE THE CFI)

Barco N.V., Kortrijk, Belgium

hereinafter: Barco

represented by attorney-at-law Christian Dekoninck, Taylor Wessing, Brussels, Belgium, and other representatives from that firm

RESPONDENTS (AND DEFENDANTS IN THE PROCEEDINGS BEFORE THE CFI)

1. Yealink (Xiamen) Network Technology Co. Ltd., Xiamen City, Fujian, Peoples Republic of China

2. Yealink (Europe) Network Technology B.V., Amsterdam, The Netherlands

hereinafter jointly referred to as Yealink

represented by attorney-at-law Ruud van der Velden, Hogan Lovells International, Amsterdam, The Netherlands, and other representatives from that firm

PATENT AT ISSUE

[EP 3 732 827](#)

LANGUAGE OF THE PROCEEDINGS

English

DECIDING JUDGE

Ingeborg Simonsson, legally qualified judge and judge-rapporteur

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

[ORD 68979/2024 in the proceedings for provisional measures, in ACT 54438/2024, UPC CFI 582/2024, issued by the Local Division Brussels on 21 March 2025.](#)

FACTS AND PARTYS' REQUESTS

1. In the impugned order of 21 March 2025, the Court of First Instance, Local Division Brussels, held that the Local Division Brussels is competent to hear Barco's Application for provisional measures, but dismissed the Application for lack of urgency, ordered Barco to bear reasonable and proportionate legal costs and other expenses incurred by Yealink, up to the applicable ceiling of € 112,000.00, and set the value of the dispute at € 1,000,000.00.

2. Barco has appealed [the impugned order \(APL 16185/2025, UPC CoA 317/2025\)](#) and applied for suspensive effect, requesting that the lodging of the appeal shall have suspensive effect insofar as the order on costs is concerned.

3. Barco notes that it is in the process of preparing a statement of claim to initiate an infringement action. These proceedings on the merits will be initiated soon.

4. Yealink is of the opinion that the Local Division has ordered Barco to pay an amount of € 112,000.00 to Yealink as an interim award pursuant to [R. 211.1\(d\) RoP](#), but notes that, up and until now, no proceedings for a cost decision, enforcement, or other judicial activities relating to the cost order are ongoing, apart from the present appeal and application for suspensive effect.

SUBMISSIONS OF THE PARTIES

7. Barco is arguing that the order to bear costs and other expenses is not enforceable. Instead, the Local Division has merely ordered Barco to bear reasonable and proportionate legal costs and other expenses up to the applicable ceiling, but has not ordered Barco to reimburse Yealink a certain amount. Barco is of the opinion that a final and maximum decision on costs cannot be issued in an order on provisional measures, but only in proceedings on the merits or in separate cost proceedings. However, Barco asserts that Yealink is of the opinion that the Local Division has nevertheless ordered Barco to pay an amount of € 112,000.00. The application for suspensive effect is made for the event that the Court of Appeal accepts this position. Moreover, according to Barco, the Local Division wrongfully

ordered only Barco to bear the reasonable and proportionate legal costs, while Yealink was partially unsuccessful itself.

8. Furthermore, Barco argues that the execution of the cost order would render the appeal largely ineffective because the consequences of the contested decision cannot be effectively reversed in case the appealed decision would later be set aside, because enforcing judicial decisions in China is practically impossible or at least unduly burdensome. Barco would have no possibility to recover the undue paid amount in case the Court of Appeal would decide to set aside the cost order or in case another decision is taken following the proceedings on the merits. The fact that there is also a European entity of Yealink having its registered address in the Netherlands cannot change this reasoning, since that is merely a shell company.

9. Yealink has confirmed that it is of the opinion that the Local Division has ordered Barco to pay an amount of € 112,000.00 to Yealink and that this order is “directly enforceable from [its] date of service” ([R. 354.1 RoP](#)). According to Yealink, it is an interim award and the operative part of the impugned order must be interpreted in light of Yealink’s request to award interim costs within the meaning of [R. 211.1\(d\) RoP](#). The provisions that the Local Division listed in the order do not suggest that it issued anything other than an interim cost award.

REASONS

10. Barco’s application for suspensive effect is admissible but must be dismissed as unfounded for the following reasons.

11. Pursuant to [Art. 74\(1\) of the Agreement on a Unified Patent Court](#) (the UPCA), an appeal has no suspensive effect unless the Court of Appeal decides otherwise at the motivated request of one of the parties. The Court of Appeal can therefore grant the application only if the circumstances of the case justify an exception to the principle that the appeal has no suspensive effect. It must be examined whether, on the basis of these circumstances, the appellant’s interest in maintaining the status quo until the decision on its appeal exceptionally outweighs the respondent’s interest. An exception to the principle that an appeal has no suspensive effect may apply, for instance, if the appealed order or decision is manifestly wrong, or if the appeal without suspensive effect becomes devoid of purpose ([CoA 19 June 2024, UPC CoA 301/2024, APL 33746/2024, App 35055/2024 - ICPillar vs. ARM](#)).

12. Whether the Local Division’s cost order is correct and whether it is set out in a complete and conclusive way, will have to be decided by the Court of Appeal in its order on the appeal concerning provisional measures. In any event, Barco has failed to demonstrate that there is a manifest error; i.e. an outcome or assessment which proves to be untenable already on the basis of a summary assessment ([CoA 29 October 2024, UPC CoA 549/2024, APL 51838/2024 App 53031/2024 - Belkin vs. Philips](#)).

13. The risks of problems of enforcement put forward by Barco are not such as to make the appeal devoid of

purpose absent suspensive effect ([ICPillar vs. ARM, para 11](#)).

ORDER

The application is rejected.

Issued on 17 April 2025

Ingeborg Simonsson, legally qualified judge and judge-rapporteur
[...]
