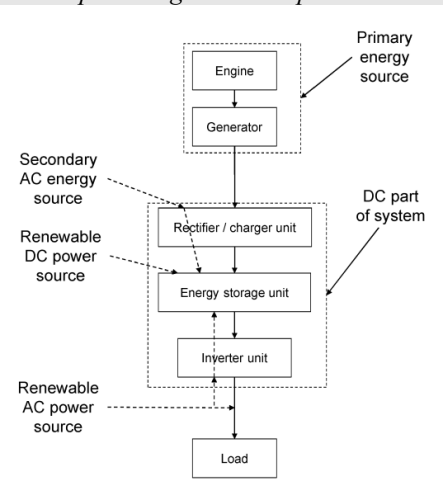
UPC Court of Appeal, 8 May 2025, Hybridgenerator v HGSystem

mobile hybrid generator system for providing electrical power



PATENT LAW – PROCEDURAL LAW

Change of language in appeal of limited scope

- **from Danish to English with the agreement of the parties (Article 49(4) UPCA, R. 322 RoP)**
- **no translation of pleadings and evidence**

9. This change of language of the proceedings can be made without any requirement that the parties provide translations of pleadings and evidence. The Court of Appeal will make translations for internal use at its own expense. Considering that the judge-rapporteur understands Danish, this will be sufficient.

Source: **Unified Patent Court**

UPC Court of Appeal,
8 May 2025
(Kalden, Simonsson, Rombach)
UPC_CoA_233/2025
APL_13146/2025
ORDER
of the Court of Appeal of the Unified Patent Court issued on 8 May 2025 concerning language of proceedings (R. 322 RoP) and case management
HEADNOTE:
- With the agreement of the parties, the language of the appeal proceedings has been changed from Danish to English in appeal proceedings of limited scope where the parties understand English.
KEYWORD:
- Change of language of proceedings with the agreement of the parties (Art. 49(4) UPCA and R. 322 RoP)
APPELLANT (AND APPLICANT BEFORE THE COURT OF FIRST INSTANCE)
Hybridgenerator ApS, Årslev, Denmark
hereinafter Hybridgenerator represented by attorney-at-law Mikkel Kleis, Patrade, Aarhus, Denmark
RESPONDENTS (AND RESPONDENTS BEFORE THE COURT OF FIRST INSTANCE)
1. **HGSystem ApS**, Årslev, Denmark
2. **HGSystem Holding ApS**, Årslev, Denmark
3. **Infotech Concept ApS**, Årslev, Denmark
4. **Infotech Holding ApS**, Årslev, Denmark
5. [...] Årslev, Denmark
hereinafter jointly referred to as the Respondents
all represented by attorney-at-law Kenneth Kvistgaard-Aaholm, Gorrissen Federspiel, Aarhus, Denmark and other representatives from that firm and from COPA Copenhagen Patents, Frederiksberg C, Denmark
PATENT AT ISSUE
EP 4 238 202
PANEL AND DECIDING JUDGES
Panel 2
Rian Kalden, presiding judge and legally qualified judge
Ingeborg Simonsson, legally qualified judge and judge-rapporteur
Patricia Rombach, legally qualified judge
IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE
Order of the Copenhagen Local Division of 3 March 2024, ORD_10371/2025, ACT_47484/2024, UPC_CFI_492/2024
LANGUAGE OF THE PROCEEDINGS
Danish
SUMMARY OF THE FACTS
1. In the operative part of the impugned order, the Local Division decided not to order the Respondents to pay the periodic penalty payments set by the Court in an earlier order of 4 September 2024.
2. Hybridgenerator has appealed and (summarized) requested that the Respondents shall be ordered to pay penalties to the Court for failure to comply with the order of 4 September 2024.
3. After consulting the panel, the judge-rapporteur proposed to the parties pursuant to R. 322 RoP that the language of proceedings be changed to English for the appeal proceedings. The parties were requested whether they agree to this change, and if so, to state their view on whether existing pleadings and other documents should be translated and at whose cost (see R. 324 RoP and R. 322 second sentence RoP).
SUBMISSIONS OF THE PARTIES
4. Hybridgenerator has stated that it accepts that the language of the appeal proceedings be changed to English as proposed. It has expressed a conditional agreement to submit English translations of the Statement of appeal and annexes to the Court of Appeal and requested that the translation costs be included in the costs of the proceedings to be reimbursed by the losing party in accordance with Art. 69 of the Agreement on a Unified Patent Court (UPCA).
5. While expressing reservations in principle with regard to applicable language of proceedings with reference to the fact that both parties are Danish companies represented by Danish counsel, the Respondents have stated that they will not oppose a change of the language

of proceedings to English before the Court of Appeal. Any translation shall, however, be done at the sole expense of the Court of Appeal.

GROUNDS FOR THE ORDER

Language of the proceedings

6. With the agreement of the parties the competent panel may, on grounds of convenience and fairness, decide on the use of the language in which the patent was granted as the language of proceedings **Art. 49(4) of the Agreement on a Unified Patent Court** (UPCA).

7. At any time during the written procedure and the interim procedure, the judge-rapporteur may, of his own motion or on a request by a party, after consulting the panel, propose to the parties that the language of the proceedings be changed to the language in which the patent was granted, in accordance with **Art. 49(4) UPCA**. If the parties and panel agree the language of the proceedings shall be changed (**R. 322 RoP**).

8. The present appeal proceedings are of limited scope. A change of the language of the proceedings to English will shorten the timeframe for adjudication and thus be convenient for the Court of Appeal and for the parties. The parties understand English and suffer no disadvantages. As will be set out in the next section, a language change will not result in any costs for them. The fairness requirement is met.

Translation of pleadings and evidence

9. This change of language of the proceedings can be made without any requirement that the parties provide translations of pleadings and evidence. The Court of Appeal will make translations for internal use at its own expense. Considering that the judge-rapporteur understands Danish, this will be sufficient.

Oral hearing

10. Given the limited scope of the appeal, there are good reasons to consider adjudication on the basis of the written pleadings. The parties shall be ordered to inform the Court whether they agree to this or if they prefer that an oral hearing is held, and if so, whether this can be held by videoconference.

ORDER

1. The language of the present appeal shall be English. Translation of existing pleadings and other documents for internal use will be done by the Court of Appeal at its own cost.
2. The parties are ordered to inform the Court, no later than 16 May 2025, whether they prefer that an oral hearing is held or if they agree to dispense with an oral hearing. If they prefer that an oral hearing is held, they shall inform whether they agree to a hearing by videoconference.

Issued on 8 May 2025

Rian Kalden, presiding judge and legally qualified judge

Ingeborg Simonsson, judge-rapporteur

Patricia Rombach, legally qualified judge
