

DECISION

of the Court of Appeal of the Unified Patent Court concerning the admissibility of an appeal issued on 21 August 2026

HEADNOTE:

- (i) In proceedings before the UPC, it is not sufficient for the party's representative to log into the Case Management System (CMS) using a secure two-factor authentication process, which constitutes a strong multi-factor authentication mechanism, and thereby confirms their identity. All written pleadings must be signed. In the absence of such a signature, the written pleading lodged in the CMS does not satisfy the requirements for a valid lodging.
- (ii) It follows that a document lodged as a Statement of appeal which has not been duly signed cannot be regarded and accepted as a Statement of appeal lodged pursuant to Rule 224 RoP.
- (iii) The presence of the signature required under Rule 4.1 RoP on the Statement of appeal to be lodged electronically does not form part of the examination as to formal requirements under Rule 229 RoP.

KEYWORDS:

Lodging and signing of written pleadings (Rule 4 RoP), time periods for lodging the Statement of appeal (Art. 73(1) UPCA and Rules 224 and 9.4 RoP).

APPELLANT (DEFENDANT IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

Windhager Handelsgesellschaft m.b.H., Industriestraße 2, 5303, Thalgau, Austria

(hereinafter "**Windhager**")

represented by attorney-at-law Matthias Geitz, of the law firm LS-MP von Puttkammer Berngruber Loth Spuhler Partnerschaft von Patent- und Rechtsanwälten mbB

RESPONDENT (CLAIMANT IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

bellissa HAAS GmbH, Birkenstraße 22, 88285, Bodnegg-Rotheiden, Germany

(hereinafter "**bellissa**"),

represented by attorney-at-law Thomas Adrian and patent attorney Thomas Daub, of the law firm Daub PartG mbB

PATENT AT ISSUE
EP 2 223 589

PANEL AND DECIDING JUDGES

Panel 1a

Klaus Grabinski, President of the Court of Appeal
Emmanuel Gougé, legally qualified judge and judge-rapporteur
Peter Blok, legally qualified judge
Stefan Wilhelm, technically qualified judge
Bernard Ledebøer, technically qualified judge

LANGUAGE OF PROCEEDINGS

German

IMPUGNED DECISION OF THE COURT OF FIRST INSTANCE

- ☐ Decision of the Mannheim Local Division of the Court of First Instance of the Unified Patent Court, dated 12 September 2025
- ☐ Action numbers of the Court of First Instance:
UPC_CFI_338/2024 and CC_65106/2024, UPC_CFI_778/2024

ORAL HEARING

16 July 2026

SUMMARY OF FACTS AND REQUESTS OF THE PARTIES

1. bellissa brought an infringement action against Windhager and two other persons before the Mannheim Local Division (“Local Division”) in respect of European patent EP 2 223 589 (“patent at issue”), seeking an injunctive relief, recall and definitive removal from the channels of commerce, destruction, communication of information and publication of the decision.
2. Windhager lodged a counterclaim for revocation (CC_65106/2024, UPC_CFI_778/2024).
3. By decision of 12 September 2025 (the “impugned decision”), the Local Division largely upheld the infringement action against Windhager. The Local Division dismissed the counterclaim for revocation.
4. By written pleading dated 24 October 2025, Windhager lodged an appeal against the impugned decision in respect of both the infringement action and the counterclaim for revocation. The written pleading was not electronically signed. In addition, on 28 October 2025, Windhager lodged an application for suspensive effect with the Court of Appeal, which was also unsigned.
5. On 29 October 2025, the Registry, via the electronic Case Management System (“CMS”), invited Windhager to correct formal deficiencies pursuant to Rule 225(c) RoP and to pay the court fee for the appeal.
6. On 12 November 2025, Windhager lodged a rectified Statement of appeal and proof of payment of the court fees. The rectified Statement of appeal was likewise not electronically signed.

7. On 17 November 2025, the Registry sent a further invitation via the CMS to correct deficiencies, requesting Windhager to lodge duly signed versions of those submissions via the CMS by way of a “Subsequent filing”.
8. On 28 November 2025, Windhager lodged a Statement of appeal signed by its legal representative, together with the other signed written pleadings.
9. In its Statement of response of 11 April 2026, bellissa requested that the appeal be rejected as inadmissible because it was not lodged within the two-month time period under Article 73(1) UPCA and Rule 224.1(a) RoP, following service of the impugned decision, by filing a written pleading signed by a legal representative pursuant to Rule 4.1 RoP.
10. bellissa submits that the subsequent lodging of a signed Statement of appeal after expiry of the time period for lodging the appeal is no longer admissible. The examination of the Statement of appeal under Rule 229.1 RoP as to compliance with Rules 224.1, 225, 227 and 228 RoP, and any corresponding invitation to correct deficiencies within the 14-day period under Rule 229.2 RoP, expressly applies only to the requirements referred to in Rules 225, 227 or 228 RoP and does not extend to remedying the failure to lodge a valid Statement of appeal within the time period under Rule 224.1 RoP.
11. By provisional procedural order of the Court of Appeal of 15 April 2026, Windhager was given the opportunity to submit written observations on the admissibility of the appeal.
12. In its observations of 23 April 2026, Windhager submitted that the appeal was admissible because the Statement of appeal had been lodged in due time on 24 October 2025 and the formal deficiency identified by the Court (missing signature) had been rectified within the additional time period set for that purpose. The representative’s signature on a written pleading was merely a formal requirement that could be supplied even after expiry of the time period under Rule 224 RoP, with the result that, provided a written pleading had been lodged within that time period, the absence of the representative’s signature could be remedied, upon invitation by the Court, in accordance with the general principles of UPC procedural law.
13. By procedural order of 30 April 2026, the judge-rapporteur pointed out that Windhager had not yet considered the possibility of filing an application for re-establishment of rights and gave Windhager the opportunity to submit observations on that matter.
14. By written pleading of 8 May 2026, Windhager stated that, in view of the specific procedural circumstances and the procedural history, an application for re-establishment of rights was not necessary.
15. In view of bellissa’s objection to admissibility, the Court of Appeal considered it appropriate first to hear and decide the issue of the admissibility of the appeal, for which purpose an oral hearing was scheduled.
16. During the oral hearing, Windhager applied for re-establishment of rights and requested leave to file further written submissions in that regard.

REASONS

17. The appeal must be rejected as inadmissible.
18. Pursuant to Rule 224.1 RoP, a Statement of appeal shall be lodged by the appellant within two months of service of a decision referred to in Rule 220.1(a) and (b) RoP.
19. Under Rule 9.4 RoP, the time period under Rule 224.1 RoP is a non-extendable time period, with the result that, once it has expired, the appellant can no longer lodge an appeal, notwithstanding the possibility of re-establishment of rights under Rule 320 RoP.
20. The Statement of appeal, which must be lodged within the time period under Rule 224.1 RoP, shall, like all written pleadings, be signed pursuant to Rule 4.1 RoP and shall be lodged at the Registry or relevant sub-registry in electronic form. The requirement for written pleadings to be signed, which was provided for only in the 18th version of the draft Rules of Procedure, was incorporated into Rule 4.1 RoP in the final version of the Rules of Procedure adopted by decision of the Administrative Committee of 8 July 2022, in order to ensure the authenticity and integrity of the document lodged.
21. Accordingly, the UPC Court of Appeal has already held that, for the reasons stated, a written pleading must bear an electronic signature (see UPC Court of Appeal, 22 May 2026, SharkNinja v. SEB, CoA_61/2026, para. 12).
22. In proceedings before the UPC, it is therefore not sufficient for the party's representative to log into the Case Management System (CMS) using a secure two-factor authentication process, which constitutes a strong multi-factor authentication mechanism, and thereby confirms their identity (see also UPC Court of Appeal, SharkNinja v. SEB, para. 11). It is also necessary for all written pleadings to be signed. In the absence of such a signature, the written pleading lodged in the CMS does not satisfy the requirements for a valid lodging.
23. It follows that a document lodged as a Statement of appeal which has not been duly signed cannot be regarded and accepted as a Statement of appeal lodged pursuant to Rule 224 RoP.
24. The presence of the signature required under Rule 4.1 RoP on the Statement of appeal to be lodged electronically does not form part of the examination as to formal requirements under Rule 229 RoP. Although, under Rule 229.1 RoP, the Registry must, as soon as practicable after the lodging of the Statement of appeal, examine whether the requirements of Rules 224.1, 225, 227 and 228 RoP have been complied with, compliance with other requirements, such as that under Rule 4.1 RoP, does not form part of that examination. Compliance with that requirement is, rather, the exclusive responsibility of the party's representative. The Registry may, however, draw a party's attention to the fact that a written pleading or other document has not been signed if it notices this. However, irrespective of this, it is solely for the party or its representative to ensure that a written pleading is lodged which complies with the requirements of the Rules of Procedure and, in particular, with the signature requirement under Rule 4.1 RoP.
25. In the present case, neither the fact that the Registry invited Windhager to subsequently lodge duly signed versions of the Statement of appeal, nor the fact that the Court of Appeal continued the proceedings and allowed bellissa to lodge its signed Statement of response and its requests that the appeal be declared inadmissible, can be regarded as establishing the admissibility of the appeal or as an acknowledgement that the procedural deficiency had been remedied.

26. At those points in time, the two-month time period under Rule 224.1(a) RoP, which is a non-extendable time period, had already expired, so that no expectation that the two-month time period under Rule 224.1(a) RoP would be extended could arise in the first place.
27. Likewise, neither the order of the judge-rapporteur of 2 December 2025 rejecting the application for suspensive effect nor the procedural order of 10 March 2026 summoning the parties to the oral hearing on 16 July 2026 can subsequently remedy the present deficiency, since neither addressed nor decided the admissibility of the appeal.
28. A Statement of appeal signed by Windhager's representative was not lodged until 28 November 2025 and therefore after expiry of the two-month time period under Rule 224.1(a) RoP, which, following service of the impugned decision on 12 September 2025, had expired on 12 November 2025.
29. The technical difficulties encountered by Windhager's representative when lodging the Statement of appeal in the CMS are not relevant to the question of whether the Statement of appeal was signed, since written pleadings are signed electronically outside the CMS, and Windhager has not provided detailed reasons as to why it allegedly encountered technical difficulties in lodging a signed Statement of appeal in the CMS, whereas it was readily able to lodge the Statement of appeal without its representative's signature on 24 October and 12 November 2025 and, albeit after expiry of the two-month time period under Rule 224.1(a) RoP, with the same representative's signature on 28 November 2025.
30. Where a Statement of appeal has not been lodged within the time period laid down in Rule 224 RoP, Rule 320.1 RoP does, however, provide for the possibility of re-establishment of rights. Under that provision, where a party has failed to observe a time-limit set by the Rules of Procedure or the Court for a cause which, despite all due care having been taken by the party, was outside his control and the non-observance of that time-limit has had the direct consequence of causing the party to lose a right or means of redress, the relevant panel may upon request re-establish that right or means of redress. Under Rule 320.2 RoP, the application shall be lodged within one month of the removal of the cause for non-observance of the time-limit but in any event within six months of the non-observed time-limit. Even after the Court of Appeal had drawn attention to this possibility by order of 30 April 2026, Windhager did not lodge such an application within six months after expiry of the unobserved time-limit on 12 November 2025, so that there is no need to examine whether the requirements for re-establishment of rights were met.
31. Nor does Windhager's application for re-establishment of rights made during the oral hearing on 16 July 2026 alter that conclusion, in any event because the aforementioned six-month time-limit had already expired by that date.
32. The further request made in this connection by Windhager's representative during the oral hearing for leave to file further written submissions is rejected, since Windhager had already been given sufficient opportunity to submit written observations by the Court's order of 15 April 2026 inviting it to comment on the admissibility of the appeal and by the Court's having drawn Windhager's attention on 30 April 2026 to the possibility of applying for re-establishment of rights.

Costs

33. As the unsuccessful party, Windhager must also bear the costs of the appeal proceedings.

DECISION

The Court of Appeal

- (i) rejects the appeal lodged by Windhager as inadmissible;
- (ii) rejects the application for re-establishment of rights and the request for leave to file further written submissions as inadmissible;
- (iii) orders Windhager to bear the costs of the appeal proceedings.

Issued on 21 August 2026

Klaus Grabinski, President of the Court of Appeal

Emmanuel Gougé, legally qualified judge and judge-rapporteur

Peter Blok, legally qualified judge

Stefan Wilhelm, technically qualified judge

Bernard Ledebøer, technically qualified judge