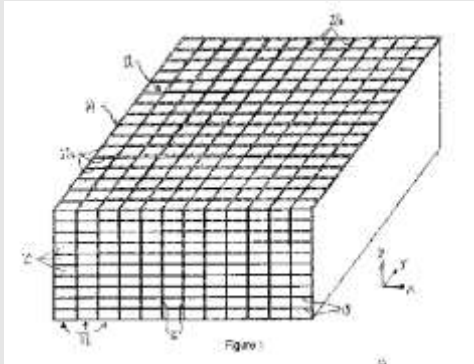


## UPC Court of Appeal, 11 December 2023, Ocado v Autostore



### PATENT LAW – PROCEDURAL LAW

Parties to address whether a third party requesting access to documents under [Rule 262 RoP](#) needs to be represented as a party before the UPC under [Rule 8 RoP](#)

4. The Respondent is not represented before the UPC and has stated that he makes his request as a member of the public, on his own behalf, and not as or on behalf of a party or client. Furthermore he does not believe that [R. 8 RoP](#) on representation applies to the request, despite the suggestion in the CMS that a UPC representative is required. He has made clear that he is not registered as a UPC representative at present.

See for the suspensive effect of this appeal [IPPT20231106, UPC CoA, Ocado](#)

Source: [Unified Patent Court](#)

### UPC Court of Appeal, 11 December 2023 (Simonsson)

UPC Court of Appeal  
UPC\_CoA\_404/2023  
App\_584498/2023

#### ORDER

of the Court of Appeal of the Unified Patent Court issued on 11 December 2023

concerning case-management

HEADNOTES: CASE MANAGEMENT

KEYWORDS: CASE MANAGEMENT

APPELLANT / CLAIMANT IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE:

Ocado Innovation Limited

Represented by: Anna Bladh Redzic Sandart & Partners Advokatbyrå KB

Simon Ayrton Powell Gilbert (Europe) LLP

Thomas Oliver Powell Gilbert (Europe) LLP

Joel Coles Powell Gilbert (Europe) LLP

RESPONDENT:

[xxx]

DEFENDANTS IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE:

- (1) Autostore AS
- (2) Autostore Sp. z o.o.
- (3) Autostore System AB
- (4) Autostore S.A.S.
- (5) Autostore System GmbH
- (6) Autostore System AT GmbH
- (7) Autostore System Srl
- (8) Autostore System S.L

Represented by: Laura Ramsay Dehns Annabelle Beacham Dehns

#### PANEL

Second Panel

#### LANGUAGE OF THE PROCEEDINGS

English

#### DECIDING JUDGE:

This order has been issued by the judge-rapporteur Ms Ingeborg Simonsson

#### IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

□ Date: 17 October 2023

□ [Order no. 573437/2023/ UPC CFI 11/2023 of the Nordic-Baltic Regional Division \(Judge Stefan Johansson\)](#)

#### POINTS AT ISSUE

Case management and corrections of how the parties are referred to

#### GROUND FOR THE ORDER

1. With reference to [Rule 262.1\(b\) RoP](#) on public access to the register, the Nordic-Baltic Regional Division ordered access for [xxx] to the statement of claim in ACT\_459791/2023, after redaction of personal data within the meaning of Regulation (EU) 2016/679.

2. Ocado has appealed the order.

3. In the Court's Case Management System (CMS), the Autostore companies have incorrectly been designated as Respondents. It is rightly [xxx] who is the Respondent, while the Autostore companies were Defendants in the case before the Court of First Instance.

The Court of Appeal takes note of Ocado's submission that four of the Defendants were never served the statement of claim, and intends to address this in substance at a later stage.

4. The Respondent is not represented before the UPC and has stated that he makes his request as a member of the public, on his own behalf, and not as or on behalf of a party or client. Furthermore he does not believe that [R. 8 RoP](#) on representation applies to the request, despite the suggestion in the CMS that a UPC representative is required. He has made clear that he is not registered as a UPC representative at present.

5. Ocado and the Autostore companies should be provided with the opportunity to comment on whether [R. 8 RoP](#) applies.

6. On 22 November 2023, an application to intervene was lodged in paper form and received by the Court of Appeal in Luxembourg.

7. This order sets out the further steps in the proceedings.

#### ORDER

1. [xxx] is the Respondent before the Court of Appeal and the Autostore companies were parties (Defendants)

in the main proceedings before the Court of First Instance.

2. The Appellant Ocado and the Autostore companies are invited to provide their views on whether [xxx] needs to be represented. The time limit is 15 days from service of this order.

3. Ocado, [xxx] and the Autostore companies are hereby informed about the application to intervene, which is served on them together with this order. They are, pursuant to [R. 314 RoP](#), given the opportunity to be heard. Answers should include any reasoned requests for protection of confidential information ([R. 315.2 RoP](#)). The time limit is 15 days from service of this order.

4. The judge-rapporteur will after the expiry of the time limit in paragraph 3 decide on the admissibility of the application to intervene and (if the application is admissible) whether the Intervener shall be treated as a party ([R. 314](#) and [315.4 RoP](#)). Any reasoned requests for the protection of confidential information will be addressed by the Court at the same time.

5. 15 days after service of the decision in paragraph 4, [xxx] may lodge a Statement of Response ([R. 235 RoP](#)), including any additional arguments on whether he needs to be represented.

6. 15 days after service of the decision in paragraph 4, the Autostore companies may lodge a Statement of Response ([R. 235 RoP](#)).

7. If the intervention is admissible, 15 days after service of the decision on intervention, the Intervener shall lodge a Statement in intervention / Response, including its views on whether [xxx] needs to be represented.

8. Ocado may respond to the Statement in intervention at the oral hearing.

9. The Court of Appeal provides the opportunity for an oral hearing to be held on 15 February 2024 and invites the parties to comment on this.

Issued on 11 December 2023

**NAMES AND SIGNATURES**

Judge Judge-rapporteur Ingeborg Simonsson

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