



UPC Court of Appeal  
UPC\_CoA\_301/2024  
APL\_33746/2024  
App\_33764/2024

**ORDER**  
**of the Court of Appeal of the Unified Patent Court**  
**issued on 26 July 2024**  
**concerning an application pursuant to R.262A RoP**  
**(confidentiality)**

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

**ICPillar LLC**, Houston, Texas, USA,  
hereinafter also referred to as: 'ICPillar',  
represented by: Lionel Martin, Attorney at law and European patent attorney, August Debouzy, Paris,  
France

RESPONDENTS / DEFENDANTS IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE

1. **ARM Limited**, Cambridge, United Kingdom
  3. **Apical Limited**, Cambridge, United Kingdom
  4. **Arm France SAS**, Biot, France
  5. **Arm Germany GmbH**, Grasbrunn, Germany
  6. **Arm Germany d.o.o.**, Sentjernej, Slovenia
  7. **Arm Ireland Limited**, Galway, Ireland
  8. **Arm Poland Sp. z.o.o.**, Katowice, Poland
  9. **Arm Sweden AB**, Lund, Sweden
  10. **Simulity Labs Limited**, Cambridge, United Kingdom
  12. **SVF Holdco (UK) Limited**, London, United Kingdom
- hereinafter also jointly referred to (in singular) as 'ARM',  
represented by: Christoph Crützen, Mayer Brown LLP, Düsseldorf, Germany

LANGUAGE OF THE PROCEEDINGS

English

PATENT AT ISSUE

EP 3000239

PANEL

Second Panel

## DECIDING JUDGES

This order was adopted by

Rian Kalden, Presiding judge and judge-rapporteur

Ingeborg Simonsson, legally qualified judge

Patricia Rombach, legally qualified judge

## IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

- Date: 21 May 2024; ORD\_23494/2024 in related proceedings (application for security for costs) App\_22767/2024, in the main infringement action ACT\_596432/2023
- Action number attributed by the Court of First Instance, Local Division Paris: UPC\_CFI\_495/2023

## PROCEDURAL HISTORY AND PARTIES' REQUESTS

1. On 26 April 2024 ARM filed an application under R.158.1 RoP (App\_22767/2024), requesting the Court of First Instance to order ICPillar to provide adequate security for legal costs and other expenses incurred by ARM. The Court of First Instance allowed the Application. Leave to appeal was requested by ICPillar on 28 May 2024 and granted by the Court of First Instance by order dated 30 May 2024.
2. In the appeal proceedings, ICPillar requests that the impugned order on security for costs shall be set aside.
3. On 5 June 2024, ICPillar (inter alia) lodged an application under R.262A RoP, in relation to Exhibit 4 to the Statement of appeal. By order of 20 June 2024, the Representative of ARM was given the opportunity to comment by 25 June 2024. As the unredacted version had not been made available to him before that date, this deadline was extended by order of 8 July 2024 to 12 July 2024. The Representative of ARM lodged his comments by this date.
4. In the request for confidentiality, ICPillar requests the Court of Appeal to order that certain parts of Exhibit 4 to the Statement of appeal and grounds of appeal be kept confidential and will only be fully disclosed to the representatives of ARM and not more than two of all the ARM companies who are respondents in these proceedings.
5. ARM argues that the information contained in Exhibit 4 is not of a confidential nature and that in view of its importance for the main proceedings, it should be made available in its entirety, without restrictions on who may have access to it.
6. On 23 July 2024, the Court of the Appeal issued an order. It rejected ICPillar's request for confidentiality, as it considered the reasons brought forward by ICPillar to be insufficient to justify protection of the information contained in the unredacted version of Exhibit 4.
7. The Court of Appeal furthermore ordered as follows:
  - if ICPillar does not object to this by 25 July 2024, the unrestricted version of Exhibit 4 shall be made available to the Respondents on 26 July 2024 without any duty of confidentiality and:
    - ARM's Representative is released from the duties of confidentiality imposed on him by the Order of 20 June 2024 as from 26 July 2024;

- the Representative of ARM shall be given the opportunity to discuss the unredacted version of Exhibit 4 with ARM and – if necessary - amend the Statement of response by 2 August 2024.
- if ICPillar by 25 July 2024 objects to making the unrestricted version of Exhibit 4 available to the Respondents without any duty of confidentiality, then:
  - the unredacted version of Exhibit 4 will be disregarded by the Court of Appeal in the appeal proceedings and ICPillar may rely on the redacted version of Exhibit 4 only;
  - The duty of confidentiality imposed on ARM's Representative by Order of 20 June 2024 will continue to be in force.

8. In its comments lodged on 25 July 2024, ICPillar confirmed that it does not object to the fact that the unrestricted version of Exhibit 4 shall be made available to the Respondent on 26 July 2024 without any duty of confidentiality. As a consequence, ARM is herewith given the opportunity to amend its Statement of response by 2 August 2024.

9. ICPillar indicated in its comments that it will request to also be given an opportunity to amend its Statement of appeal and grounds of appeal, as that, according to ICPillar, was only based on parts of Exhibit 4 that were not redacted. Since ARM may formulate arguments based on the previously redacted parts of Exhibit 4, ICPillar argues that this raises an issue on equality of arms between parties.

#### POINTS AT ISSUE

Confidentiality pursuant to R.262A RoP, amendment of Statement of appeal and grounds of appeal.

#### GROUNDS FOR THE ORDER

10. As rightly assumed by ICPillar, the rationale for giving ARM the opportunity to amend its Statement of response is that now, not just ARM's representative but also ARM is having access to the unrestricted version of Exhibit 4 (insurance policy), so that amendments to their case may be contemplated at their end. The Court of Appeal notes that this is particularly so since many parts of Exhibit 4 were blackened and the representative, when drafting the Statement of response, could not discuss the content of Exhibit 4 in full with ARM.

11. The Court of Appeal does not agree that the possibility for ARM to amend its Statement of response raises an issue of equality of arms. ICPillar could bring – and should have brought – forward arguments in its Statement of appeal and grounds of appeal based on the unredacted version of Exhibit 4 when lodging the appeal and request confidentiality in relation to that document together with uploading a redacted version of its Statement of claim and grounds of appeal, as it has done with Exhibit 4 itself.

12. Insofar as the amended Statement of response gives reason for ICPillar (only) to upload evidence to contest arguments brought forward by ARM, it may do so by 8 August 2024.

13. If ICPillar uploads new evidence, ARM will have the opportunity to respond to this evidence by 14 August 2024.

14. There is no reason to postpone the date for the oral hearing to be held on 20 August 2024.

ORDER

The Court of Appeal

- gives ARM the opportunity to amend its Statement of response regarding the unredacted version of Exhibit 4 by 2 August 2024.

Issued on 26 July 2024,

Rian Kalden, Presiding judge and judge-rapporteur

Ingeborg Simonsson, legally qualified judge

Patricia Rombach, legally qualified judge