



UPC Court of Appeal
UPC_CoA_219/2024
APL_25923/2024
App_29007/2024

ORDER
of the Court of Appeal of the Unified Patent Court
issued on 22 May 2024
concerning a request for expedition of the appeal
pursuant to R.225(e), R.9.3(b) Rules of Procedure

HEADNOTES:

In the appeal against an order in which an application for security for costs was dismissed, a request by the Appellant to expedite the appeal and shorten any deadlines where possible in accordance with R.9.3 (b) RoP is denied for being too unspecified and insufficiently substantiated.

KEYWORDS:

Expedition of the appeal, R.225 (e), R.9.3 (b) RoP

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

Audi AG, Ingolstadt, Germany

Hereinafter also referred to as: 'Audi'

represented by: Dr. Jan Bösing, Rechtsanwalt, Bardehle Pagenberg, Munich, Germany

RESPONDENT / CLAIMANT IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE

Network System Technologies LLC., Portland, ME, Unites States of America

Hereinafter also referred to as 'NST',

represented by: Dr Thomas Gniadek, Simmons&Simmons, Munich, Germany

LANGUAGE OF THE PROCEEDINGS:

English

PATENT AT ISSUE

EP 1 552 399

PANEL

Second Panel

DECIDING JUDGES:

This order has been 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: 23 April 2024 (signed 25 April 2024); ORD_17417/2024 in related proceedings (requests for security for costs) App_11456/2024, App_11454/2024 and App_11732/2024 in the main infringement action ACT_597693/2023)
- Action number attributed by the Court of First Instance Local Division Munich): UPC_CFI_515/2023

SUMMARY OF FACTS

On 1 March 2024 Audi filed an application under Art. 69.4 UPCA and R.158.1 RoP (App. 11456/2024), requesting the Court to order NST to provide adequate security for legal costs and other expenses incurred by Audi. The Court of First Instance denied the Application. Leave to appeal was granted in the Order.

INDICATION OF PARTIES' REQUESTS

In the appeal proceedings, Audi requests that the impugned order shall be set aside. It argues that the Court of First Instance applied legally erroneous standards of examination and of burden of proof for the decision on the provision of security for costs. The Court of First Instance furthermore misapplied the undisputed facts of the case at hand, Audi contends.

In the request for expedition of the appeal, Audi requests the Court of Appeal pursuant to R.225(e) and R.9.3 RoP to expedite the appeal and shorten any deadlines where possible. Audi argues that it already incurred significant legal costs for the filing of the statement of defence in the main infringement proceedings on the merits without any security that such costs will be reimbursed by NST. These legal costs continue to increase and thus need to be secured as soon as possible.

POINTS AT ISSUE

Request for expedition of the appeal, R.225 (e), R.9.3 (b) RoP

FOUNDATIONS FOR THE ORDER

1. The request for expedition is admissible.
2. There is no need to consult NST about this request.
3. Pursuant to R.235 and R.224.2(b) RoP a respondent has 15 days from service of the Statement of grounds of appeal to lodge a Statement of response.
4. R.9.3(b) RoP empowers the Court to shorten any time period on a reasoned request by a party.

