



UPC Court of Appeal
UPC_CoA_224/2024
APL_25952/2024
App_27158/2024

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 Appellants 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

APPLICANTS / APPELLANTS / DEFENDANTS IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE:

1. Texas Instruments Incorporated, Dallas, Texas, United States of America;
2. Texas Instruments Deutschland GmbH, Freising, Germany;

Hereinafter also jointly referred to as: Texas Instruments c.s. (in singular)
represented by: Klaus Haft, Rechtsanwalt, Hoyng Rokh Monegier, Munich, Germany

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

Network Systems 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 1 875 683

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_12231/2024 in related proceedings (requests for security for costs) App_11434/2024, App_11453/2024 and App_11833/2024 in the main infringement action ACT_597692/2023)
- Action number attributed by the Court of First Instance Local Division Munich): UPC_CFI_514/2023

SUMMARY OF FACTS

On 4 March 2024 Texas Instruments filed an application under Art. 69.4 UPCA and R.158.1 RoP (App. 11833/2024), requesting the Court to order NST to provide adequate security for legal costs and other expenses incurred by Texas Instruments . The Court of First Instance denied the application. Leave to appeal was granted in the order.

INDICATION OF PARTIES' REQUESTS

In the appeal proceedings, Texas Instruments requests that the impugned order shall be set aside. It argues that the Court of First Instance applied a wrong legal standard by placing a too high burden of demonstration and proof on Texas Instruments and that it insufficiently considered the facts which were submitted by the parties.

In the request for expedition of the appeal, Texas Instruments request the Court of Appeal to expedite the appeal and shorten any deadlines where possible in accordance with R.9(3)(b) RoP. Texas Instruments argues that it continues to incur legal costs for defending themselves in the underlying infringement proceedings including the required counterclaim for revocation. The longer the appeal proceedings last, the higher the costs it has to incur without receiving adequate security that these costs will later be reimbursed by NST.

POINTS AT ISSUE

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

GROUND 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.235.2 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.

