



Order
of the Court of First Instance of the Unified Patent Court
in the main proceedings concerning European patent 3 110 072 issued on:
15/05/2024

Date of receipt of the application: 20/03/2024

Motorola Mobility LLC

(Defendant) - 222 West Merchandise Mart Plaza, Suite
1800 - IL 60654 - Chicago, Illinois - US

Statement of claim served on
17/04/2024

Motorola International Sales LLC

(Defendant) - 222 West Merchandise Mart Plaza, Suite
1800 - IL 60654 - Chicago, Illinois - US

Statement of claim served on
17/04/2024

Motorola Mobility Germany GmbH

(defendant) - Vorstadt 2 - 61440 - Oberursel - DE

Statement of claim served on
13/04/2024

Digital River Ireland, Ltd.

(Defendant) - Dromore House, East Park - V14 AN23 -
Shannon, County Clare - IE

Statement of claim served on
13/04/2024

Lenovo EMEA DC

(Defendant) - Phase 9 Building, c/o Flextronics BV,
Nobelstraat 10 - 14, Nobelstraat 10 - 14 - 5807 GA -
Oostrum - NL

Statement of claim served on
13/04/2024

APPLICANT

1) **Motorola Mobility Germany GmbH**
(Applicant) - Vorstadt 2 - 61440 -
Oberursel - DE

Represented by:
Caroline
Horstmann

- 2) **Digital River Ireland, Ltd.** Represented by:
(Applicant) - Dromore House, East Park - Caroline
V14 AN23 - Shannon, County Clare Horstmann
- IE

PARTIES TO THE RELEVANT PROCEEDINGS

- 1) **Headwater Research LLC** Represented by:
(Party to the main proceedings - Plaintiff) - 110 Philipp Rastemborski
North College Avenue, Suite 1116 - TX 75702 -
Tyler - US
- 2) **Motorola Mobility LLC** Represented by:
(party to the main proceedings - defendant) - Nina Bayerl
222 West Merchandise Mart Plaza, Suite
1800 - IL 60654 - Chicago, Illinois - US
- 3) **Motorola International Sales LLC** Represented by: Caroline
(party to the main proceedings - defendant) - Horstmann
222 West Merchandise Mart Plaza, Suite
1800 - IL 60654 - Chicago, Illinois - US
- 4) **Lenovo EMEA DC** Represented by: ./.
(party to the main proceedings - defendant) -
Phase 9 Building, c/o Flextronics BV,
Nobelstraat 10 - 14, Nobelstraat 10 - 14 -
5807 GA - Oostrum - NL

PATENT IN DISPUTE

<i>Patent no.</i>	<i>Holder</i>
EP3110072	Headwater Research LLC

DECIDING JUDGE

COMPOSITION OF THE PANEL - COMPLETE COMPOSITION

Presiding judge and judge-rapporteur	Matthias Zigann
Legally qualified judge	Tobias Pichlmaier
Legally qualified judge	Mojca Mlakar

This Order was issued by presiding judge Matthias Zigann as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: German

SUBJECT OF THE CASE:

Application by defendants 3 and 4 for an extension of the time limit for lodging an objection.

APPLICATIONS BY THE PARTIES

Defendants 3 and 4 apply on 09/05/2024 at 11.20 pm:

the time limit for filing an objection under Rule 19.1 of the UPC Rules of Procedure pursuant to Rule 9.3(a) of the UPC Rules of Procedure by 17 May 2024 to be extended.

BRIEF PRESENTATION OF THE FACTS

The plaintiff is suing the five defendants for infringement of European patent 3 110 072. The statement of claim was served on defendants 1 and 2 in the USA on 17/04/2024. Service on the defendants 3 to 5 was actually effected between 06/04/2024 and 10/04/2024 by registered letter with acknowledgement of receipt. Pursuant to Rule 271.6.b Verfo, the tenth day after posting, i.e. 13/04/2024, is deemed to be the date of service.

The deadline for lodging an objection therefore ends as follows:

Defendants 1 and 2: 17/05/2024
Defendants 3 to 5: 13/05/2024

Defendants 3 and 4 argue that, for reasons of procedural economy, an alignment and short-term extension of the time limits for the objection and the statement of defence is appropriate.

for the defendants 3) to 4) pursuant to Rule 9.3(a) EPO. A concurrence of the different opposition deadlines would considerably simplify the proper preparation and coordination of the documents, especially since this is not possible within the current deadlines due to the workload and holiday-related absence of the clerks. Last week, the defendants had asked the plaintiff via its representative for consent to a further extension of the objection deadline for defendants 1) to 4). As the plaintiff had not yet been able to give this consent, they now submitted an application to harmonise the objection deadlines as a precautionary measure.

By provisional Order dated 10/05/2024, the judge-rapporteur stated:

"The party bringing the action must be granted the right to be heard. The reasons why the plaintiff considered not agreeing to an extension of the deadline are not known. At least two days must be allowed for this. The fact that a decision may therefore only be made after the deadline has expired is due to the late submission of the request for an extension of the deadline, for which no further reasons were given.

As already stated in other rulings, harmonising the time limit for filing an objection does not offer any advantages for the further handling of the proceedings. At best, these advantages can be achieved by harmonising the time limit for filing a defence. However, no request was made to harmonise the time limit for filing a response.

The other reason put forward for the request for an extension of the deadline, namely that it is not possible to file within the current deadlines due to the workload and holiday-related absence of the clerks, is unlikely to be valid. The actual notification took place between 06/04/2024 and 10/04/2024, meaning that there was sufficient time to prepare a notice of objection and prepare for the expiry of the deadline.

The plaintiff has two days to respond to the request for an extension." By document dated 13/05/2024, the applicant agreed to the requested extension of time. REASONS FOR THE ORDER

If all parties agree on the application, the application must be granted as a matter of principle, unless there are serious reasons to the contrary. There are no obvious reasons to the contrary in the present case.

ORDER

The deadline for filing an objection under Rule 19.1 of the Implementing Regulation UPC is extended to 17/05/2024.

Matthias ZIGANN  Digitally signed by
Matthias ZIGANN Date:
2024.05.13
15:50:48 +02'00'

Dr Zigann
Presiding judge and judge-rapporteur

ORDER DETAILS

Order No. ORD_26476/2024 in PROCEDURE NUMBER: ACT_14859/2024

UPC number: UPC_CFI_127/2024

Nature of the action: Action for infringement

No. of the associated procedure Application No.:

26281/2024 Type of application:

Template for procedural application