



UPC Court of Appeal  
UPC\_CoA\_225/2024  
APL\_25953/2024  
App\_27159/2024

**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 1 552 399

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\_12488/2024 in related proceedings (requests for security for costs) App\_11454/2024, App\_11456/2024 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 4 March 2024 Texas Instruments filed an application under Art. 69.4 UPCA and R.158.1 RoP (App. 11732/2024), 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.

5. Texas Instruments filed the request for expedition of the appeal, at the same time as it lodged the Statement of appeal, containing the grounds of appeal, 14 days after the signature date of the impugned order.
6. Texas Instruments has not explained that and why it would have a particular interest in the Statement of response being filed before any particular date, prior to the end of the time period of 15 days as provided for in R.235.2 and R.224.2(b) RoP. Failing such a reason, the Court of Appeal cannot, in view of the interests of NST and the principles of proportionality, fairness and equity, also taking into account the time period Texas Instruments have taken to lodge its Statement of grounds of appeal, see any reason to shorten the time period within which NST is to lodge its Statement of response.
7. Insofar as the further appeal proceedings are concerned, the request is too unspecified and insufficiently substantiated to justify the shortening of any of the future time periods at this stage of the proceedings.

ORDER

The request for expedition of the appeal is rejected.

INSTRUCTIONS TO THE PARTIES AND TO THE REGISTRY CONCERNING THE NEXT STEPS

This order closes App\_27159/2024.

Issued on 22 May 2024

<b>NAMES AND SIGNATURES</b>
<p><b>Judges</b></p>       <p>Rian Kalden, Presiding judge and judge-rapporteur</p>       <p>Ingeborg Simonsson, legally qualified judge</p>       <p>Patricia Rombach, legally qualified judge</p>

