



Local division Munich
UPC_CFI_221/2023

Order
of the Court of First Instance of the Unified Patent Court in
the main proceedings concerning EP 3 024 163 issued on:
10/07/2024

Date of receipt of the application: 04/08/2023

Guangdong OPPO Mobile Telecommunications Corp.
Ltd.

(Defendant) - NO.18 Haibin Road, Wusha, Chang'an
Town, Guangdong Province - 523860 - Dongguan - CN

Statement of claim served on
03/09/2023

OROPE Germany GmbH

(defendant) - Graf-Adolf-Platz 15 - 40213 - Düsseldorf -
DE

Statement of claim served on
03/09/2023

APPLICANT

1) **Guangdong OPPO Mobile**
Telecommunications Corp. Ltd
(Applicant) - NO.18 Haibin Road,
Wusha, Chang'an Town, Guangdong
Province - 523860 - Dongguan - CN

Represented by:
Tobias J. Hessel

PARTIES TO THE RELEVANT PROCEEDINGS

- | | | |
|----|--|-------------------------------------|
| 1) | Panasonic Holdings Corporation
(Party to the main proceedings - Plaintiff) -
1006, Oaza Kadoma, Kadoma-shi - 571-8501 -
Osaka - JP | Represented by:
Jonas Block |
| 2) | OROPE Germany GmbH
(party to the main proceedings - defendant) -
Graf- Adolf-Platz 15 - 40213 - Düsseldorf - DE | Represented by:
Tobias J. Hessel |

PATENT IN DISPUTE

<i>Patent no.</i>	<i>Holder</i>
EP3024163	Panasonic Holdings Corporation

DECIDING JUDGE

COMPOSITION OF THE PANEL (PANEL 1) - COMPLETE COMPOSITION

Presiding judge and judge-rapporteur	Matthias Zigann
Legally qualified judge	Tobias Pichlmaier
Legally qualified judge	Andras Kupecz
Technically qualified judge	Kerstin Roselinger

This Order was issued by presiding judge Matthias Zigann as judge-rapporteur. LANGUAGE OF THE PROCEEDINGS:

German

SUBJECT OF THE CASE:

Patent infringement:
Here: Application for extension of the duplicate deadline

BRIEF PRESENTATION OF THE FACTS

The court and the defendants do not have a completely unredacted version of the Reply in the infringement dispute. The Reply submitted as an "unredacted version" contains numerous redactions. The redacted parts serve as placeholders for subsequent submissions.

APPLICATIONS BY THE PARTIES

The defendants 1 and 2 apply:

to extend the deadline for the Reply to the infringement action, the Reply to the counterclaim for a declaration of invalidity and the defence to the application for amendment of the patent until 17 September 2024.

Note: Only defendant 1 was entered as the applicant in the CMS, which is why only one applicant appears in the heading.

The plaintiff does not make a specific application, but states that it does not agree with the application to extend the duplicate deadline. She continues on seven pages that most of the information is already available to the defendants. The redactions relate only to a part of the proportion, which should also be considered separately from the unredacted parts. The defendants were therefore not prevented from duplicating the unredacted parts. An extension of the duplicate period for the technology was not justified. The technical Reply had been submitted to the defendants unredacted immediately after submission.

JUSTIFICATION OF THE ORDER

Only defendant 1 was entered as the applicant in the CMS. However, it is clear from the PDF document that the application was submitted by both defendants.

The procedure chosen by the plaintiff (submission of a redacted "unredacted version" of the Reply, with the redacted parts serving as placeholders for later submissions) is inadmissible (see Mannheim local division, Order of 13/06/2024; APP 35009/2024 and APP 35013/2024 in UPC CFI 219/2023; Munich local division, Order of 04/07/2024 APP_21945/2024 and App_33754/2024 in UPC_CFI_220/2023).

In the present case, however, an exception must be made because the problem is being addressed by the Unified Patent Court for the first time. However, the time limit for filing a duplicate is currently not running. The time limit for filing a Reply only runs from the date on which the defendants have been served with a fully unredacted Reply. This is because the defendants have a right to defend themselves comprehensively, uniformly and in full knowledge of all the plaintiff's submissions in the Reply and by exhausting the time limits provided for by the Rules of Procedure, without being forced to submit requests for extensions of time with an uncertain outcome. The defendants also have the right to respond uniformly to the Reply. The Rules of Procedure do not provide for a division of the reply into two parts and different time limits for these parts. There is also no reason for this in the present case. The hearing date is not until January 2025. The plaintiff had it in its own hands to submit its Reply differently, namely

in accordance with the procedure.

If this were to be seen differently, the redacted parts of the duplicate would have to be regarded as not having been submitted. A later submission could then be treated in accordance with Rule 9.2 of the Rules of Procedure. In its statement, the plaintiff discusses that the redacted passages relate to a non-obligatory submission that it could live with not being admitted. However, she does not explicitly waive the possibility of making submissions in this way.


However, the time limits for the counterclaim and the (alternative) amendment of the patent must be considered separately from this. These time limits are based on the defendant's decision to attack the legal validity of the patent with a counterclaim for revocation. This attack is legally independent of the compulsory licence objection under antitrust law. Redactions that clearly only concern statements on the compulsory licence objection under antitrust law therefore generally have no influence on this. Rule 29.d VerfO does not change this (see local division Mannheim, Order of 13/06/2024; APP 35009/2024 and APP 35013/2024 in UPC CFI 219/2023), as a divergence of these deadlines does not contradict this. After expiry of the time limit for filing a Reply to the Duplicate Reply to the Statement of Defence in the infringement dispute, the Rules of Procedure do not require any further exchange of documents, while further documents are still to be exchanged in relation to the application to amend the patent.

This also applies to the argument that the plaintiff has not yet submitted a sufficient interpretation of the patent in suit. This is because the defendant's decision to attack the legal validity of the patent in suit must be seen independently of this.

ORDER

1. It is noted that the time limit for the duplicate in the infringement dispute has not yet begun to run. In this respect, an extension of this deadline is currently not appropriate.
2. The remaining deadlines have begun to run. The applications for extension relating to this are rejected.

**Matthias
ZIGANN**

 Digitally signed by Matthias
ZIGANN
Date: 2024.07.10 15:12:02
+02'00'

Dr Zigann
Presiding judge and judge-rapporteur

ORDER DETAILS

Order No. ORD_40297/2024 in PROCEDURE NUMBER: ACT_545620/2023

UPC number: UPC_CFI_221/2023

Nature of the action: Action for infringement

No. of the related procedure Application No.:

39247/2024 Type of application:

Template for procedural application