



**Procedural order
of the Court of First Instance of the Unified Patent Court
issued on 13/05/2025**

CLAIMANT

Huawei Technologies Co. Ltd, Bantian, Longgang District Shenzhen, 518129, P.R. China,
represented by Ms Zhao Minglu, *ibid*,

represented by: Attorney Dr Tobias Hessel, Clifford Chance Partnerschaft mbB, Königsallee
59, 40215 Düsseldorf, Germany.

DEFENDANT

- 1) **MediaTek, Inc.**, Hsinschu Science Park No. 1, Dusing 1st Road, 300 78, Hsinchu, Taiwan,
represented by the Board of Directors, which in turn is represented by the Chairman of the
Board, Ming Chieh Tsai, *ibid*,
- 2) **MediaTek Germany GmbH**, Kesselstraße 5-7, 40221 Düsseldorf, Germany, represented by
the Managing Director Hsuan-Ni Chen, *ibid*.

Defendant 2) represented by: Lawyer Dr Antje Brambrink, Finnegan Henderson
Farrabow, Garrett & Dunner LLP, Thierschplatz 6, 80538
Munich, Germany.

PATENT AT ISSUE

European patent EP 4 142 215

PANEL/CHAMBER

PANEL/Panel 2 of the Munich local division

PARTICIPATING JUDGE

The Order was issued by the presiding judge Ulrike Voß as rapporteur.

LANGUAGE OF THE PROCEEDINGS

German

OBJECT

Infringement action - protection of confidential information

BRIEF PRESENTATION OF THE FACTS

The Claimant claims against the Defendants for infringement of the European Patent EP 4 142 215.

By application dated 24 March 2025, the Claimant applied for protection of the parties' trade secrets,

- I. to classify as confidential the statements contained in the application of 24 March 2025, in particular the information highlighted in grey as well as the annexes, illustrations and overviews submitted in this regard and marked "CONFIDENTIAL" or "confidential", which are summarised in tabular form as follows (R. 262.2, R. 262A)

[...]

and to order that they are to be kept strictly confidential by the defendants and may not be used or disclosed by them outside these proceedings unless they have obtained knowledge of such information outside these proceedings (R. 262A);

- II. to order that the obligation under No. 1 shall continue to apply after the conclusion of these proceedings, whereby this shall not apply if the court has denied the need for secrecy of this information by a legally binding decision or Order or as soon as the information in dispute becomes known or readily accessible to persons in the circles that normally deal with such information;
- III. to order a hearing in the event that this submission is discussed at the hearing,
 1. to exclude the public for this part of the interim hearing and/or oral proceedings in accordance with Art. 45 UPCA in conjunction with R. 115 RP. R. 115 RoP, insofar as information subject to confidentiality pursuant to No. 1 is discussed;
 2. to compel the persons present at the interim hearing and/or oral proceedings, including the party representatives, their authorised representatives and the patent attorneys appointed to participate in the legal dispute, to disclose facts relating to the statements referred to in para. 1 and to them

The information that comes to their knowledge for the first time at the interim hearing and/or the oral hearing must be kept secret from third parties and used only for the purpose of conducting the proceedings in this case;

3. to exclude the public for part of the pronouncement of the reasons for the judgement, insofar as information requiring secrecy pursuant to No. 1 is discussed;
- IV. to exclude the information subject to confidentiality pursuant to para. 1 from access to the file by third parties (Art. 58 UPCA in conjunction with R. 262.1 lit. b), 262.2 RoP);
- V. to black out all information contained in the reasons for judgement or other announcements that fall under no. 1 in accordance with R. 262.1 lit.a), 262.2, 262A RoP.

The representative of defendant 2) was granted the right to be heard in accordance with Rule 264 RoP. In her statement, she argued that application number I. of the application for confidentiality was too broad on the one hand and too narrow on the other. Due to the wording "...contained statements, in particular ...", application no. I. was too broad. Secrecy should be limited to information that is actually secret. On the other hand, confidentiality should not only be imposed on the defendant, but on "everyone", i.e. also on the Claimant. The confidential information listed in clause I. is a business secret of both parties. The plaintiff and the defendant therefore had a legitimate interest in keeping the information secret.

REASONS FOR THE ORDER

The Claimant's admissible application succeeds on the merits to the extent evident from the Order.

I.

Pursuant to Art. 58 UPCA in conjunction with Rule 262A RoP, the court may, at the application of a party, restrict or declare inadmissible access to certain information contained in its documents or the collection and use of evidence in the proceedings or restrict access to such information or evidence to certain persons in order to protect confidential information. Rule 262A RoP therefore concerns access restrictions for the opposing (procedural) party.

Confidential information can also be protected by means of Rule 262.2 RoP. Upon application by a party, public access to documents and evidence recorded in the register may be restricted with regard to confidential information. Rule 262.2 RoP therefore concerns public access to the register and in this respect obliges the Registrar of the UPC Agreement to ensure the protection of confidential information.

Whether Rule 262A RoP, when applied directly, also covers the constellation that (without an Order restricting access on the part of a party) the parties to the proceedings must treat confidential information confidentially vis-à-vis third parties or the public, or whether such an obligation follows directly from an application pursuant to Rule 262.2 RoP filed at the same time - as is the case here - does not require a final decision.

A duty of confidentiality to this effect would in any case follow if the aforementioned provisions were applied by analogy.

If a regulatory gap were to be assumed in this respect, it would be unintended. As Art. 58, 60 UPCA and Rules 262, 262A, 365.2/3 RoP in particular make clear, the UPCA and RoP - in accordance with Art. 9 of the Trade Secrets Directive - provide provisions for the effective protection of the confidentiality of the parties' trade secrets. If there were no provision obliging the parties to the proceedings to maintain confidentiality vis-à-vis the public, the confidential information or trade secrets of the parties in proceedings would only be incompletely protected. However, it is not apparent that only incomplete protection of business secrets was intended before the UPC Agreement. There is no evidence of a deliberate decision to this effect. The interests involved are also comparable. In the case of a trade secret or confidential information, a party also has an interest worthy of protection in ensuring that third parties or the public are not informed by a party to the proceedings of the confidential information introduced in the proceedings.

II.

The information highlighted in grey in the application of 24 March 2025 as well as the attachments, illustrations and overviews submitted for this purpose and marked "CONFIDENTIAL" or "confidential", the references of which listed or mentioned in the table of the application item I. of the application for secrecy protection of 24 March 2025, are to be classified as confidential. According to the unanimous submission of the parties, the information mentioned is confidential information. It is a trade secret of both parties. They are the subject of confidentiality agreements between the parties.

Only this confidential information is to be treated confidentially or kept secret, but not the entire application. The Claimant is also right to assume this. With the wording it chose ("in particular"), the Claimant, as it explained in its defence to the position taken by the representative of the defendant 2), also in no way requested that the entire application be classified as confidential.

Insofar as the Claimant has stated in its defence that the wording it has chosen serves to clarify that all information relating to the confidential facts named in the table is classified as confidential, even in the event that it has not been inadvertently highlighted in grey or marked as confidential, this can in principle be accepted. However, the last half-sentence gives rise to a purely precautionary comment. It is up to the party itself to black out all confidential information in its documents and pleadings. It is not the task of the court to check whether the party has inadvertently failed to redact a confidential fact in its document or has inadvertently failed to mark it as confidential.

In order to avoid any misunderstanding of the scope of the confidentiality order, there is no "in particular" wording in Order I. (below).

III.

The information classified as confidential may not be used by anyone who is involved in the proceedings available at (as party, representative, witness, expert),

court clerk or in any other way) obtains knowledge of it. A restriction to the defendant 2) only is not appropriate.

In application no. I., the Claimant cites Rule 262A RoP as the standard, which - as the Claimant correctly emphasises - is directed against the other party to the proceedings. However, the Claimant does not seek a restriction of access with regard to the Defendants pursuant to Rule 262A RoP in its application no. I.. Rather, the defendants should have unrestricted access to the confidential information, they should "only" not use or disclose it outside the proceedings. It is therefore a matter of protecting the confidential information from the public or third parties (see the explanations under I. of this Order). This corresponds with the fact that the confidential information is business secrets of the parties and that the parties have concluded confidentiality agreements in this respect.

In line with this, the Claimant itself also states on page 17 of the statement of claim dated 24 March 2025 under Section E: "The Claimant submits in reliance on these NDAs. This confidential information is a trade secret and must also be kept confidential by the parties, their representatives, witnesses, experts, other representatives and all other persons in the present proceedings. The requested Order of measures of confidentiality pursuant to R. 262.2 and R. 262A RoP is therefore mandatory."

The Claimant also cites R. 262.2 RoP as a standard in application no. I. of 24 March 2025 and introduces its application with a reference to the "business secrets of the parties".

IV.

The Claimant has not requested a restriction of access on the part of the Defendant. It is also not apparent that it would be necessary in the present case to restrict access to the confidential information on the part of the defendant 2) to certain persons only. According to the unanimous submission of the parties, the confidential information is business secrets of both parties.

V.

A decision on applications III. and V. is currently not required. Whether and, if so, to what extent measures are required to protect business secrets in any interim hearing and/or oral proceedings and/or pronouncement of judgement cannot be determined at present.

A decision pursuant to point IV. is not to be made in this Order. The Claimant has filed its own application under number App_14379/2025 pursuant to Rule 262.2 RoP.

ORDER

- I. The information contained in the statement of claim dated 24 March 2025, which is highlighted in grey, as well as the attachments, figures and overviews submitted for this purpose and marked "CONFIDENTIAL" or "confidential", which are summarised in tabular form as follows, are classified as confidential:

[...]

- II. It is ordered that the information classified as confidential must be treated as confidential by anyone who becomes aware of it as a result of their involvement in the present proceedings (as a party, representative, witness, expert, court employee or otherwise) and may not be used or disclosed outside these court proceedings unless they have become aware of it outside the proceedings.
- III. It is ordered that the obligation under para. I shall continue to apply after the conclusion of these proceedings, whereby this shall not apply if the court has denied the need for secrecy of this information by a legally binding decision or Order or as soon as the information in dispute becomes known or readily accessible to persons in the circles that usually deal with such information.

INSTRUCTION TO THE LAW FIRM

The defendant 2) must be granted access to the unedited version of the statement of claim of 24 March 2025 and the annexes [...].

ORDER DETAILS

Order no. ORD_18799/2025 in proceedings ACT_14180/20205

UPC_CFI_254/2025

Nature of the action: Action for infringement

No. of the associated procedure Application no.: 18695/2025

13.05.2025

Ulrike Voß Presiding
judge