



Action n°: UPC 337/2025

Revocation action

Order

of the Court of First Instance of the Unified Patent Court

Central Division (Section Munich)

issued on 13 June 2025

CLAIMANT:

TCL EUROPE SAS, 9-15 rue Rouget de Lisle - 92130 - Issy les Moulineaux - France

represented by Andreas Obermeier of Bird & Bird LLP.

DEFENDANT:

Corning Incorporated, One Riverfront Plaza, Corning - 14831 - New York – United States of America

represented by Marcus Grosch of Quinn Emanuel Urquhart & Sullivan LLP.

PATENT AT ISSUE

European Patent number 3 296 274

PANEL/DIVISION

Panel 1 of the Central Division (Section Munich).

DECIDING JUDGE

This Order is an order of the Judge-rapporteur András Kupecz.

LANGUAGE OF THE PROCEEDINGS:

English.

SUBJECT-MATTER OF THE PROCEEDINGS

Revocation action. Applications 23661/2025 and 25818/2025 (Generic procedural applications).

SUMMARY OF FACTS AND REQUESTS

In application 23661/2025

The Claimant commenced a revocation action against the patent in suit on 22 April 2025.

On 15 May 2025 a counterclaim for revocation was filed in parallel UPC infringement proceedings relating to the patent in suit, including by several TCL entities (ACT_66848/2024, UPC_CFI_819/2024). With the counterclaim, a new document and new arguments were introduced compared to the revocation action. These were: two additional added matter arguments; and a consulting report from the Swedish Patent Office issued with respect to the lack of inventive step attack starting from example 15 of D20 (“the Swedish Consulting Report”).

As a reason for submitting the new arguments and the new document after lodging the Statement of revocation in the present proceedings, the Claimant submitted that the Swedish Consulting Report was only finalized on 25 April 2025. Likewise, the new added matter arguments were only developed after the revocation action was lodged. Therefore, it was not possible for the Claimant to include either in its Statement for revocation. By application dated 23 May 2025, the Claimant requested the Court to issue an order admitting the pleadings submitted with the application including the new added matter arguments and the Swedish Consulting Report.

The Defendant commented on the application, stating that the submission was made more than a month after the revocation action was filed without providing sufficient justification as to why these were not filed earlier or even with the revocation action. In addition, the Defendant submitted that Rule 263 of the Rules of Procedure of the Unified Patent Court (“RoP”) would have been the appropriate route (and workflow) to introduce additions to the initial action. If the

amendments to the case are admitted into the proceedings, the Defendant requests the Division to also consider this when deciding on the parallel application for an extension of the term for the Defence to Revocation filed today (25818/2025, see below).

In application 25818/2025

On 30 May 2025, the Defendant requested to extend the term for filing the Defence to Revocation including an Application to amend the patent be extended by four weeks (i.e., until July 21, 2025).

As reasons for its request, the Defendant referred to the additional attacks (if admitted, see above) and further to the need to bring forward comprehensive and aligned arguments in this revocation action and the parallel infringement proceedings. This particularly applies for the development of auxiliary requests to be filed with the application to amend the patent, for which – against the background of the infringement proceedings – the Defendant requires additional time for coordinating testing and the assessment of respective results for the accused devices which is technically and logistically complex. In addition, the deadline to respond to the counterclaim for revocation in the parallel infringement action is expected to be 15 July or later due to Rule 262 and 262A RoP issues in those proceedings, and hence the request also serves to align the deadlines to a certain extent.

The Claimant requests that the Court denies the Defendant's request to extend the term by four weeks. In support, the Claimant argued that harmonizing procedural schedules is not a legitimate objective for extending a deadline. Moreover, the grounds advanced by the Defendant—specifically, the need to conduct further testing related to the accused products in the infringement action—are irrelevant to the revocation proceedings, as only circumstances affecting the validity of the patent and arising directly from this case can justify additional time. Moreover, the Rules of Procedure do not provide for an automatic extension of deadlines in response to the introduction of new arguments or attacks. Rule 9.3 RoP allows the Court to extend time limits only in exceptional circumstances and at its discretion. The Defendant has sufficient time — at least four weeks, more precisely six weeks — to address the limited material introduced by the Claimant.

On 11 June 2025, the Judge-rapporteur discussed the applications with the parties via video conference.

ORDER

Pursuant to the discussion held with the parties at the videoconference, the parties informed the Court that they reached agreement on a two week extension for filing the Defence to Revocation including an Application to amend the patent and – as the Court understands from the discussion with the parties – the admissibility of the pleadings submitted with application 23661/2025 including the new added matter arguments and the Swedish Consulting Report. In principle, the Court will accept an agreement between the parties on procedural issues such as these. The Court sees no reason to find otherwise in this case.

For these reasons, having heard the parties in relation to applications 23661/2025 and 25818/2025, the Court:

- Admits the pleadings submitted with application 23661/2025 including the new added matter arguments and the Swedish Consulting Report into these proceedings.
- Extends the deadline for extension for filing the Defence to Revocation including an Application to amend the patent by **two weeks**.
- Rejects any other request.

Issued 13 June 2025
KUPECZ
Judge-rapporteur

ORDER DETAILS

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| Order no. | ORD_25882/2025 in ACTION NUMBER: ACT_17987/2025 |
| UPC number: | UPC_CFI_337/2025 |
| Action type: | Revocation Action |
| Application No.: | 25818/2025 and 23661/2025 |
| Application Type: | Generic procedural Application |

For CMS purposes, this order is uploaded in and closes both application workflows.