

Order
of the Court of First Instance of the Unified Patent Court
issued on 19 August 2025
concerning EP 3 849 157
concerning App_34857/2025
(Request for the extension of the time period for the SoD, in the event of a
request pursuant to R. 262A RoP regarding the SoC)

CLAIMANT

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Represented by Oliver
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DEFENDANTS

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2) **ASUS Computer GmbH**
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4) **ASUSTeK Italy S.r.l.**
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PATENT AT ISSUE:

European patent EP 3 849 157

PANEL/DIVISION:

Panel of the Local Division in Mannheim

DECIDING JUDGES:

This order was issued by the legally qualified judge Böttcher acting as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT OF THE PROCEEDINGS: Patent infringement action – Request for the extension of a time period

BRIEF SUMMARY OF THE FACTS:

The Defendants 2 to 6 request to extend the time period for their statement of defence and for a possible counterclaim for revocation.

The representatives of Defendants 2 to 6 were given access to the unredacted version of exhibit BB1 to the statement of claim on 1 August 2025, based on a pre-order pursuant to R. 262A RoP, for the purpose of commenting on Claimant's request pursuant to R. 262A RoP regarding exhibit BB1. Exhibit BB1 contains an agreement between the Claimant and its co-owner of the patent-in-suit regarding the patent-in-suit. In the statement of claim, which is not subject to any request pursuant to R. 262A RoP, the Claimant stated that it is entitled to assert the patent-in-suit in its own name and that its co-owner has transferred all claims arising from patent infringement by third parties to the Claimant. In this context, the Claimant referred to exhibit BB1.

The Defendants 2 to 6 argue that the time period for their statement of defence and for a possible counterclaim for revocation should be extended so that it starts on the day the court finally decides on Claimant's request pursuant R. 262A RoP regarding exhibit BB1. At least the time period should start on 1 August 2025, the date on which their representatives were granted access to the unredacted version of exhibit BB1 (auxiliary request). In their view, the time period only begins upon completion of the confidentiality proceedings pursuant to R. 262A RoP.

The Claimant opposes the request in its entirety. It argues that exhibit BB1 bears no relevance that would justify an extension of the time period for the statement of defence and for a possible counterclaim of revocation.

For further details and the requests, reference is made to the parties' briefs.

REASONS FOR THE ORDER:

The extension of the time period for the statement of claim (which automatically leads to a corresponding extension of the time period for a possible counterclaim for revocation) is justified in part only.

1. According to the established case law of the Local Division Mannheim, a time period provided for in the Rules of Procedure begins to run regardless of when the party concerned has obtained access to the unredacted version of a brief or exhibit. Rather, in principle, depending on the circumstances of the individual case, that party must, upon its reasoned request, be granted an extension of the relevant time period which in principle compensates for and corresponds to the period during which it did not have full access to the subject matter of the case for the purpose of pursuing or defending its rights (cf., LD Mannheim, order dated September 9, 2024 – CFI 219/2023 and 223/2023, GRUR-RS 2024, 25617 marg. nos. 9 et seq. – Panasonic Holdings v. Xiaomi Technology). This practice is in line with the case law of the CoA (cf. order dated August 12, 2025 – CoA 360/2025 – Lionra Technologies v. Cisco Systems et al.; order dated October 13, 2023 – CoA 320/2023, GRUR 2023, 1761, 1763 et seq. – Sanofi-Aventis Deutschland et al. v. Amgen).

2. Applying these principles to the case at hand, an extension of (approx.) one week is justified and sufficient.

Exhibit BB1 relates only to a minor part of the statement of claim and is not relevant to its understanding, or at most of secondary importance for the understanding. The relevant statements are already contained in the statement of claim itself. The Claimant has stated therein that it is entitled to assert the patent-in-suit in its own name and that all relevant claims arising from infringement by third parties have been transferred to it. The statement of claim is not subject to a request pursuant to R. 262A RoP and is therefore completely unredacted. In the statement of claim, the Claimant refers to exhibit BB1 only to prove that its assertions regarding its entitlement and the transfer of claims are correct. Therefore, only access to evidence was delayed. To compensate for this delay, (approx.) one week is justified and sufficient on the instant facts. Taking the circumstances of the individual case and the interests involved into account, (approx.) one week appears sufficient to verify whether the aforementioned statements in the statement of claim are in line with the content of exhibit BB1.

Apart from that, a further extension of the time period is out of question from the outset, taking the Defendants' 2 to 6 behaviour into account. The statement of claim was served on them at the end of June 2025. In their brief dated 14 August 2025, they mentioned for the first time that they do not have access to the unredacted version of exhibit BB1 and therefore required a time period extension corresponding to the full time period for the statement of defence, starting from the date on which they will be granted access or at least from the date on which their representatives were granted access. However, if the unredacted version played such an important role, they should have raised this immediately after service of the statement of claim in order to avoid a delay in the proceedings.

ORDER

The time period for submitting the statement of defence is extended for the Defendants' 2 to 6 until **30 September 2025**. In all other respects, the request is rejected.

ORDER DETAILS

Order no. ORD_34904/2025 in ACTION NUMBER: ACT_24399/2025

UPC number: UPC_CFI_452/2025

Action type: Infringement Action

Related proceeding no. Application No.: 34857/2025

Application Type: Generic procedural Application

Issued in Mannheim on 19 August 2025

NAME AND SIGNATURE

Böttcher

Judge-rapporteur