



Local Division Mannheim

UPC_CFI_414/2024

Procedural Order

of the Court of First Instance of the Unified Patent Court

issued on 20 August 2025

App 34743/2025

CLAIMANT

Centripetal Limited, Galway Technology Centre, Mervue Business Park -7XPF+6C -Galway –IE

Represented by Ralph Nack

DEFENDANTS

- 1) **Keysight Technologies, Inc.** Represented by Klaus Haft
(Applicant) - 1400 Fountaingrove Parkway -
95403 - Santa Rosa - US

- 2) **Keysight Technologies Deutschland GmbH** Represented by Klaus Haft
(Applicant) - Herrenberger Straße 130 - 71034
- Böblingen - DE

PATENT AT ISSUE

European Patent No. EP 3 821 580

PANEL/DIVISION

Panel of the Local Division in Mannheim

DECIDING JUDGES:

This order was issued by the legally qualified judge Tochtermann, the legally qualified judge Böttcher, the legally qualified judge Knijff and the technically qualified judge Attali.

LANGUAGE OF PROCEEDINGS: English

SUBJECT-MATTER OF THE PROCEEDINGS: R. 36 Request, here R 333 review

SUMMARY OF FACTS

Claimant applied to be given the opportunity to submit a further written pleading on the infringement action after defendants' rejoinder as it alleges to have found a new functionality of the attacked embodiment, which would be highly relevant to the proceedings. In its reply it had already submitted three alternative infringement readings in addition to the infringement reading contained in the Statement of Claim.

Defendant had been given opportunity to comment by the judge-rapporteur and applied to reject Claimant's motion for a further written pleading.

The judge-rapporteur rejected Claimant's application by order of 1 August 2025.

Reference is made to the order and the briefs exchanged.

Claimant motions to review the order of the judge-rapporteur of 1 August 2025 not to allow a further written brief.

REASONS FOR THE ORDER

The panel exercises its discretion in the same way as the judge-rapporteur and confirms his order of 1 August 2025. Therefore, the request for a panel review had to be rejected.

The judge-rapporteur held for good reasons that the introduction of such new infringement reading would warrant a further brief from Defendants for reasons of procedural fairness. A time limit for such a brief – taking into account the summer holiday season – could not be set before early September. In the light of the vacations of the panel members in this period and taking into account further oral hearings taking place before the LD Mannheim in September, there would not remain sufficient time to appropriately prepare the case for the oral hearing on 9/10 October 2025.

Furthermore, Claimant is to be barred from a fifth infringement reading at such a late point in the proceedings after Claimant had ample opportunity to submit a substantiated infringement reading in the course of these proceedings. The judge-rapporteur emphasized correctly that the “click here” functionality attacked in the envisaged brief was known to the Claimant from ITC proceedings since 2023 as Defendants submit and prove by filing records of that hearing. Furthermore, Claimant could have realized Defendant’s further AI Stack functionality since its launch in March 2025 already and should have reacted promptly. Even if time were needed to investigate into the technical aspects of the alleged new AI Stack functionality, this does not mandate that a further infringement reading can be allowed at any time convenient for Claimant shortly before the oral hearing.

There also is no danger that this substantially new infringement reading will enter into res iudicata effect as the binding scope of the decision on the merits will have to be construed by taking into account the reasoning – which will then not address the further infringement reading contained in the brief for which Claimant now seeks admission under Rule 36 RoP

Leave to appeal is not to be granted as the procedural question to be resolved solely depends on the particularities of the case at hand and does not give rise to legal questions to be clarified any further by the Court of Appeal. Claimant’s line of arguments that it were finally deprived of its right to address its further infringement reading in a separate action before the court is ill-founded as explained above.

Since the panel dismissed the request for a review, Defendants did not have to be heard first.

ORDER

1. Claimant’s request of 14 August 2025 (App_34743/2025) to revoke the order of 1 August 2025 issued by the judge-rapporteur (ORD_33810/2025) and to grant the opportunity to submit a further written pleading is rejected.
2. Leave to appeal is not granted.

Issued in Mannheim on 20 August 2025

NAMES AND SIGNATURES

Tochtermann

Presiding judge and judge-rapporteur

Böttcher

Legally qualified judge

Knijff

Legally qualified judge

Attali

Technically qualified judge