



Reference No.:
APL_35593/2025
UPC_CoA_805/2025

ORDER
of the Court of Appeal of the Unified Patent Court
issued on 1st September 2025
concerning a request for a discretionary review (Rule 220.3 RoP)
in a request for further exchange of a written pleading (R. 36 RoP)

APPLICANT (CLAIMANT BEFORE THE COURT OF FIRST INSTANCE)

Centripetal Limited, Galway Technology Centre, Mervue Business Park - 7XPF+6C, Galway, Ireland
(hereinafter referred to as “**CENTRIPETAL**”)

represented by Dr. Ralph Nack, attorney-at-law, Noerr PartG mbB, Germany, and other representatives of this firm and of MFG Patentanwälte PartG mbB, Germany

RESPONDENTS (DEFENDANTS BEFORE THE COURT OF FIRST INSTANCE)

1. **Keysight Technologies, Inc.**, 1400 Fountaingrove Parkway - 95403 - Santa Rosa - USA
and
2. **Keysight Technologies Deutschland GmbH**, Herrenberger Straße 130 - 71034 - Böblingen - Germany

(hereinafter together referred to as “**KEYSIGHT**”)

represented by Klaus Haft, attorney-at-law, HOYNG ROKH MONEGIER, Germany, and other representatives of this firm and of Samson & Partner, Germany

PATENT AT ISSUE

EP 3 821 580

DECIDING JUDGE

Emmanuel Gougé, legally qualified judge and standing judge

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

- Order of the Mannheim Local Division of 20 August 2025
- Reference numbers: ORD_35171/2025
 App_34743/2025 UPC_CFI_414/2024
 ACT_41285/2024 UPC_CFI_414/2024

LANGUAGE OF THE PROCEEDINGS

English

SUMMARY OF THE FACTS

1. In the infringement action (ACT_41285/2024 UPC_CFI_414/2024) filed on 22 July 2024 against KEYSIGHT with the Mannheim Local Division, CENTRIPETAL filed a request for further exchanges of written pleadings (R. 36 RoP) on 25 July 2025. The request was dismissed by the judge-rapporteur (Order of 1st August 2025, ORD_33810, App_33206/2025 UPC_CFI_414/2024) and, following a R. 333 RoP application for panel review, further rejected by the panel of the CFI (impugned order of 20 August 2025).
2. Leave to appeal was not granted.
3. On 27 August 2025, CENTRIPETAL filed a request for discretionary review by the Court of Appeal under R. 220.3 RoP.

APPLICANT'S REQUESTS AND SUBMISSIONS

4. CENTRIPETAL requests the impugned order to be set aside and the permission to submit a further written pleading pursuant to R. 36 RoP.
5. CENTRIPETAL argues in summary that the impugned order is manifestly wrong and that, if the request for filing of an additional brief is rejected, it will be deprived from an effective judicial remedy to the extent that the first instance judgement will establish res-judicata with respect to the infringing use of the entire disputed KEYSIGHT's product family, including an additional software, known as AI Stack and released on 18 March 2025 by KEYSIGHT which, according to CENTRIPETAL, is a new functionality incorporated into the existing AppStack software suite which is itself part of the dispute. It further argues that the Court of Appeal should hear the case to clarify the standard of application of R. 36 RoP and provide guidance as to whether parties to a UPC infringement action must be allowed to address newly-released infringing products after the deadline for the last regular written submission ended.

GROUND FOR THE ORDER

6. The request for discretionary review is admissible but must be denied.

7. R. 36 RoP provides for the possibility of further exchanges of written pleadings on a reasoned request by a party. The judge-rapporteur exercises its discretion when deciding whether to allow the exchange of further written pleadings.
8. Contrary to CENTRIPETAL's assertions, the impugned order is not manifestly wrong in rejecting CENTRIPETAL's request.
9. Given the circumstances of the case, including the advanced stage of the written phase and the date of the oral hearing set on 9 October 2025, as well as the time taken by CENTRIPETAL – about four months following the date of release of the new disputed feature AI Stack and five weeks after filing of the Rejoinder to the Reply to the Statement of defence – to bring its request for a further written pleading, the CFI's exercise of discretion cannot be regarded as manifestly wrong by refusing the filing of an additional written pleading by CENTRIPETAL under R. 36 RoP, thus ensuring the objective of expeditious proceedings to allow the final oral hearing to take place within one year at first instance (UPCA, preamble para 5, RoP preamble para 7).
10. The impugned order has no final impact on the position of the party adversely affected, here CENTRIPETAL, and does neither contradict the overarching principles of proportionality, flexibility and fairness. The CFI has not deprived CENTRIPETAL from its right to bring separate actions regarding newly-released infringing products, whether it is AI Stack or any other products from KEYSIGHT or any other third party, so that a risk of res judicata regarding facts and arguments not included in these proceedings has not been established.
11. CENTRIPETAL has also failed to demonstrate that the impugned order raises a fundamental question of law and that its review is necessary to ensure a consistent application and interpretation of the RoP or any other objective of the discretionary review.

ORDER

The request for discretionary review is denied.

This order was issued 1st September 2025.

Emmanuel Gougé, legally qualified judge and standing judge