



Appeal n°:
UPC-COA-0000936/2025

ORDER
of the Court of Appeal of the Unified Patent Court
issued on 29 December 2025
regarding an application for suspensive effect (R. 223.4 RoP)

APPLICANTS AND APPELLANTS (DEFENDANTS IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

1. **Amazon.com, Inc.**, 410 Terry Avenue North Seattle, Washington, 98109, USA
2. **Amazon Digital UK Limited**, 1 Principal Place, Worship Street, London, EC2A, United Kingdom
3. **Amazon Europe Core S.à.r.l.**, 38 Avenue John F. Kennedy, L-1855 Luxembourg
4. **Amazon EU S.à.r.l.**, 38 Avenue John F. Kennedy, L-1855 Luxembourg
5. **Amazon Technologies, Inc.**, 410 Terry Avenue North Seattle, Washington, 98109, USA

hereinafter together: “**Amazon**”

represented by Klaus Haft, attorney-at-law, HOYNG ROKH MONEGIER

RESPONDENTS (APPLICANTS IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

1. **InterDigital VC Holdings, Inc.**, 200 Bellevue Parkway, Suite 300, Wilmington, Delaware 19809, USA
2. **InterDigital Patent Holdings, Inc.**, 200 Bellevue Parkway, Suite 300, Wilmington, Delaware 19809, USA
3. **InterDigital Madison Patent Holdings, SAS**, 20 rue Rouget de Lisle, 92130 Issy-les-Moulineaux, France
4. **InterDigital CE Patent Holdings, SAS**, 20 rue Rouget de Lisle, 92130 Issy-les-Moulineaux, France

hereinafter together: “**InterDigital**”

represented by Cordula Schumacher, attorney-at-law, ARNOLD RUESS Rechtsanwälte

PATENT AT ISSUE

EP 2 449 782

DECIDING JUDGE

Klaus Grabinski, President of the Court of Appeal and Standing judge

LANGUAGE OF THE PROCEEDINGS

English

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

- ☐ Order of the Court of First Instance of the Unified Patent Court, Local Division Mannheim, dated 22 December 2025
- ☐ Reference number: UPC_CFI_936/2025

SUMMARY OF FACTS AND PARTIES' REQUESTS

1. Upon application of InterDigital, the Court of First Instance, Local Division Mannheim (LD Mannheim) issued an *ex-parte* order in German (being the language of the proceedings at the time of issuance) on 30 September 2025 (UPC_CFI_936/2025).
2. The operative part of the order of the LD Mannheim, as far as relevant for the order-at-hand, reads as follows:

- I. Den Antragsgegnerinnen wird im Wege der einstweiligen Maßnahme untersagt, ein Verfahren auf Erlass einer Anti-Suit-Injunction einzuleiten und/oder weiter zu verfolgen oder eine andere gleichwertige gerichtliche oder behördliche Maßnahme wie eine Temporary Restraining Order zu beantragen, aufgrund derer die Antragstellerinnen effektiv daran gehindert werden und/oder werden sollen, Patentverletzungsverfahren aus ihren der Zuständigkeit des EPG unterliegenden Europäischen Patenten vor dem EPG im Geltungsbereich des EPGÜ zu betreiben oder fortzusetzen, und/oder daraus resultierende Urteile oder Maßnahmen zu vollstrecken,
- II. wobei diese Unterlassungsverpflichtung, betreffend Patentverletzungsverfahren aus der Zuständigkeit des EPG unterliegenden Europäischen Patenten vor dem EPG im Geltungsbereich des EPGÜ, insbesondere auch umfasst
 1. beim UK High Court keine vorläufige Anordnung zu beantragen, die den Antragstellerinnen aufgibt, den Antragsgegnerinnen eine Interimslizenz an Patenten der Antragstellerinnen, zu gewähren;
 2. beim UK High Court keine vorläufige Anordnung zu beantragen, festzustellen, dass die Antragstellerinnen gegen RAND-Verpflichtungen verstoßen, wenn sie den Antragsgegnerinnen keine Interimslizenz an Patenten der Antragstellerinnen, zu den von dem UK High Court festgelegten Konditionen gewähren würde;
 3. das Gebot, etwaige Anträge nach Ziff. 1. und 2. zurückzunehmen oder andere prozessuale Mittel zu ergreifen, um sie mit Wirkung für den Geltungsbereich des EPGÜ endgültig zu widerrufen;
 4. das sofortige Verbot, ein etwaiges Interimslizenz-Verfahren mit Wirkung für den Geltungsbereich des EPGÜ außer zum Zweck der Antragsrücknahme weiter zu betreiben;
 5. das Verbot, den Antragstellerinnen durch eine gerichtliche oder behördliche Anordnung

See English translation page 6

See English
translation
page 6

gerichtet auf Untersagung des vorliegenden Verfahrens verbieten zu lassen, Patentverletzungsverfahren aus ihren Patenten vor den zuständigen Kammern des EPG zu führen und/oder daraus resultierende Urteil zu vollstrecken;

wobei die vorstehenden Ge- und Verbote auch umfassen, auf konzernverbundene Gesellschaften unter Ausschöpfung konzernrechtlicher Möglichkeiten entsprechend einzuwirken.

3. By application of 14 October 2025 and after a change of the language of proceedings to English, defendants asked for a review under R. 212.3 RoP requesting the LD Mannheim
 - I. to revoke its order of 30 September 2025;
 - II. to dismiss the application;
 - III. to have the applicants bear the costs of the proceedings.
4. By order of 22 December 2025, the Mannheim LD decided (to the extent relevant for the order-at-hand) that
 - I. its order of 30 September 2025 is confirmed;
 - II. the application for review is rejected;
 - III. the order of 30 September 2025 remains in force and enforceable under the conditions of this order of 30 September 2025;
 - IV. in case any or all of the Amazon companies disobey the order of 30 September 2025, a penalty of up to 50.000.000 € may be set;
 - V. for each day of further non-compliance with one or more orders mentioned under IV, a penalty of up to 500.00 € may be set.
5. On 23 December 2025, Amazon filed an appeal from the order of 22 December 2025 and an application for suspensive effect considering the latter being a case of extreme urgency under R. 223.4 RoP requesting the Standing judge to decide that
 - I. Amazon's appeal against the Order of the Local Division Mannheim of 22 December 2025 in conjunction with the Order of 30 September 2025 in the case UPC_CFI_936/2025 (jointly the "Order") has suspensive effect on the Order as far as the Order prohibits Amazon to pursue Amazon's request for final relief in the proceedings HP-2025-000043 as set out in mn. 11 of the Order of 22 December 2025,in the alternative:
 - II. Amazon's appeal against the Order of the Local Division Mannheim of 22 December 2025 in conjunction with the Order of 30 September 2025 in the case UPC_CFI_936/2025 (jointly the "Order") has suspensive effect on the Order as far as the Order prohibits Amazon to pursue Amazon's request for final relief in the proceedings HP-2025-000043 as set out in mn. 11 of the Order of 22 December 2025.

The suspensive effect shall be subject to a review by the panel of the Court of Appeal which is assigned with Amazon's appeal, within a time period to be determined by the Court after receipt of Amazon's written grounds of appeal.

6. Amazon sets out in its reasons that

- the request for suspensive effect is only addressing the part of the impugned order (IO) aiming to cover Final Relief in the UK (for the exact definition of the Final Relief see page 10 f. IO) not any Interim License,
- for InterDigital, suspensive effect in that regard comes without any detriment, since undisputedly Final Relief may only follow a hearing scheduled in September 2026 and nothing whatsoever may happen in between impacting Inter Digital,
- in contrast the Mannheim LD suggests in para. 80 IO that Amazon "may be in breach of this court's order already depending on the future effects of their applications". Leaving aside that this logic is an obvious violation of law, it imposes the risk on Amazon that the CFI may initiate penalty proceedings of its own motion under R. 354.4 RoP as early as today or any day going forward. This applies even more as the Mannheim LD did already inform the EU authorities of its own motion.
- Thus, in absence of a correction of the IO irreversible harm is imminent which can only be avoided by granting suspensive effect.

REASONS

7. The request for suspensive effect is admissible but not well-founded.
8. As rightly stated by Amazon, it is established case law of the UPC Court of Appeal that suspensive effect may be granted if there are exceptional circumstances that justify an exception to the principle laid down in Art. 74(1) UPCA that the appeal has no suspensive effect and such exceptional circumstances may be given if the decision or order against which the appeal is directed is manifestly erroneous or if the enforcement of the impugned decision or order would make the appeal devoid of purpose (inter alia: UPC_CoA_549/2024, APL_51838/2024, order of 29 October 2024, para 58 ff.).
9. In the case-at-hand, Amazon has not demonstrated that the IO is "manifestly" erroneous. This does not prejudice whether the IO is "erroneous" or not which remains to be decided by the Court of Appeal at the end of the appeal proceedings-at-hand.
10. Amazon argues that the IO is based on the evidently incorrect assumption that a decision by the UK Court on a request for a court determined license as Amazon made in terms of the Final Relief would be equal to an anti-suit relief with respect to patent rights in jurisdiction outside the UK. This is a complex issue which needs an in-depth-analysis of the orders of the High Court of England and Wales and the respective understanding of the Mannheim LD which does not justify considering the IO to be manifestly erroneous.
11. Amazon sees a further obvious violation in para 80 IO which states the following:

"That this is not an abstract risk, but an imminent one, is supported by the scope of the UK High Court order itself, which was issued after the present Order was issued upon application of Respondents, who therefore may be in breach of this court's Order already depending on the future effects of their application."

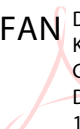
12. Amazon considers this statement to be an obvious violation of the law, as R. 354.4 RoP allows the imposition of penalties only against a party that "fails to comply with the terms of the order". As the forfeiture of a penalty requires an unambiguous order following an established breach by the order's addressee, Amazon finds it inappropriate by the Mannheim LD to speculate in vague terms that Amazon "may be in breach ... already" and also reminds that the imposition of a penalty requires fault.
13. Irrespective of whether the remarks of the Mannheim LD cited from para 80 IO by Amazon are vague or not, it clearly appears from the context of para 80 IO as a whole and the paragraphs preceeding para 80 IO that the Mannheim LD based its decision to confirm the order of 30 September 2025 on an continuing "imminent risk" of an infringement of its order of 30 September 2025 rather than on a finding that Amazon already infringed the Mannheim LD order of 30 September 2025 ("... may be in breach of the court's order already depending on the future effects of their application").
14. Furthermore, Amazon's assertion that the statement of the LD Mannheim in para 80 IO imposes the risk on Amazon that the Mannheim LD may initiate penalty proceedings of its own motion under R. 354.4 RoP as early as today or any day going forward does not justify the order of suspensive effect. During such penalty proceedings under R. 354.4 RoP, the LD Mannheim would have to hear both parties including Amazon which could bring forward its arguments against issuing such an order. Amazon would also have the option to file an appeal against an order to their detriment including a request for suspensive effect.
15. Against this background Amazon has also not established that irreversible harm is imminent and not ordering suspensive effect would render the appeal-at-hand devoid of purpose. Consequentially, Amazon's main and alternative requests for suspensive effect are to be dismissed.
16. As the order rendered does not have any negative effect on InterDigital, there was no need to hear InterDigital before.
17. As this order does not terminate appeal proceedings, no cost decision is needed.

ORDER

Amazon's main and alternative requests for suspensive effect are dismissed.

This order was issued on 29 December 2025.

**KLAUS STEFAN
MARTIN
Grabinski**



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KLAUS STEFAN MARTIN
Grabinski
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Klaus Grabinski, President of the Court of Appeal and Standing judge

Operative part of the 30 September 2025 *ex parte* order of the LD Mannheim
English machine translation

I. The respondents are prohibited, by way of interim measures, from initiating and/or pursuing proceedings for an anti-suit injunction and/or from applying for any other equivalent judicial or administrative measure, such as a temporary restraining order, which would effectively prevent and/or seek to prevent the applicants from pursuing or continuing patent infringement proceedings based on their European patents subject to the jurisdiction of the UPC before the UPC within the scope of the UPC Agreement, and/or enforcing any resulting judgments or measures,

II. whereby this injunction, concerning patent infringement proceedings based on European patents subject to the jurisdiction of the UPC before the UPC within the scope of the UPC Agreement, also includes in particular

1. not to apply to the UK High Court for a preliminary injunction requiring the applicants to grant the respondents an interim licence to the applicants' patents;
 2. not to apply to the UK High Court for a preliminary injunction declaring that the applicants would be in breach of RAND obligations if they did not grant the respondents an interim licence to the applicants' patents on the terms determined by the UK High Court;
 3. to withdraw any applications under points 1 and 2 or to take other procedural measures to revoke them definitively with effect for the scope of the UPCA;
 4. an immediate prohibition on continuing any interim licence proceedings with effect for the territory covered by the EPC, except for the purpose of withdrawing the application;
 5. the prohibition on prohibiting the applicants, by means of a court or administrative order aimed at prohibiting the present proceedings, from conducting patent infringement proceedings based on their patents before the competent chambers of the EPO and/or from enforcing the resulting judgments;
- whereby the above orders and prohibitions also include exerting corresponding influence on affiliated companies by making full use of the possibilities offered by group law.

III. In the event of any violation of the order under I., the respondents shall pay the court a (repeated) penalty of up to €250,000.00 for each day of the violation.

IV. The order is initially enforceable without security. However, enforceability shall cease if the applicants have not provided security in the form of a deposit or bank guarantee in the amount of €400,000 in favour of the respondents within 20 days.

V. The interim measures ordered shall be lifted or otherwise rendered ineffective at the request of the respondents, without prejudice to any claims for damages, if the applicants do not initiate proceedings on the merits before the Unified Patent Court within a period of 31 calendar days or 20 working days, whichever is longer from the date of the present order, initiate proceedings on the merits before the Unified Patent Court.

V. In all other respects, the application is dismissed.

VI. The respondents shall bear the costs of the proceedings.

VII. The value in dispute is set at €2 million.