



Mannheim Local Division
UPC_CFI_481/2025

Order
of the Court of First Instance of the Unified Patent Court
issued on 19 January 2026
concerning EP 3 667 981
(R. 262A RoP – FRAND negotiations in general)

Claimant:

Huawei Technologies Co. Ltd.,
Huawei Industrial Base, Bantian Longgang - 518129 -
Shenzhen - CN

Represented by
Ole Dirks

Defendant:

HMD Global Oy,
Bertel Jungin aukio 9 - 02600 - Espoo - FI

Represented by
Oliver Bäcker

PATENT AT ISSUE:

European patent EP 3 667 981

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: infringement action; R. 262A RoP FRAND negotiations in general

BRIEF SUMMARY OF THE FACTS

After having issued orders pursuant to R. 262A RoP regarding details of the FRAND negotiations contained in parties' brief so far, the judge-rapporteur has proposed to the parties that a general order be issued stipulating that submissions on the details of the FRAND negotiations between the parties, even if they are only introduced into the proceedings in future pleadings, are already protected under Rule 262A RoP at this stage, thereby establishing a confidentiality regime which corresponds to the previous orders in this regard (cf. order of 29 December 2025). According to the proposal, the parties shall reserve the right to apply for a stricter confidentiality regime for highly confidential information, e.g. information about third-party licence agreements, that needs a higher level of protection.

By brief of 15 January 2026, Claimant informed the court that the parties have coordinated out-of-court and welcome such an approach in general. Claimant proposes details of setting up such confidentiality regime including a right of the other party to oppose within, e.g., one week if a party makes unjustified redactions or chooses an unjustified confidentiality level. By brief of 16 January 2026, Defendant confirms the out-of-court coordination mentioned by Claimant.

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

REASONS FOR THE ORDER

The order is based on R. 262A RoP.

1. The information to be protected is confidential information belonging to at least one of the parties, because it relates to not publicly known details from the confidential licence negotiations between them. Taking the circumstances of the individual case and the interests of the parties involved into account, it is justified to protect said information by measures pursuant to R. 262A RoP.

It is further justified to also extend the protection to future submissions dealing with the FRAND licence negotiations between the parties. This avoids the request and issuance of (essentially) identical orders after each written submission. Of course, the parties are free to request further confidentiality measures for a written submission, if a higher level of protection may be required in individual cases, e.g. for third-party licence agreements, or challenge it if the other party marks information as confidential despite not being confidential or makes unjustified redactions.

2. Taking the circumstances of the individual case and the interests of the parties involved into account once again, the order at hand is justified. In order to protect the confidential information in question, the order restricts the access to the said information on the side of the party other than the party that submits the confidential information in question to the persons designated in an abstract way in the order and, by court order, ensures that the information is used only for the present proceedings. In this respect, the interests of the party submitting the confidential information in question in protecting the information, as far as the information concerns its part in the negotiations, outweigh the interests of the other party in unrestricted access to the information.

3. The protection also covers the confidential information if it should be discussed in an oral hearing or repeated in a decision on the merits. The exclusion of the public and unauthorised persons from an oral hearing shall be announced at the relevant oral hearing if the confidential

information is to be discussed there. Any request pursuant to R. 262.2 RoP will also be dealt with later, should the underlying situation arise.

However, it should be noted that the protection relates to the specific information only. Therefore, in particular, the abstract FRAND discussion will take place publicly.

Only if specific circumstances that are the subject of the R. 262A RoP order are affected will the public be excluded. The same applies to the reasoning in the decision on the merits in this regard, if any. If there is a need for discussion on this matter in the oral hearing, a non-public discussion will be held on whether and to what extent the public should be excluded.

ORDER:

- I. As far as not already protected by earlier orders under R. 262A RoP and to the extent that it is introduced in the proceedings at hand, the following information is hereby classified as confidential (R. 262A RoP)

Publicly not known details of the confidential licence negotiations between the parties (including confidential commercial data exchanged during the negotiations).

- II. The party submitting information referred to in paragraph I. ("submitting party") shall highlight such information in the respective brief in grey and mark exhibits containing such information as "confidential" or "strictly confidential". Such party is free to mark confidential information, for which additional measures pursuant to R. 262A RoP are requested in individual cases, by highlighting it in a different colour and by accordingly supplementing the marking of exhibits concerned.

The other party ("other party") has the right to object to the classification of information as confidential within the meaning of paragraph I. and the extent of redactions within one week of receiving the brief if the submitting party designates, as described above, information as confidential within the meaning of paragraph I., and to justify this objection. In the event of an objection, the information in question shall be treated as at least provisionally confidential in accordance with the confidentiality regime of this order until a decision is made by the court.

- III. Access to the unredacted versions of documents containing information pursuant to paragraph I. shall be restricted exclusively to

- a) the other party's authorised representatives in these proceedings, including their team members and assistants,
- b) employees of the other party and third parties engaged by the other party who (i) need to know the concerned information for the purposes of the present proceedings and (ii) have entered a non-disclosure agreement with continuous validity in relation to any confidential information disclosed to them or are otherwise bound to the same on terms no less strict than the terms of the Non-Disclosure Agreement between the Claimant and the Defendant concluded on 18 January 2019.

- IV. The information referred to in paragraph I. shall be treated as confidential by the persons of the other party's side referred to in paragraph I. Such information shall not be used or disclosed outside of these court proceedings, except to the extent that it has come to the knowledge of the receiving party outside of these proceedings, provided that it has been obtained by the receiving party on a non-confidential basis from a source other than the submitting party or its affiliates, provided that such source is not bound by a confidentiality agreement with or other obligation of secrecy with the submitting party or its affiliates.

This obligation shall also apply to the other party.

The foregoing persons shall also be under an obligation to the other party to maintain the confidentiality of the information contained in the unredacted versions of the foregoing documents.

This obligation of confidentiality shall continue to apply after the termination of these proceedings.

- V. In the event of a culpable breach of this order, the court may impose a periodic penalty payment for each violation which will be determined having regard to the circumstances of the individual breach.
- VI. For avoidance of doubt, the order at hand does not affect already existing orders pursuant to R. 262A RoP.

Issued in Mannheim on 19 January 2026

NAME AND SIGNATURE

Böttcher
Judge-rapporteur