

**Order**  
**of the Court of Appeal of the Unified Patent Court**  
**issued on 30 March 2026**  
**concerning a transcript of the recording (Rule 115 RoP)**

HEADNOTES

A party or its representative may prepare a private transcript of an oral hearing, based on an audio recording pursuant to R. 115 RoP. When producing a private transcript, a party or its representative may obtain support of an assistant or support staff, such as a stenographer, working in the presence and under the supervision of the party and/or its representative.

Using a private transcript of an oral hearing in court proceedings between the parties outside the UPC that are related to proceedings before the UPC is permissible, provided specific conditions are met.

KEYWORDS

Rule 115 RoP; transcript of the recording of an oral hearing.

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

1. **Amazon.com, Inc.**, Seattle, Washington, USA
2. **Amazon Digital UK Limited**, London, United Kingdom
3. **Amazon Europe Core S.à.r.l.**, Luxembourg, Luxembourg
4. **Amazon EU S.à.r.l.**, Luxembourg, Luxembourg
5. **Amazon Technologies, Inc.**, Seattle, Washington, USA

hereinafter together: “Amazon”

represented by Klaus Haft, attorney-at-law, and other representatives of HOYNG ROKH MONEGIER

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

6. **InterDigital VC Holdings, Inc.**, Wilmington, Delaware, USA
7. **InterDigital Patent Holdings, Inc.**, Wilmington, Delaware, USA
8. **InterDigital Madison Patent Holdings, SAS**, Issy-les-Moulineaux, France
9. **InterDigital CE Patent Holdings, SAS**, Issy-les-Moulineaux, France

hereinafter together: "InterDigital"

represented by Cordula Schumacher, attorney-at-law, and other representatives of ARNOLD RUESS Rechtsanwälte and Molnia Ho PartG mbB

#### PANEL AND DECIDING JUDGES

Panel 3

Ulrike Voß, Presiding judge and judge-rapporteur

Peter Blok, legally qualified judge

Emmanuel Gougé, legally qualified judge

#### LANGUAGE OF THE PROCEEDINGS

English

#### IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

Order of the Mannheim Local Division, 16 January 2026, UPC\_CFI\_936/2025 (hereinafter: "impugned Order")

#### ORAL HEARING

The parties agreed that the Court of Appeal would decide the appeal on the basis of the written submissions, without an oral hearing.

#### SUMMARY OF FACTS

1. By Application of 19 November 2025, Amazon filed an application pursuant to R. 115 RoP to grant Amazon access to the audio recording of the oral hearing held in proceedings UPC\_CFI\_936/2025 on 14 November 2025 (hereinafter "oral hearing"). In their application, Amazon further specified that they should be permitted to take notes of the audio recording with the assistance of a professional transcriber to be identified by them. Moreover, Amazon requested that the access should be granted at the premises of the Local Division in Düsseldorf.
2. Following the Court's invitation to comment, InterDigital, in its submission of 20 November 2025, joined Amazon's request for access to the audio recording of the oral hearing. Furthermore, InterDigital deferred to the Court's discretion the question of whether the assistance of a professional transcriber should be permitted.
3. By Order of 27 November 2025, the judge-rapporteur granted the request to listen to the audio recording of the oral hearing at the premises of the Local Division Düsseldorf, in accordance with the confidentiality regime established for the proceedings. However, the judge-rapporteur rejected the request to produce a complete transcript with the help of a stenographer. The judge-rapporteur held that producing a private transcript of that audio request is not permissible.
4. The Order sets out the following reasoning in essence. A complete transcript is not necessary in the case at hand to coordinate with counsel of Amazon in non-UPC jurisdictions. The Local Division undertook great efforts to accommodate Amazon request to attend the oral hearing not only with UPC representatives but also with their US counsel and UK counsel in person as well as by way of video conferencing. In the oral hearing were a sufficient number of representatives, who were able to listen attentively and take their proper notes. R. 115 RoP does not foresee that the UPC provides full transcripts of its hearings. It is also not foreseen by R. 115 RoP that a party or a representative produces a full

transcript after the hearing, especially not for any use outside the UPC proceedings, i.e. especially not for world-wide distribution in other jurisdictions so that the transcript is out of control of the Court and may be distributed through any media anywhere in the world. A complete transcript of an audio recording may be abused, if distributed outside the proceedings concerned and in foreign jurisdictions, which are not under the control of the UPC, e.g. for advertisement purposes during a so-called „beauty contest“, in which law firms present themselves to prospective clients so as to attract the next case. Furthermore, a complete transcript of an audio recording is to be excluded especially in cases, where the parties motioned to set up a confidentiality regime and applied for the exclusion of the public during parts of the oral hearing. Also, the drafting history does not point into another direction. The prohibition of a private transcript is furthermore in line with the concept in place for the hearings before the Court of Justice of the European Union (CJEU) after which R. 115 RoP was modelled. Furthermore, a private transcript could draw an incomplete or even false picture of the exchange between the UPC and the parties, because such transcript could be incomplete, contain errors, take specific phrases out of context or even purposefully falsify statements made during the hearing. Therefore, such transcript could only be used, if the transcript would have been confirmed as correct by the Court. This is not foreseen by the UPCA and/or the Rules of Procedures. Furthermore, if there was a dispute amongst the parties, whether the private transcript is correct or not, the Court would be faced with applications to confirm that the transcript is correct, which is also not foreseen by the Rules of Procedure.

5. On 11 December 2025, Amazon filed a request for review pursuant to R. 333 RoP. In its reply of 23 December 2025 to the Court’s invitation to comment, InterDigital stated that it takes no position on the application for review and defers to the Court’s considered judgment.
6. In the impugned Order of 16 January 2026, the Panel rejected the application for review and granted leave to appeal.
7. In addition to the reasoning in the Order of 27 November 2025, the impugned Order set out the following arguments in essence. When weighing the interest of the Panel to be able to engage in an open atmosphere exchange of argument with the parties against the interest of the parties to set up a private and non-authoritative verbatim protocol of what has been said, the interest of the Court prevails to be able to arrive at its decision on the matter by being able to openly probe the parties, advance arguments in order to test them in an open atmosphere of exchange with the parties without having to take into consideration, if certain parts of the exchange would later be used outside the proceedings before the Court in order to strategically advance the party’s case before another (foreign) court, where the verbatim transcript is presented as the alleged point of view of the Panel. The private non-authoritative verbatim transcript would be without any use. Since the transcript is private and non-authoritative it does not have any probative value opposed to the Court’s audio protocol. Rather, private non-authoritative transcripts of the hearing, which may be used even outside the concrete proceedings before the UPC may impair the search for truth in court proceedings as a legal interest of paramount importance. Furthermore, as the distribution of a (private and non-authoritative) transcript of the parties is not in the hands of the Court, the general personal rights of the parties to the proceedings not to have their statements being distributed outside the pending proceedings would be impaired.
8. On 30 January 2026, Amazon lodged the appeal.

#### PARTIES’ REQUESTS

9. Amazon requests:
  - A. The Order of 16 January 2026 in conjunction with the Order of 27 November 2025 of the Court of First Instance (UPC\_CFI\_936/2025), Local Division Mannheim, be set aside.

- B. The recording of the oral hearing before the Local Division Mannheim dated 14 November 2025 shall be made available to the Appellants or their representatives at the premises of the Court at the Local Division Düsseldorf.
- C.
  - I. The Appellants are allowed to take notes of the audio recording with the help of a professional transcriber to be named by the Respondents.
  - II. In the alternative, the Appellants are allowed to take notes from the audio recording to the extent they consider useful.
- D. The Appellants are ordered to comply with the confidentiality orders issued by the Local Division Mannheim on 12 November 2025 with respect to any confidential information contained in the transcript.

10. InterDigital did not submit a request.

#### PARTIES` SUBMISSIONS (SUMMARY)

- 11. Amazon submits that the impugned Order is based on an incorrect interpretation of R. 115 RoP, introduces limitations not contained in the text or drafting history of the Rule, and relies on speculative concerns that can, if necessary, be addressed by proportionate conditions rather than by a blanket refusal.
- 12. According to Amazon, use of the word “shall” in R. 115 RoP and the absence of a requirement to file a reasoned request indicates that the Court of First Instance has no discretion to evaluate a parties’ interest in access to the recording. The silence of R. 115 RoP on the possibility to draw up a private transcript on the basis of the audio recording indicates drawing up a private transcript should be allowed, and in any case it should be the Registrar, not the individual panels of the Court of First Instance, to set restrictions (if any) on permissible note-taking or transcription of the recording.
- 13. Amazon considers its view to be supported by a comparison with Art. 85 RoP CJEU and R. 115 RoP and a statement stated by the Drafting Committee regarding R. 115 RoP following a public consultation on the 16th draft of the RoP (Exhibit HRM 14).
- 14. Even though R. 115 RoP permits making available the audio recording to “parties or their representatives”, Amazon is of the opinion that it should be permissible for the actual note taking to be performed by an assistant, such as a secretary or professional stenographer, in the presence of a UPC representative and under their supervision.
- 15. Amazon submits that it has a legitimate interest in a private transcript. In its opinion, the purpose of a transcript is self-evident, namely, to have a clear understanding of what was discussed during the oral hearing. This, in turn, is an interpretative aid for the Court’s written decision, facilitates international alignment within legal teams, and helps appeal preparations. According to Amazon, the advantages of a written transcript over an audio recording, at least from the parties’ perspective, are also self-evident.
- 16. In Amazon’s view, whilst a transcript may be helpful in reporting on an oral hearing to a foreign court, this is not its primary purpose. Rather, the transcript serves primarily (if not exclusively) internal purposes.
- 17. Amazon takes the view that attendance at the oral hearing cannot substitute for a written report of what was discussed.
- 18. Furthermore, Amazon is of the opinion, the objection that a private transcript “would be without any use, as it cannot serve as proof anyway” fails to convince. In its view, it is not up to the Panel to decide what

is “useful” to a party, especially not when there has been no indication whatsoever that the transcript would be used to “prove” anything. Amazon states that there is no question that the only authoritative record of the hearing is and remains the audio recording.

19. In Amazon’s opinion, an “open atmosphere of exchange”, does not preclude the admissibility of a transcript. During the oral hearing, the judges exercise of their judicial function and the questions they ask and remarks they make are, by definition, directed at issues they consider relevant to the case. Those interventions form part of the decision-making process and therefore matter for the parties’ understanding of how their arguments are being tested. If statements made by judges in the course of an oral hearing were to be considered inherently unsuitable for accurate recall or later reference, the oral hearing would lose its meaningful purpose within the legal proceedings.
20. Furthermore, Amazon is of the opinion, fears that foreign courts may get the wrong impression of the Court of First Instance intentions are overstated. According to Amazon, there is full agreement that a private transcript would never be an authoritative document, and foreign courts would treat it accordingly.
21. Amazon further argues since it is clear to everyone that the transcript is not an authorized Court document, it also does not implicate the Court in any way, if a party to proceedings or its representatives would publish their private transcript of the oral hearing.
22. According to Amazon transcriptions reduce, rather than increase, the risk of errors compared to reliance on memory or informal notes taken by representatives or journalists during the hearing. As for the risk that representatives would purposefully create incomplete, erroneous or even falsified transcripts, this is in view of Amazon virtually non-existent already because representatives are bound by ethical obligations and disciplinary frameworks. Similarly, the idea that such transcripts would be used for “beauty contests” is entirely speculative.
23. Amazon is of the opinion, to the extent any doubts remain, problems of further dissemination, could easily be addressed by stipulating in the R. 115 RoP access order that any notes or transcripts may only be used internally. Similarly, the Court could very easily stipulate that where such materials pertain to confidential parts of the proceedings, they can only be disseminated in accordance with applicable confidentiality orders.
24. In its Statement of Response of 19 February 2026, InterDigital indicated that it takes no position on the matter and defers to the Court’s considered judgment.

#### GROUNDS FOR THE ORDER

25. The admissible appeal is well founded.

#### *R. 115 RoP*

26. According to R. 115, second sentence, RoP, the oral hearing shall be audio recorded. According to R. 115, third sentence, RoP the recording shall be made available to the parties or their representatives at the premises of the Court after the hearing.
27. The Court is therefore obliged to make the audio recording available to the parties or their representatives. While the Registry may, where necessary, stipulate practical requirements regarding the

procedure, time and/or place at which the availability is given, no specific justification or reason for making the audio recording available is necessary, nor is a separate order from the Court necessary. The Registry must make the recording available to the parties or their representatives. As the wording of R. 115, third sentence, RoP (“shall be made”) clearly states, the Court (or the Registry) has no discretion in this regard.

28. Making available within the meaning of R. 115 RoP means granting access. Access is granted by allowing the parties or their representatives to listen to the audio recording on the Court’s premises. In light of this, a party or its representative is not permitted to make a secondary recording of the audio recording, recording it, or storing it in any other way. R. 115 RoP makes it clear that it was not intended that a party or its representative could simply make a copy or other reproduction of the audio recording.
29. It is important to note that R. 115 RoP merely states that the recording shall be made available to the parties or their representatives at the premises of the Court after the hearing. This provision does not infer any obligation on the part of the Court to produce and make available to the parties or their representatives a transcript of the audio recording.

#### *Admissibility of a private transcript*

30. R. 115 RoP does not address the question of whether the parties and their representatives are permitted to produce a private transcript of the available audio recording of the oral hearing. This is not the subject of this provision. Consequently, the wording of the provision does not prohibit the parties and their representatives from producing a private transcript of the recording they listened to.
31. Nor can any prohibition be inferred from the purpose of R. 115, second and third sentences, RoP. The purpose of an audio recording is to record the words spoken during the oral hearing and make them afterwards available to the parties and their representatives, as well as to the Court. This is particularly important regarding the submissions made by the parties relevant to the decision, any new arguments not contained in the written submissions, any taking of evidence, any procedural statements made by the parties and the parties’ procedural applications or requests. The recording also includes the Court’s introduction, including any legal notice, as well as further statements and questions from the Court throughout the entire oral hearing. The audio recording therefore serves not only as a record of what was said, but may also, where appropriate, be used for review and/or evidential purposes, for example in any appeal proceedings. Furthermore, the audio recording renders minutes of the oral hearing superfluous. The preparation of a private transcript by the parties or their representatives does not hinder or compromise the purpose of the audio recording of the oral hearing. The audio recording remains. It is not replaced by a private transcript or altered in any way.
32. This also applies even if the private transcript happens to be (intentionally or unintentionally) incomplete or incorrect. A private transcript serves merely to facilitate the work of the parties or their representatives. It is not a Court document or a document authorised by the Court. As already mentioned, it does not replace the audio recording either. If a party presents content from an oral hearing and submits a private transcript as evidence to support its submission, and the other party disputes that the private transcript accurately reflects the content of the oral hearing, the actual content of the oral hearing, as recorded on audio, shall be decisive.
33. The understanding that R. 115 RoP does not prohibit the production of a private transcript by a party or its representative is further supported by the view expressed by the Drafting Committee following the

public consultation on the 16<sup>th</sup> draft of the Rules of Procedure (Exhibit HRM 14). On Page 90 of Exhibit HRM 14 the following is stated:

Rule 106 and 115	21 PUR	– This respondent recommends that these rules should entitle parties to arrange for a transcript to be prepared of proceedings.	<b>No change recommended</b>  See above. Sound track listening allowed for the parties (representatives only).	<b>Change agreed</b>  A final Order recording the decision should be provided for.  It was also noted that parties are free to take notes or to arrange for a private transcript to be made.
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34. Thus, the Drafting Committee stated expressly that the parties are free to take notes or to arrange for a private transcript to be made.
35. The cited document of the Drafting Committee further indicates that the amendments to R. 115 RoP that were introduced in the 16<sup>th</sup> draft of the Rules of Procedure were modelled after Art. 85 RoP CJEU, which reads as follows: “The President may, on a duly substantiated request, authorise a party or an interested person referred to in Article 23 of the Statute who has participated in the written or oral part of the proceedings to listen, on the Court’s premises, to the soundtrack of the hearing in the language used by the speaker during that hearing”.
36. This background does not provide a basis for a restrictive interpretation of R. 115 RoP. The aspects of Art. 85 RoP CJEU which the Drafting Committee took as an example in amending R. 115 RoP concerned i) the making of soundtrack recordings only, rather than video recordings, and ii) the availability of the recordings to the parties and the representatives only, rather than to any other member of the public (as it was the case under R. 115 in conjunction with R. 106 of the 15<sup>th</sup> draft of the Rules of Procedure). If Art. 85 RoP CJEU were to rule out private transcripts, this effect was not discussed by the Drafting Committee. As observed above, the considerations of the Drafting Committee that do concern private transcripts, indicate that the parties are free to take notes or to arrange for a private transcript to be made.

*Transcript produced by assistants or support staff*

37. In accordance with R. 115 RoP, the audio recording is to be made available to the parties and their representatives. Consequently, R. 115 RoP contains a restriction regarding access rights. The audio recording of the oral hearing shall not be made available for the public or third parties.
38. However, it should be noted that the preparation of the private transcript does not necessarily have to be carried out by the party and/or its representative. Those entitled to access the audio recording are permitted to bring an assistant or support staff, such as a secretary or professional stenographer. The assistant or support staff may produce a private transcript of the audio recording in the presence and under the supervision of the party and/or its representative.
39. There do not appear to be any significant concerns in this regard. In particular, confidentiality orders issued under R. 262A RoP or R. 262 RoP do not inherently prevent the involvement of an assistant or support staff. If the audio recording of the oral hearing contains sections in which confidential information protected under R. 262A RoP or R. 262 RoP has been discussed, the assistant or staff is only permitted to listen to and transcribe the audio recording in this respect if he/she has also been bound by a corresponding duty of confidentiality. Where necessary, a corresponding Order must be issued by the Court. The party may be held liable for any breaches of confidentiality orders by the assistant or the support staff.

### *Other provisions*

40. Neither the UPCA nor the Rules of Procedure contain any other provisions that would prevent the preparation of a private transcript by a party or its representative. On the contrary, they also support its admissibility.
41. In accordance with Art. 45 UPCA, R. 115, first sentence, RoP, the Court's proceedings are, in principle, open to public, and it goes without saying that the parties and their representatives have a right to attend the oral hearing (R. 10, 112 et seq. RoP). The parties and their representatives attending are permitted to take written notes and/or 'mental notes' during the oral hearing.
42. In view of this, there is no reason to prohibit the private transcription of the audio recording of the oral hearing. In this respect, there is no difference between attending the oral hearing in person and listening to an audio recording of the oral hearing later. There appears to be neither a provision nor an objective reason to suggest that the party and its representative should be permitted to make a private transcript or written notes only once, and only during the oral hearing itself. There is no "either/or" choice between attending the oral hearing and listening to an audio recording in the premises of the Court.
43. The latter may even be more useful in terms of the completeness and accuracy of written notes, as the audio recording can be listened to several times and at whatever pace is required.
44. The personal rights of people involved in the proceedings, in particular witnesses or experts, do not oppose the admission of a private transcript. It is true that personal rights must be protected. However, this protection can be ensured through the usual measures. It should also be borne in mind that a private transcript is merely a written record of the audio recording of the oral hearing. If the personal rights do not preclude audio recording permitted under the Rules of Procedure, it can hardly preclude the recording being transcribed.

### *Use of a private transcript*

45. As previously mentioned, private transcripts are not Court documents or documents authorised by the Court. The Court is not responsible for the transcripts produced by the parties and their representatives. If a private transcript is e.g. incomplete or even false, contains errors, takes specific phrases out of context, or if the private transcript violates the personal rights of persons involved in the proceedings, only the party and its representative is responsible.
46. As also already mentioned, R. 115, third sentence, RoP contains restrictions on the group of persons to whom the audio recording must be made available. It is to be made available only to the parties and their representatives within the Court premises. However, the audio recording of the oral hearing is not to be made available to the public or third parties. This applies even if they were present at the oral hearing as members of the public. This is because the audio recording is produced solely for the parties to the proceedings, and its purpose is of procedural significance only to them. Only the parties can derive rights from what was said, presented and/or requested during the oral hearing. The subject matter and content of the oral hearing are decisive for the enforcement of their rights or defence.
47. In this respect, R. 115, third sentence, RoP is consistent with R. 262 RoP which concerns public access to the register. According to R. 262.1(a) RoP, Court decisions and orders shall be published. According to R. 262.1(b) RoP written pleadings and evidence, lodged at the Court and recorded by the Registry shall be

available to the public upon reasoned request. However, audio recordings of the oral hearing are not mentioned in R. 262 RoP.

48. The purpose of the audio recording and the restriction in R. 115, third sentence, RoP have implications for how private transcripts of the audio recording can be used.
49. Private transcripts may be used by the parties and their representatives in ongoing proceedings before the UPC, including any appeal or subsequent proceedings, such as proceedings for cost decisions, damages or enforcement. Using private transcripts in parallel proceedings before the UPC is equally acceptable. Private transcripts may be used for internal preparation by the parties and their representatives, as well as in UPC proceedings, for example by submission as an appendix or evidence for what was said in the oral hearing. In this regard, however, as already noted in paragraph 32, it should be borne in mind that, in the event of a dispute, it is ultimately the audio recording that provides proof of the content of the oral hearing. Furthermore, when using a private transcript, the party and its representative remain obliged to comply with any confidentiality order under R. 262A RoP or R. 262 RoP. The same applies to the protection of personal data under Regulation (EU) 2016/679. This may be particularly relevant where witnesses have been examined or heard during the oral hearing.
50. Using a private transcript of an oral hearing in court proceedings between the parties outside the UPC that are related to proceedings before the UPC is permissible, provided the following conditions are met. When using a private transcript, it must expressly and clearly state that it is a transcript prepared privately by a party, and not a Court document or one authorised by the Court, and that ultimately (only) the audio recording provides proof of what was said in the oral hearing. It must also be expressly and clearly stated whether it is a complete transcription. Furthermore, it must be expressly and clearly stated that statements made by the Court during an oral hearing are provisional and that the Court's final opinion is set out only in decisions and orders. These statements serve to avert the risk of misunderstandings arising in court proceedings outside the UPC regarding the value and significance of a private transcript.
51. Furthermore, when using a private transcript in court proceedings between parties outside the UPC relating to proceedings before the UPC, the party and its representative must comply with any confidentiality order under R. 262A or R. 262 RoP, as well as with the protection of personal data under Regulation (EU) 2016/679.

### *Result*

52. In view of this, the Court concludes that the production of a private transcript of an audio recording of a court hearing is admissible. When producing a private transcript, a party may request the support of an assistant or support staff, working in the presence and under the supervision of the party and/or its representative.

### ORDER

1. The Order of 16 January 2026 in conjunction with the Order of 27 November 2025 of the Court of First Instance (UPC\_CFI\_936/2025), Local Division Mannheim, is set aside.

2. The recording of the oral hearing before the Local Division Mannheim dated 14 November 2025 shall be made available to Amazon or their representatives at the premises of the Court at the Local Division Düsseldorf.
3. Amazon is allowed to take notes of the audio recording with the help of a professional transcriber to be named by Amazon, working in the presence and under the supervision of Amazon or its representative.
4. Amazon is ordered to comply with the confidentiality orders issued by the Local Division Mannheim with respect to any confidential information contained in the transcript.

Issued on 30 March 2026

Ulrike Voß, Presiding judge and judge-rapporteur

Peter Blok, legally qualified judge

Emmanuel Gougé, legally qualified judge