



**UPC\_CFI\_494/2025 and 495/2025**  
**Procedural order**  
**of the Court of First Instance of the Unified Patent Court,**  
**delivered on: 01/06/2026**

CLAIMANT

**Fraunhofer-Gesellschaft zur Förderung der  
angewandten Forschung e.V.,**  
(Claimant) - Hansastraße 27c - 80686 -  
München - DE

Represented by: Dr. Volkmar Henke

DEFENDANT

**HMD Global Oy**  
(Defendant) - Bertel Jungin aukio 9 - 02600 -  
Espoo - FI

Represented by: Oliver Bäcker

PATENT IN SUIT

<i>Patentnr.</i>	<i>Inhaber</i>
<b>EP 2 380 167</b>	Fraunhofer-Gesellschaft zur Förderung der angewandten Forschung e.V.,
<b>EP 2 609 590</b>	

COMPOSITION OF PANEL

Presiding judge	Sabine Klepsch
Judge-rapporteur	Dr. Stefan Schilling
Legally qualified judge	Peter Agergaard
Technically qualified judge	Dr. Christoph Norrenbrock

DECIDING JUDGE

Judge-rapporteur Dr. Schilling

SUMMARY OF THE INTERIM CONFERENCE

- 1 The judge-rapporteur hereby summarizes the main contents of the online interim conference in both main proceedings and both counterclaims for revocation conducted on Monday, 01 June 2026, at 11:00 CEST, alongside with the decisions taken following the conference, R. 105.5 RoP. The language of the interim conference was German.

- 2 The parties gave their consent to set the value of each infringement action to 1,5 million € and each counterclaim also to 1,5 million €, resulting in a total for each proceeding (UPC\_CFI\_494/2025 including CC and UPC\_CFI\_495/2025 including CC) of 3 million €.
- 3 The judge-rapporteur proposed an agreement to be made by the parties to fix the reimbursable legal costs at 75% of the ceiling. The parties expressed to be open to this proposal, pending a confirmation by their parties.
- 4 The general course of the oral hearing was discussed as indicated in the invitation to the interim conference (Introduction by the panel, followed by a break to prepare in breakout rooms, followed by pleadings; 02 June: 494/2025 claim construction & validity, followed by infringement and 495/2025 2025 claim construction & validity, followed by infringement, 03 June remainder of 495/2025, exhaustion and FRAND defences, non-injunctive requests [damages, publication, etc.]).
- 5 The key aspects of case UPC\_CFI\_494/2025 were identified, which are according to the preliminary view of the judge-rapporteur as follows:
  - a. regarding claim construction, especially the questions whether it is required that the parameter interpolator generates temporally interpolated upmix parameters directly on the basis of the complex-valued upmix parameters (feature group 1.2 and feature 1.2.2), i.e. whether the input itself has to be complex valued, and whether the magnitude value of the first complex-valued upmix parameter is limited to a non-negative magnitude of a complex number (feature 1.3.1);
  - b. regarding validity, especially the interpretation of the “interpolation” disclosed in HLCC 7 (validity and inventive step), and whether HLCC 9 and 10 are suitable to enhance the MPEG Surround standard (HLCC 8), which lacks the separate interpolation;
  - c. regarding infringement, mainly the corresponding discussion around feature 1.3 “separate interpolation” in the MPS/USAC standard.
- 6 The key aspects of case UPC\_CFI\_495/2025 were identified, which are according to the preliminary view of the judge-rapporteur as follows:
  - a. regarding claim construction, especially the interpretation of the term “input signal” (feature 1.1) and what it comprises (components and signal portions), also in light of the disclosed gradual separation [para. 0065 of the patent], and feature 1.4.;
  - b. regarding priority, the disclosures in HLCC 4 (addition vs combination; disclosing the use of a mixing-rule);
  - c. regarding validity, especially the question whether HLCC 7 can be qualified as prior art, and whether it challenges novelty. The relevance of HLCC 8 in combination with HLCC 9 hinges on the interpretation of the transient separation under feature group 1.1;
  - d. regarding infringement the relevance of document HL 06 was discussed. The parties agreed that the submission regarding the actual implementation in the FDK codec (Defendant’s Rejoinder to the Reply – Part I, mn. 107 – 111 and 195-196), can be

disregarded as well as Claimant's corresponding request under R. 36 RoP dated 22 April 2026, mn. 7 - 77.

- 7 Auxiliary request III as a reaction to HLCC 9 is admitted to the case. The Defendant has the right to comment on the question of infringement under this AR III within two weeks.
- 8 Admissibility of change of claim, R. 263 RoP, was discussed and not objected. The change of the operational requests in both cases is admitted.
- 9 The key aspects of the exhaustion defence were identified, which is mainly [REDACTED]. The question was addressed for what reason in its Rejoinder – Part II, in Sec. A.I.3-5, Sec. A.II. and Sec. B., Defendant referred to the [REDACTED], and separately discussed it [REDACTED] as it may depend on the general question whether [REDACTED]. The parties agreed that the dispute shall be reduced to the legal question of the interpretation of the contract, leaving out the technical specifications of the FDK AAC codec. It was agreed that Claimant's comments Rejoinder Part II, dated 22 April 2026, are admitted into the proceedings. The parties consented that Defendant may comment briefly on the legal aspects of contract interpretation laid out in the Claimant's admitted comments.
- 10 The key aspects of the FRAND defence were identified, which is according to the judge-rapporteur's preliminary view, the [REDACTED] on the Claimant's side (exhibit BP-PE 3), and the pool offer still pending acceptance. The judge-rapporteur indicated to be inclined to admit the Claimant's R. 36 RoP on FRAND submission (Rejoinder, mn. 117 ff) to the case as the principles of proportionality and fairness require an additional submission by the Claimant in light of a FRAND-defence (LD Düsseldorf, order of August 14, 2025 - UPC\_CFI\_135/2024, mn. 3 - Dolby v. Beko, Arcelik).
- 11 In assessing the Defendant's request dated 22 May 2026 to be given a last possibility to comment on the Claimant's R. 36 RoP on FRAND submission (Rejoinder, mn. 117 ff), where no consensus could be found between the parties, the judge-rapporteur has observed that the Defendant for the first time in the present proceedings in its Rejoinder Part II, mn. 364-367, claimed [REDACTED]. In this section of the Rejoinder, Defendant made reference to the sections in the SoD, which however relate to the Claimant's offer dated 22 December 2017. The submission in SoD mn. 318 – 348 in particular refer to the "Aging of the AAC technology and patent expiry not considered" and to *Claimant's* (not the pool's) "UnFRAND [REDACTED]". Claimant requested to reject these submissions in Sec. D.VI. (mn. 364-367) regarding Via's pool offer in Rejoinder Part II as late filed. The Defendant argued that its submissions were purely legal arguments, submitted in reaction to the Claimant's submissions filed with its Reply and further elaborating on the arguments and positions that had already been presented with the Statement of Defence.
- 12 In the light of the foregoing, Sec. D.VI. of Defendant's Rejoinder (mn. 364-367) can stay in the file as no new facts were introduced and the scope of reference was clearly limited. However, as the Defendant already had and seized the opportunity to clarify its position on the FRAND defence in general, including the [REDACTED]

█ on the Claimant's side (exhibit BP-PE 3), Defendant's request dated 22 May 2026 to be given the right to comment on the Claimant's R. 36 RoP on FRAND submission is dismissed. Neither the state of the present proceedings requires any additional clarification by the Defendant on its FRAND defense (R. 9 RoP), nor do the principles of proportionality and fairness (preamble 2 of the RoP) in general require an additional submission by the Defendant. It is, on the contrary, justified that the counter-defendant in a FRAND defence – which is the Claimant – should have the final say on this point in order to ensure a 'fair trial' (LD Paris, Order of 10 April 2026 – UPC\_CFI\_301/2025 – Orange v. HMD). No other decision is indicated in the present case.

- 13 The Court remains the right to amend the preliminary views expressed in the interim conference and the present order.

#### ORDER

1. The value of the infringement action UPC\_CFI\_494/2025 is set to 1,5 million € and the counterclaim also to a value of 1,5 million €, resulting in a total of 3 million €. The value of the infringement action UPC\_CFI\_495/2025 is set to 1,5 million € and the counterclaim also to a value of 1,5 million €, resulting in a total of 3 million €.
2. In UPC\_CFI\_495/2025, the submissions regarding the actual implementation in the FDK codec (Defendant's Rejoinder to the Reply – Part I, mn. 107 – 111, mn. 195-196 and exhibit HL 6), are to be disregarded. The same applies to Claimant's corresponding request under R. 36 RoP dated 22 April 2026, mn. 7 – 77, which is denied accordingly.
3. In UPC\_CFI\_495/2025, Auxiliary request III is admitted to the case. The Defendant has the right to comment on the question of infringement under this AR III within two weeks.
4. The change of the operational requests in both cases is admitted, R. 263 RoP.
5. The Claimant's comments Rejoinder Part II, dated 22 April 2026, regarding the exhaustion defence are admitted into the proceedings. The Defendant may comment briefly on the legal aspects of contract interpretation laid out in the Claimant's admitted comments within two weeks.
6. Claimant's R. 36 RoP on FRAND (Rejoinder, mn. 117 ff) and its submission is admitted.
7. Defendant's request dated 22 May 2026 to be given the right to comment on the Claimant's R. 36 RoP on FRAND submission is dismissed.
8. Claimant's request to reject Sec. D.VI. of Defendant's Rejoinder dated 11 March 2026 (mn. 364-367) as late filed is dismissed.
9. After the expiry of the deadlines in item 3 and 5 the written procedure is closed.

Issued in Hamburg 01 June 2026

Judge Rapporteur