

UPC_CFI_301/2025 (infringement)
UPC_CFI_713/2025 (counterclaim)

Order
of the Court of First Instance of the Unified Patent Court
delivered on 16 June 2026
following the interim conference (R. 105.5 RoP)

CLAIMANT

Orange SA
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Represented by
Volkmar Henke

DEFENDANT

HMD Global Oy
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Represented by
Oliver Bäcker

PATENT AT ISSUE

<i>Patent no.</i>	<i>Proprietor</i>
EP2345029	Orange SA

DECIDING JUDGE

Presiding judge &
Judge-rapporteur

Camille Lignières

LANGUAGE OF PROCEEDINGS: English

ORDER

Pursuant to Rule 105.5 of the Rules of Procedure (RoP), following the interim conference, the Judge-rapporteur shall issue an order setting out the decisions taken.

In the present case, an online interim conference was held via Webex at 2 pm Paris time on 8 June 2026 and was audio-recorded (Rule 106 RoP). All parties were duly represented by their representatives.

Pursuant to Rule 104 (a) RoP, the parties discussed the main issues of the case as identified by the Judge-rapporteur in the brief already sent to them via CMS on 2 June 2026 (the "Brief") and replies to the questions raised by the Judge -rapporteur regarding the following matters.

1. Possibilities to settle the dispute - R. 104 (d)

Both parties remain open to exploring a settlement. However, at this stage, there appears to be no realistic scope for reaching one.

2. Value of the case - R. 104 (i)

Claimant confirms that it maintains 1.5 million euros.

Defendant does not dispute the amount claimed by the Claimant for the alleged infringement and agrees that the counterclaim should be assigned the same value.

Therefore, the Judge-rapporteur will set the total value in dispute to 3 million euros.

3. Recoverable costs - R. 104 (j) and (k)

Defendant proposed that the parties agree on a fixed amount for recoverable costs, namely 75% of the applicable ceiling for cost reimbursement, covering all costs.

Claimant does not object to this proposal.

The parties expect to notify the Court of their agreement a few days before the oral hearing. They still need to consult their clients, but are optimistic that an agreement can be reached.

4. Parties' requests at the time of the closure of the written procedure

The Judge rapporteur requested that the parties submit a consolidated document setting out the operative parts of their respective requests at the time of the closure of the written procedure.

Parties agreed to provide such a document via CMS.

5. Confidentiality issues and Oral hearing

Parties: With respect to the exhaustion and FRAND defences, certain materials may contain confidential information. They both have a preference for a non-public hearing. According to the parties, the issues could be presented more effectively if the parties were able to discuss all relevant information openly, including confidential aspects of the case, which would facilitate a fuller and clearer understanding of the subject matter.

The Judge-rapporteur foresees the following organisation for the coming oral hearing:

- Public hearing on 7th July (validity and infringement)
- Non-public hearing on 8th July (non-technical part)
- This approach allows the parties to allocate different members of their teams to the respective hearing days as appropriate.

6. Main legal points - R 104 (a)

Parties have no comments on the Judge-rapporteur proposals mentioned in the Brief, as follows:

Claim interpretation

- Claim 1:

Focus on the meaning of these wordings:

- in features A, B, C1, C2: *"CELP type using a long-term prediction"*
- in feature C2: *"at least one sample arising from step a)"*
- in feature C3: *"at least one sample arising from one of steps a) and b)"*

Validity of the patent at issue (EP 029)

-With a focus on Inventive step: over AMR-WB, and AMR-WB (HLCC7, HCCC), over HLCC9

-Auxiliary requests: with a focus on AR 1, AR 4 or AR 6.

Infringement

Reproduction of claim 1 (Method of decoding a digital audio signal) and claim 6 (any device that is adapted for carrying out the method of claim 1)

Alleged infringing HMD products: All HMD devices using Android version 9 or higher (which, according to the claimant, necessarily implies the use of the USAC standard).

Contested by the Defendants (infringement of feature B not demonstrated / USAC does not implement the invention of EP 029)

Exhaustion of rights and FRAND defence

-Exhaustion of rights (Art. 29 UPCA): Pool license between Google LLC and VIA (HMD's devices are equipped with Google's Android)

-FRAND defence: anti-trust law (Art. 102 TFEU and CJCE caselaw: Huawei v ZTE) according to HMD, the claimant did not even try to initiate bilateral negotiations regarding its AAC-portfolio

7. Clarification of the parties' position regarding certain technical points – R. 104 (b)

These are the points addressed in the written submissions, on which the panel may want to have further clarification at the oral hearing, in order to obtain a clear and consistent understanding of the parties' positions:

7.1) Distinction between FD modes

Are all USAC frequency domain (FD) modes critically sampled, or are there distinctions between FD modes or window types that affect whether sampling is critical or, for example, oversampled?

7.2) Compatibility of critical sampling and FAC

Are there technical constraints that would prevent Forward Aliasing Cancellation (FAC) from being used in conjunction with a critically sampled transform?

More specifically, is the use of a critically sampled transform compatible with FAC, or does FAC presuppose a different sampling regime?

7.3) Mandatory vs. optional nature of FAC

Is FAC mandatory, optional, or conditional when transitioning from FD transforms to CELP in USAC?
If conditional, under what precise conditions is FAC applied or omitted?

The parties are also invited to indicate, where possible, the relevant conformance requirements, decoder pseudocode, or reference implementations demonstrating whether FAC is applied during FD to CELP transitions in a compliant USAC decoder.

7.4) Preventing aliasing vs cancelling aliasing

Stepping back from terminology, can the parties explain whether USAC resolves FD to CELP transitions by preventing aliasing from arising in the first place, or by allowing aliasing to arise and then cancelling it, and where this is reflected in the standard.

7.5) Consistency of positions

The parties are invited to clarify how their respective positions on critical sampling align with their positions on the necessity or dispensability of FAC in USAC, and whether any internal inconsistency arises from that alignment.

8. Timeframe for the Oral Hearing

The Judge-rapporteur proposed in the Brief the following timeframe:

Day 1 (7 July, all day) validity and infringement

Preliminary introduction by the Presiding judge (10 mns)

Validity of the patent at issue (3h)

30 min for ORANGE's presentation and interpretation of the patent,

30 min for HMD's presentation and interpretation of the patent,

1h for HMD's argument regarding validity (focus on the lack of the invalidity over AMR-WB, and AMR-WB (HLCC7, HCCC), over HLCC9),

1h for ORANGE's response on validity (and request to amend the patent: focus on AR 1 and AR 4 or AR6)

Rebuttals (15 minutes each party)

Alleged infringement (1,5h)

45 min for ORANGE's argument regarding infringement,

45 min for HMD's response on infringement.

Rebuttals: 15 minutes each party

Conclusion (5 minutes each party) of Day 1

Day 2 (8 July, morning): Exhaustion of rights and FRAND defence

Exhaustion of rights: (the scope of the Google license)

HMD's defence: 15 mns

ORANGE's reply: 15mns

FRAND defence:

Main questions:

In this case, did ORANGE fulfil its FRAND obligations by offering a pool licence when HMD requested a bilateral licence? Did HMD behave as a willing licensee?

HMD: 1h

ORANGE: 1h

Rebuttals: 30 minutes each party

Conclusion

Regarding the timeframe of Day 1 proposed in the Brief, Defendant suggested that the hearing would be more efficiently conducted by addressing infringement first and validity thereafter. Defendant is considering making its counterclaim for revocation conditional upon a finding of infringement. If the Court were to conclude that the allegedly infringing products fall outside the scope of protection of the patent, there would be no need to address validity or auxiliary requests.

Claimant raised a procedural question as to whether an unconditional counterclaim for revocation can now be converted into a conditional counterclaim. It argues that under UPC practice, it is generally appropriate to begin with the patent itself, namely, issues of claim interpretation and validity, before turning to infringement.

The Judge-rapporteur notes that Defendant has the right to make their counterclaim for revocation conditional at any time during the oral hearing, which is a limitation of the claim under R.263.3 RoP.

Nevertheless, at this stage of the proceedings, the Judge-rapporteur thinks that a discussion on validity remains necessary at the oral hearing. In particular, in this case, claim construction and assessment of the prior art are likely to influence the scope of protection of claim 1 (whether in its granted form or as amended in the auxiliary requests), and may have a direct impact on the assessment of infringement.

For this reason, at the oral hearing, the parties will be invited to address validity first, and then the infringement matter, as mentioned in the Brief.

In this context, the Judge-rapporteur orders that:

1. The value of the infringement action UPC_CFI_301/2025 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. The parties shall submit via CMS, by 30 June 2026:
 - a consolidated document setting out the operative parts of their respective requests at the time of the closure of the written procedure,
 - a confirmation of their agreement regarding the amount of the recoverable costs.

Issued in Paris, on 16 June 2026.

C. Lignières, Judge-rapporteur.

ORDER DETAILS

UPC number: UPC_CFI_301/2025 (main proceedings) and UPC_CFI_713/2025 (counterclaim)

Action type: Infringement Action

Order type: R 105.5 RoP

Date of issue: 16 June 2026