

UPC_CFI_361/2025 (infringement action)
UPC_CFI_001785/2025 (counterclaim for revocation)

Order
of the Court of First Instance of the Unified Patent Court
delivered on 30 July 2026

following the Interim Conference (R. 105.5 RoP)

CLAIMANT

- 1) Sun Patent Trust
437 Madison Avenue, 35th Floor
10022 - New York - US

Represented by
Sabine Agé

DEFENDANTS

- 1) Vivo Mobile Communication Iberia SL
Calle Orense 58, Planta 12 C
28020 - Madrid – ES
- 2) Vivo Tech GmbH
Speditionstrasse 21
40221 - Düsseldorf – DE
- 3) Vivo Mobile Communication Co., Ltd.
No. 1, Vivo Road, Chang'an Town
523866 - Dongguan City, Guangdong - CN

Represented by
Dr Georg Andreas Rauh

PATENT AT ISSUE

<i>Patent no.</i>	<i>Proprietor</i>
EP3852468	Sun Patent Trust

COMPOSITION OF PANEL – FULL PANEL

Presiding judge & Judge-rapporteur	Camille Lignières
Legally qualified judge	Andras Kupecz
Legally qualified judge	Carine Gillet
Technically qualified judge	Dennis Krestchmann

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 29 July 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 24 July 2026 (the “Brief”) and replied to the questions raised by the Judge-rapporteur regarding the following matters.

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

Both parties are still in negotiation.

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

Claimant confirms that it maintains 5 million euros for the infringement action.

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 10 million euros.

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

The parties expect to notify the Court of their agreement on the recoverable costs by 28 August 2026.

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.

The Claimant has already provided such a document via CMS and the Defendant will provide it by 28/08/2026.

5. Confidentiality issues and Oral hearing

Parties: With respect to the FRAND matters, certain materials 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 9 and 10 September 2026 (Technical matters)
- Non-public hearing on 11 September 2026 (FRAND matters, corrective measures and interim award)
- 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. In the present case, the Judge-rapporteur considers that the main legal points at issue to be pleaded during the OH are as follows:

Claim interpretation

Definition of the skilled person: The person skilled in the art is an engineer with a master's degree, or similar degree, with several years of professional experience in the field of mobile communications. The skilled person is familiar with the already established technologies and standards, in particular the 3GPP specifications for Long Term Evolution (LTE) and LTE-Advanced.

Claim 1:

Focus on the meaning of these wordings:

- in feature 1.3: “circuitry adapted to determine whether the mobile station will be in DRX Active Time or DRX Non-Active Time in subframe N”

Is it sufficient to verify this feature by simply observing the transmission behaviour? (Defendants’ position)

Or,

Does a prediction of an activity status of a future subframe N in accordance with feature F1.3 be different from basing the DRX activity state on an activity status at some preceding subframe N – x ? (Claimant’s position)

- in feature 1.3: “based at least on the MAC control element received until and including subframe N-(4+k)”

Is this wording to be interpreted in an open way that does not exclude that MAC control elements received after subframe N-(4+k) could also be taken into account in the decision logic? (Defendant’s position)

Or,

Is this wording to be interpreted in a way that the “only” limitation is implicit in Claim 1? (Claimant’s position)

-Does the wording of feature 1.4 (which relates to the situation when the mobile station is determined to be not in DRX Active Time) imply a symmetrical CSI/SRS transmission mandate for DRX Active Time? (Defendant’s position)

Or,

Does claim 1 not specify what happens in case the mobile station is determined to be in DRX Active Time? (Claimant’s position)

Validity of the patent at issue (EP 468):

-With a focus on Novelty (after a discussion on priority rights: cf. N1, TS 36.321 V11.3.0 published on March 15, 2013. What does this document disclose on p. 31 or otherwise?)

over N5 (WO 2013/025147 A1, published on February 21, 2013);

over N6 (TS 36.321 V11.1.0 (2013-02), published on January 3, 2013)

-Auxiliary requests:

with a focus on AR 4/ AR 7.

Claim construction for AR 4/ AR 7: “estimated at subframe N-(4+k)”:

Does this wording restrict the determination steps made by the circuitry to the single subframe N-(4+k)? (Defendant’s position)

Or,

Can the processing also take place at later subframes, as long as only grants/ assignments received until and including subframe $N-(4+k)$ are considered? (Claimant's position).

Infringement

Reproduction of claim 1 (Device: a mobile station) and claim 9 (Method)

With a focus on reproduction of F1.3 and F1.4 (Patent as granted) and reproduction of Claim 1 amended version AR 4 / AR 7.

Alleged infringing VIVO products: 4G+ compatible Vivo devices implementing the LTE-A standard (HRM Exhibit No. 7.1).

Contested by the Defendants (in particular, infringement of features 1.3 and 1.4)

Injunction and measures (proportionality) - information

Interim award (for damages requested by SPT: 5 million EUROS and for costs: 600k EUROS)

FRAND matters

-Admissibility of the SPT's Claim A.II

-FRAND defence: anti-trust law (Art. 102 TFEU and CJCE case law: Huawei v ZTE)

7. Timeframe for the Oral Hearing on 9-10-11 September 2026

The Judge-rapporteur proposed in the Brief the following timeframe for both cases (CFI 361 and CFI 362) to which the parties agreed:

Day 1 (9 September, 14h-18h30, PUBLIC) Claim construction, validity, infringement EP 524:

Preliminary introduction by the Presiding judge (10 mns)

Claim construction (1h30)

40 min for SPT: presentation and interpretation of the patent

40 min for VIVO: reply to the presentation and interpretation of the patent

Rebuttals (5 mns each party)-questions from the panel

BREAK (20 mins)

Validity (1h40)

45 mns for VIVO's argument regarding validity (focus on added matter),

45 mns for SPT's response on validity (and request to amend the patent)

Rebuttals (5 minutes each party)- questions from the panel

Alleged infringement (40 mns)

15 min for SPT's argument regarding infringement,

15 min for VIVO's response on infringement.

Rebuttals: 5 minutes each party-questions from the panel

Conclusion (5 minutes each party) of Day 1

Day 2 (10 September, 9h30-17h PUBLIC): Claim construction and validity, infringement EP 468

Claim construction (1h40)

40 min for SPT's presentation and interpretation of the patent,

40 min for VIVO's presentation and interpretation of the patent

Rebuttals (10 minutes each party)-questions from the panel

Morning break (20 mns)

Validity (2h15)

1 h for VIVO's argument regarding validity of the patent, as granted and AR (focus on the novelty over N5 and N6, after a discussion on priority of the rights)

Lunch break (1 h 30)

1 h for SPT's response on validity (and request to amend the patent: focus on AR 4 and AR7)

Rebuttals (10 minutes each party)

Alleged infringement (1h40)

40 min for SPT's argument regarding infringement,

40 min for VIVO's response on infringement.

Rebuttals: 10 minutes each party - questions from the panel

Conclusion (5 minutes each party) of Day 1

Day 3 (11 September 9h30-16h30): FRAND, Measures and Interim award (CFI 361 and CFI 362)
NOT OPEN TO THE PUBLIC

Morning: 9h30 - 12h30

-Admissibility of Claim A.II

- FRAND DEFENCE

Lunch break (1h30)

Afternoon: 14h-16h30

Rebuttals: 30 minutes each party - question from the panel on FRAND matters

Measures (proportionality)

Interim award (damages and costs)

Conclusion

8. Practical modalities

Concerning all practical modalities, a Communication is sent via CMS on the date of the present order (regarding the booklet for the pleadings, the list of attendees, etc.)

In this context, the Judge-rapporteur orders that:

1. The value of the infringement action UPC_CFI_361/2025 is set to 5 million € and the counterclaim also to a value of 5 million €, resulting in a total of 10 million €.
2. The parties shall submit via CMS, by 28 August 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 30 July 2026.

C. Lignières, Judge-rapporteur.

ORDER DETAILS

UPC number: UPC_CFI_361/2025 (main proceedings) and UPC_CFI_001785/2025 (counterclaim)

Action type: Infringement Action

Order type: R 105.5 RoP

Date of issue: 30 July 2026