



UPC Court of Appeal
UPC-CoA-68/2026
UPC-CoA-69/2026
UPC-CoA-70/2026
UPC-CoA-71/2026
UPC-CoA-72/2026

ORDER
of the Court of Appeal of the Unified Patent Court
issued on 22 October 2026
concerning confidential information (R. 262A RoP)

APPELLANTS IN UPC-CoA-68/2026 AND RESPONDENTS IN UPC-CoA-69/2026, UPC-CoA-70/2026, UPC-CoA-71/2026, AND UPC-CoA-72/2026 (AND DEFENDANTS AND COUNTERCLAIMANTS BEFORE THE COURT OF FIRST INSTANCE)

1. **Qualcomm Incorporated**, San Diego, United States
2. **Qualcomm Technologies, Inc.**, San Diego, United States
3. **Qualcomm Germany GmbH**, Munich, Germany

(hereinafter jointly referred to as 'Qualcomm')

represented by Johannes Heselberger, attorney-at-law, and other attorneys-at-law and patent attorneys of the law firms Bardehle Pagenberg, Munich, Germany

RESPONDENT IN UPC-CoA-68/2026 AND APPELLANT IN UPC-CoA-69/2026, UPC-CoA-70/2026, UPC-CoA-71/2026, UPC-CoA-72/2026 (AND CLAIMANT AND COUNTER-DEFENDANT BEFORE THE COURT OF FIRST INSTANCE)

Network System Technologies LLC, Portland, United States

(hereinafter referred to as 'NST')

represented by Dr. Thomas Gniadek, attorney-at-law of Hoffmann Eitle, Munich, Germany

PATENTS AT ISSUE

EP 1 552 399, EP 1 875 683, and EP 1 552 669

DECIDING JUDGE

This order was issued by Ingeborg Simonsson, legally qualified judge and judge-rapporteur

IMPUGNED DECISION OF THE COURT OF FIRST INSTANCE

Decision of the Local Division Munich issued on 11 March 2026 in the infringement proceedings UPC-CFI-63/2024, UPC-CFI-64/2024, UPC-CFI-65/2024 and counterclaim for revocation proceedings UPC-CFI-449/2024, UPC-CFI-451/2024

LANGUAGE OF PROCEEDINGS

English

SUMMARY OF FACTS

1. At first instance, in each of UPC-CFI-63/2025, UPC-CFI-64/2024, and UPC-CFI-65/2024, the Local Division Munich issued the following orders establishing or extending confidentiality clubs pursuant to R. 262A RoP:

Order of 7 December 2024
Order of 19 February 2025
Panel review order of 26 February 2026
Order of 23 May 2025
Order of 21 July 2025 extending (a) previous order(s)
Order of 28 August 2025
Order of 5 September 2025

2. The judge-rapporteur orders of 7 December 2024 allowed access to NST's attorney-at-law Dr Thomas Gniadek, and his team, actively involved in these proceedings, including other attorneys-at-law and patent attorneys, insofar as they are authorized to represent NST before the UPC in the present litigation, and their internal assistants, whereby only those professionals authorized to represent NST before the UPC in the present litigation and their assistants from the law firm of NST's legal representatives have access to the confidential information required for cooperation in the present litigation. It was clarified that this team includes all persons who are registered in the CMS as members of the legal team. In addition, NST's employees [REDACTED] were included, as well as the technical expert [REDACTED]. These orders protected the following Qualcomm confidential information: the information highlighted in grey in Qualcomm's Statements of defence dated 30 July 2024 at mn. 42-43, 73-77, 79-80, 84-85 and 178 (UPC-CFI-63/2024), mn. 51, 92, 95 and 199 in UPC-CFI-64/2024, and mn. 39, 63-67, 70-73 and 162 in UPC-CFI-65/2024.
3. By panel orders of 26 February 2025, the orders of the judge-rapporteur of 7 December 2024 were amended to the effect that [REDACTED] was also granted access to the confidential information of the orders and bound by the confidentiality obligations.
4. Both sides challenged the panel orders of 26 February 2025, but the appeals and cross-appeals were rejected by the Court of Appeal on 3 July 2025 (UPC-CoA-221/2025, UPC-CoA-222/2025, UPC-CoA-223/2025, UPC-CoA-355/2025, UPC-CoA-356/2025 and UPC-CoA-357/2025).
5. The judge-rapporteur orders on 23 May 2025 allowed the persons mentioned in para 2 above access to the following: the information highlighted in grey in Qualcomm's Rejoinders dated 22 April 2025 at mn. 23, 25, 27, 29-30, 33, and 35-37 as well as Exhibits BP4 (UPC-CFI-63/2024), mn. 41-46, 49, 73-75, 78-81,

87, 89-93, 182-183, and 185-186 as well as Exhibits BP6 and BP7 (UPC-CFI-64/2024), and mn. 44-48 and 51, as well as Exhibits BP4 and BP5 in UPC-CFI-65/2024.

6. By orders of 21 July 2025 [REDACTED] was included in relation to the information mentioned in paragraph 5 above.
7. The orders protecting Qualcomm's confidential information of 28 August 2025 included all said persons.
8. The orders protecting NST's confidential information of 19 February 2025 included Qualcomm's authorised representatives and their assistants and the following employees of Qualcomm companies: [REDACTED]. The information was Exhibits P 24 regarding Seller Licenses, Identifies Agreements (Exhibit C in the PPA) and Designated companies (Exhibit G in the PPA) and all corresponding statements (UPC-CFI-63/2024 and UPC-CFI-64/2024) and the corresponding information in Exhibit 25 (UPC-CFI-65/2024).
9. The orders protecting NST's confidential information of 5 September 2025 included Qualcomm's authorised representatives and their assistants and the following employees of Qualcomm companies: [REDACTED]. The information was financial information highlighted in grey in brief dated 19 August 2025, p. 5, 6 and 7 (UPC-CFI-63/2024, UPC-CFI-64/2024 and UPC-CFI-65/2024),
10. Qualcomm has indicated that the Statements of response and cross-appeals, lodged on 15 October 2026 in UPC-CoA-69/2026, UPC-CoA-71/2026 and UPC-CoA-72/2026, contain confidential information, highlighted in grey. With regard to this information, Qualcomm assumes that the confidentiality orders by the Court of First Instance continue to apply. Should the Court of Appeal find that this is not the case, Qualcomm requests confidentiality for this information in a similar manner pursuant to R. 262A RoP.

REASONS

11. A non-appealed order by the Court of First Instance pursuant to R. 262A RoP that restricts access to certain information or evidence to specific persons, unless otherwise stated in the order, continues to apply after the proceedings, and therefore applies also to the appeal proceedings (UPC CoA order of 28 March 2024, UPC-CoA-101/2024, *Curio Bioscience vs 10x Genomics*).
12. An appealed order that is upheld has the same effect.
13. There is, however, a need to clarify how the requests for confidentiality in the Statements of response and cross-appeal shall be understood.
14. The formal checks for the cross-appeals have not yet been completed by the Registry, and this order is without prejudice to the outcome of those checks.

ORDER

Qualcomm is ordered to clarify, **no later than 26 October 2026**, whether the Statements of response and cross-appeal and the documents lodged therewith on 15 October 2026 in UPC-CoA-69/2026, UPC-CoA-71/2026 and UPC-CoA-72/2026 can be made available to all the persons mentioned in paragraphs 2 and 3 above. If different considerations apply, Qualcomm is ordered to specify which pieces of information should be made available to whom and under what conditions pursuant to the first-instance R. 262A RoP orders.

Issued on 22 October 2026

 Digitally signed by
Åsa Ingeborg
Simonsson
Date: 2026.10.22
17:05:50 +02'00'

Ingeborg Simonsson, legally qualified judge and judge-rapporteur

Case management decisions or orders made by the judge-rapporteur shall be reviewed by the panel, on a reasoned Application by a party (R. 333.1 RoP).