Procedural Order
of the Court of First Instance of the Unified Patent Court
issued on 04/11/2026
regarding: rule 37.2

Claimant/Applicant

1) **Qord IP Protection LLC** Represented by Ralph Nack
   16690 Collins Ave, Suite 1001
   33160 Sunny Isles Beach
   United States of America

Defendants

1) **SmartThings, Inc.**
   665 Clyde Avenue, Suite 304, 94043 Mountain View, United States of America
2) **Samsung Electronics Co., Ltd.**
   129, Samsung-Ro, Suwon-Si, South-Korea
3) **Samsung Electronics GmbH**
   Frankfurter Strasse 2, 65760 Eschborn, Germany
4) **Samsung Electronics Benelux B.V.**
   Evert van de Beekstraat 310, 1118 CX Schiphol, The Netherlands

Defendants 1-4 are represented by Jan Ebersohl.

PATENT AT ISSUE

EP2047617	Imprenditore Pty Limited

DECIDING JUDGES

Full Panel:

Presiding Judge	**Margot Kokke**
Judge-rapporteur	**Robert van Peursem**
Legally qualified judge	**Goda Ambrasaité-Balynienė**

LANGUAGE OF PROCEEDINGS: English

Subject-matter of the proceedings: Infringement proceedings and counterclaim for revocation

FACTS AND PROCEDURE

1. Claimant is the registered proprietor of EP 2 047 617 ('the patent') which relates to a monitoring apparatus and system, in particular remote monitoring and control of devices and infrastructure via communication networks.

2. On 11 June 2026 Claimant initiated infringement proceedings against Defendants, pending as case UPC_CFI2094/2026.

3. On 26 October 2026 Defendants filed a statement of defence, as well as a counterclaim for revocation. In the counterclaim for recovation 2 on p. 3 and p. 6 on R.25.1.f Defendants expressed a preference for non-bifurcation and proceeding with both cases according to Art. 33(3)(a) UPCA.

4. Upon communication by the judge-rapporteur of 27 October 2026 asking for Claimant's view on whether or not to bifurcate, on 28 October 2026 Claimant requested the Court, after hearing the parties pursuant to R.37.2, to refer the revocation action to the Central Division pursuant to Art. 33(3)(b) UPCA and R.31.1 and to proceed with the infringement action without staying it. According to the Claimant bifurcation is warranted because the patent in suit will expire in July 2027 and Claimant has a legitimate and pressing interest in obtaining a decision on infringement while the patent is still in force. Hearing the infringement action and the counterclaim for revocation together would result in a delay which erodes the effectiveness of the injunctive relief sought by Claimant.

5. After having given the opportunity to do so by communication of the judge-rapporteur, Defendants commented upon Claimant's position on bifurcation by reply dated 30 October 2026. Defendants requested the court to reject Claimant's request to bifurcate and to proceed with the infringement action and the counterclaim for revocation pursuant to Art. 33(3)(a) UPCA. According to Defendants, hearing the infringement action and the counterclaim for revocation together secures procedural efficiency and a uniform claim construction for infringement and validity and is therefore the preferred route. In particular the expiration of the the patent by 12 July 2027 does not justify a deviation from this general rule to the detriment of Defendants. Art. 33(3) UPCA leaves the decision to bifurcate or not to the discretion of the relevant local division and in its practices these local divisions have constantly treated joint proceedings as the appropriate course. Defendants cited various

decisions favouring this approach, as well as decisions where bifurcation was ordered exceptionally. Expiration of the patent in suit does not bear weight here, since it was Claimant's own choice to start an infringement action about thirteen months before this patent will expire. Defendants also rebutted Claimants' argument that non-bifurcation would result in disproportional delay of the infringement action.

6. In it's rejoinder of 3 November 2026, for which the judge-rapporteur gave leave by communication of 30 October 2026, Claimant again pleaded for bifurcation, mainly based on the risk of patent expiry pre-enforcement, also citing various decisions of local divisions in this respect and rebutting Defendants' argumentation.

GROUNDS

7. The Court, using it's discretionary power and after having heard the parties (R.264), decides not to bifurcate for reasons of procedural efficiency, in particular since the issues in both cases are interrelated and can best be dealt with in a combined manner, so that validity and infringement will be decided on the basis of a uniform claim construction by the same panel composed of the same judges.

8. Furthermore, the Court does not share Claimant's (unsubstantiated) view that the Court should proceed with the infringement action without staying it pending the outcome of the validity action in the Central Division after bifurcation. In order to avoid conflicting judgments staying the infringement case would probably be called for, which would run contrary to the pleaded need for speedy enforcement of the patent.

9. Expiration of the patent in suit by July 2027 is not considered to outweigh the benefits of non-bifurcation in this case. Claimant did not seek preliminary relief once it acquired the patent on 25 May 2026, which could have dealt with the risk of patent expiry pre-enforcement. Instead Claimant instituted proceedings on the merits only.

ORDER

The Court:

Orders the infringement action and the counterclaim for revocation to proceed according to Art. 33(3)(a) UPCA.

Presiding judge Margot Kokke	
Judge-rapporteur Robert van Peursem	

Legally Qualified Judge Ambrasaitė-Balynienė	
For the Deputy Registrar, Clerk	