Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

UPC Court of Appeal

UPC-CoA-133/2026
UPC-CoA-134/2026

Order

issued on 5 November 2026
concerning an application to protect confidential information from the other party
(R. 262A RoP)

APPELLANTS (AND DEFENDANTS BEFORE THE COURT OF FIRST INSTANCE)

1. **The Walt Disney Company,** Sacramento, United States of America
2. **The Walt Disney Company (Benelux) B.V.**, Amsterdam, Netherlands
3. **Disney Interactive**, Sacramento, United States of America
4. **Disney Electronic Content, Inc.**, Wilmington, United States of America
5. **Disney Platform Distribution, Inc.**, Sacramento, United States of America
6. **The Walt Disney Company Limited**, London, United Kingdom
7. **Disney Enterprises, Inc.**, Burbank, United States of America
8. **Disney Streaming Services LLC**, Burbank, United States of America
9. **Disney Media & Entertainment Distribution LLC**, also doing business as **Disney Entertainment Operations LLC**, Burbank, United States of America
10. **Disney Entertainment & Sports LLC**, also doing business as **Disney Streaming Technology LLC** or **Disney Technology LLC**, Burbank, United States of America
11. **BAMTech LLC**, also doing business as **BAMTech Media**, **Disney Streaming Services (LLC)**, or **Disney Streaming**, Sacramento, United States of America

(hereinafter "Disney")

represented by Dietrich Burkhard Kamlah, attorney-at-law of the law firm PENTARC Rechtsanwälte PartGmbB, Munich, Germany

RESPONDENT (AND CLAIMANT AT THE COURT OF FIRST INSTANCE)

InterDigital VC Holdings, Inc., Delaware, United States of America

(hereinafter "InterDigital")

represented by Dr. Lisa Rieth, attorney-at-law of the law firm ARNOLD RUESS Rechtsanwälte, Dusseldorf, Germany

PATENT AT ISSUE

EP 2 465 265

LANGUAGE OF THE APPEAL PROCEEDINGS

English

PANEL AND JUDGE

Panel 2
Rian Kalden, legally qualified judge and judge-rapporteur

IMPUGNED DECISION OF THE COURT OF FIRST INSTANCE

Date: 16 June 2026, Mannheim Local Division
Case numbers of the Court of First Instance: infringement proceedings (UPC-CFI-86/2025), counterclaim for revocation proceedings (UPC-CFI-490/2025)

SUMMARY OF FACTS

1. On 10 August 2026, Disney lodged at the Court of Appeal appeals against the Decision of 16 June 2026.

2. On 16 October 2026, Disney filed the Statement of grounds of appeal and a confidentiality request pursuant to R. 262.2 and R. 262A RoP.

CONFIDENTIALITY REQUEST

3. Disney requests that:

I. The following exhibits and the information highlighted in grey or marked as confidential in the Statement of grounds of appeal and/or exhibits thereto are classified as confidential within the meaning of Art. 58 UPCA in conjunction with R. 262.2 and 262A RoP:

Subject matter	Exhibit
Non-Disclosure Agreement	Exhibit PEN 1
Transcript of oral hearing, FRAND portion	Exhibit PEN 2, p. 24-32

II. The information and exhibits classified as confidential pursuant to item I. are excluded from access by the public (Art. 58 UPCA in conjunction with R. 262.1(b) and 262.2 RoP).

III. The information and exhibits referred to in item I. shall be kept confidential by InterDigital and by any person who obtains knowledge of them by virtue of their participation in the present proceedings (as party, representative, witness, expert, court staff or otherwise) and shall not be used or disclosed outside these court proceedings, unless such person has obtained knowledge of them outside the proceedings, provided that the receiving party received them on a non-confidential basis from a source other than Disney or their affiliated (legal) persons, and provided that such source is

not bound by a confidentiality agreement or other obligation of secrecy towards Disney or their affiliated (legal) persons. These obligations shall survive the conclusion of these court proceedings.

IV. The public is excluded from the oral hearing pursuant to R. 115 RoP to the extent that the information and exhibits classified as confidential pursuant to item I. are the subject of the oral hearing.

V. The public is partially excluded from the pronouncement of the reasons for the decision pursuant to R. 115 RoP to the extent that the information and exhibits classified as confidential pursuant to item I. are concerned.

VI. Prior to the publication of the reasons for the decision or any other communications, all information contained therein that is classified as confidential pursuant to item I. shall be redacted.

VII. In the event of a culpable breach of this order, the Court may impose a penalty payment for each breach. The specific amount of any penalty payment shall be determined according to the circumstances of the individual breach.

GROUNDS

4. By order of 26 October 2026 Disney was requested to inform the Court of Appeal whether any order issued by the Court of First Instance or agreement between the parties exists concerning confidentiality of the information under I. above and if so, whether the information under I. is already covered thereby, or may be extended thereto.

5. Disney responded on 30 October 2026 and stated that the Court of First Instance has not issued any order protecting the information referred to under I. of its confidentiality request. Nor is there any agreement between the parties that would cover all of the information referred to under I. of the confidentiality request.

6. Disney furthermore noted that the information referred to under I. concerns, inter alia, the negotiation history of the parties and that part of this information was already submitted at first instance, together with requests that it be treated as confidential pursuant to R. 262.2 RoP, on which the Court of First Instance has not decided. Disney also stated that the Statement of grounds of appeal and the exhibits thereto contain, in part, additional details relating to the parties' previous submissions that were not presented at first instance (e.g. Exhibit PEN 1), so that a confidentiality order by the Court of Appeal is therefore in any case required.

7. InterDigital was given the opportunity to comment on Disney's confidentiality request and its responses to this order. It did so on 4 November 2026. In summary, it stated that at first instance only protection under R. 262.2 RoP was granted and that the retrospective extension of confidentiality protection now sought by Disney lacks any justification. Insofar as protection is sought under R. 262A RoP only for newly submitted information, it remains unclear which information is intended to be subject to such confidentiality regime.

8. As the Court of Appeal explained in its order of 1 August 2025 (UPC-CoA-70/2025 *Strabag v Swarco and Chainzone,* headnotes 1 and 2) a party and its representatives may only be subject to restrictions on access to and use of information and evidence in accordance with R. 262A RoP. A request under R. 262.2 RoP does not automatically grant provisional protection against the other party disclosing the information. An order under R. 262A RoP requires the request to restrict access to or use of certain information or evidence to be made when the document is

lodged (R. 262A.3 RoP). Therefore, a request made for the first time in appeal proceedings concerning information and evidence already submitted at the first instance is inadmissible.

9. Given the response by Disney, its R.262A RoP request is inadmissible insofar as it concerns information already submitted during the first instance proceedings. In view thereof, Disney is given the opportunity to specify – by uploading redacted versions – which information contained in its Statement of grounds of appeal and exhibits is to be treated as confidential and has not been disclosed before. It shall do so by **10 November 2026**.

10. InterDigital is given the opportunity to respond by **16 November 2026.**

ORDER

I. Disney is invited to submit redacted versions of its Statement of grounds of appeal and exhibits as indicated in para 9 above no later than **10 November 2026**.

II. InterDigital is invited to comment on Disney's confidentiality request no later than **16 November 2026**.

III. The provisionally ordered confidentiality in the order of 26 October 2026 remains in force.

Issued on 5 November 2026

Rian Kalden Date: 2026.11.05 11:15:35 +01'00'

Rian Kalden, legally qualified judge and judge-rapporteur