Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Reference numbers:
UPC-CoA-105/2026
UPC-CoA-106/2026

DECISION

of the Court of Appeal of the Unified Patent Court
concerning the withdrawal of actions pursuant to R. 265 RoP
issued on 10 November 2026

In the appeal proceedings between:

APPELLANT (CLAIMANT AND COUNTERDEFENDANT BEFORE THE COURT OF FIRST INSTANCE)

ZTE Corporation, Shenzen, People's Republic of China
(hereinafter referred to as: "**ZTE**")

represented by Dr. Thomas Lynker, attorney-at-law, TALIENS Partnerschaft von Rechtsanwälten mbB, Munich, Germany

RESPONDENTS (DEFENDANTS AND COUNTERCLAIMANTS BEFORE THE COURT OF FIRST INSTANCE)

1. **Samsung Electronics Co., Ltd.**, Suwon City, Gyeonggi-Do, Republic of Korea
2. **Samsung Electronics GmbH**, Eschborn, Germany
3. **Samsung Electronics France**, Saint-Ouen Cedex, France
4. **Samsung Electronics Italia S.p.A**, Milan, Italy
5. **Samsung Electronics Benelux B.V.**, Schiphol, the Netherlands
6. **Samsung Electronics Romania S.R.L.,** Bucharest, Romania

(hereinafter jointly referred to as: "**Samsung**")

all represented by Dr. Jan Ebersohl, attorney-at-law, Allen Overy Shearman Sterling LLP, Munich, Germany

PATENT IN SUIT:

EP 3 905 730

LANGUAGE OF THE PROCEEDINGS

English

PANEL AND DECIDING JUDGE

Panel 3
Bart van den Broek, legally qualified judge and judge-rapporteur

IMPUGNED DECISION OF THE COURT OF FIRST INSTANCE

- Decision of 29 April 2026 issued by the Local Division Mannheim
- Reference numbers:
  UPC_CFI_850/2024 (Infringement action)
  UPC_CFI_421/2025 (Counterclaim for revocation)

SUMMARY OF FACTS AND PARITIES' REQUESTS

1. By decision of 29 April 2026 (**"impugned decision**"), the Local Division Mannheim ("**LD Mannheim**") revoked the patent at issue ("**patent**") in respect of France, Germany, Italy, the Netherlands, and Romania to the extent that its subject matter extended beyond that of claims 5-7 and 12-15 as granted. The LD Mannheim further dismissed the infringement action brought by ZTE on 1 January 2025, as well as its Application to amend the patent, lodged on 25 July 2025 together with its Defence to the Counterclaim for revocation. Finally, the LD Mannheim declined jurisdiction over the FRAND counterclaim filed by Samsung on 20 May 2025.

2. On 29 June 2026, ZTE appealed the impugned decision, requesting that it be set aside insofar as it dismissed the Infringement action, upheld the Counterclaim for revocation, and dismissed the Application to amend the patent. The appeal did not concern the FRAND counterclaim.

3. ZTE timely lodged its Statement of grounds of appeal on 31 August 2026.

4. By order of 2 September 2026, the judge-rapporteur invited the parties to indicate their availability for the oral hearing. Following receipt of their responses, the oral hearing was scheduled for 22 April 2027.

5. On 4 November 2026, ZTE lodged an Application to withdraw the Infringement action, and an Application for reimbursement of court fees in the appeal proceedings UPC-CoA-105/2026. ZTE requests that the Court of Appeal:

   - permit the withdrawal of the Infringement action (UPC_CFI_850/2024; UPC-CoA-105/2026);
   - declare the proceedings closed insofar as they concern the Infringement action; and
   - order the reimbursement of 50% of the court fees paid in the appeal proceedings UPC-CoA-105/2026.

6. ZTE further submits that the parties have agreed that each party should bear its own costs. Accordingly, ZTE requests the Court of Appeal not to issue a decision on costs pursuant to R. 265.2(c) RoP.

7. On 4 November 2026, Samsung informed the Court of Appeal that it consents to the withdrawal of the Infringement action (UPC_CFI_850/2024; UPC-CoA-105/2026) and confirmed that, in light of the parties' agreement regarding costs, no decision on costs pursuant to R. 265.2(c) RoP is required.

8. Also on 4 November 2026, Samsung lodged an Application to withdraw the Counterclaim for revocation (UPC_CFI_421/2025; UPC-CoA-106/2026). Samsung submits that the parties have reached an agreement regarding the costs of the proceedings and that, accordingly, a decision on costs pursuant to Rule 265.2(c) RoP is not required.

9. On 5 November 2026, ZTE informed the Court of Appeal that it consents to the withdrawal of the Counterclaim for revocation (UPC_CFI_421/2025; UPC-CoA-106/2026).

GROUNDS

Permission of withdrawal

10. As long as there is no final decision in an action, a claimant may apply to withdraw his action pursuant to R. 265.1 RoP. The application to withdraw shall not be permitted if the other party has a legitimate interest in the action being decided by the Court. An application to withdraw an action pursuant to R. 265 RoP can also be filed in appeal proceedings.

11. The applications to withdraw are admissible in this case since there is no final decision in the actions in view of the pending appeals, and the Court of Appeal is responsible for deciding on the permissibility of the applications to withdraw (UPC-CoA-637/2024, 15 January 2025, Avago v Tesla).

12. In view of the parties' consents, they cannot be considered to have a legitimate interest in the actions being decided by the Court, and the applications to withdraw the actions are therefore permitted.

Costs

13. If withdrawal is permitted, the Court shall issue a cost decision in accordance with Part 1, Chapter 5 (R. 265.2(c) RoP). No decision on costs is required in this case, since the parties have indicated in both proceedings that they do not request a decision on costs.

Reimbursement of court fees

14. The application to withdraw the appeal in UPC-UPC-CoA-105/2026 was filed before the lodging of the Statement of response and, therefore, before the closure of the written procedure. Reimbursement of the court fees by 50% is therefore to be ordered in accordance with R. 370.9(b) RoP as it reads since 1 January 2026, given that the Application to withdraw and the Application for reimbursement were filed after 1 January 2026 (UPC-CoA-895/2026, 6 March 2026, Black Sheep v HL Display; UPC-CoA-916/2025, 26 May 2026, Hurom v NUC; UPC-CoA-29/2026 and 30/2026, 6 July 2026, Bekaert v Polidoro).

15. The request for reimbursement of court fees by 50% shall therefore be granted in appeal UPC-CoA-105/2026. In appeal UPC-UPC-CoA-106/2026, no reimbursement of court fees was requested.

DECISION

The Court of Appeal:

- permits the withdrawal of the Infringement action UPC_CFI_850/2024 (UPC-UPC-CoA-105/2026) and the Counterclaim for revocation UPC_CFI_421/2025 (UPC-UPC-CoA-106/2026);
- declares both proceedings closed;
- declares that in both proceedings there is no need for a cost decision;
- cancels the oral hearing scheduled for 22 April 2027;
- orders the reimbursement of 50% of the court fees paid by ZTE in appeal UPC-CoA-105/2026;
- orders that this decision shall be entered on the register; and
- instructs the Registrar to make the reimbursement as soon as possible.

Issued on 10 November 2026.

Bartholomeus Johannes van den Broek

Digitally signed by Bartholomeus Johannes van den Broek
Date: 2026.11.10 06:59:20 +01'00'

Bart van den Broek, legally qualified judge and judge-rapporteur