



Reference no.:  
APL\_47300/2024  
UPC\_CoA\_489/2024

**Procedural order**  
**of the Court of Appeal of the Unified Patent Court**  
**issued on 6 September 2024**

APPLICANT (CLAIMANT IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

**MOTOROLA MOBILITY LLC**

222 W. Merchandise Mart Plaza, Suite 1800, 60654 Chicago, Illinois, United States

hereinafter: Motorola,

represented by attorneys-at-law Klaus Haft and Sven Krause and patent attorney Erik Lumens (Hoyng ROKH Monegier)

RESPONDENTS (DEFENDANTS IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

**1. TELEFONAKTIEBOLAGET LM ERICSSON**

Torshamnsgatan 21, Kista, 164 83 Stockholm, Sweden

**2. ERICSSON GMBH**

Prinzenallee 21, 40549 Düsseldorf, Germany

hereinafter: Ericsson,

represented by attorney-at-law Dr. Christof Augenstein (Kather Augenstein)

PATENT AT ISSUE

EP 3342086

DECIDING JUDGE

Peter Blok, Legally qualified judge and standing judge

LANGUAGE OF THE PROCEEDINGS

English

## IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

- Order of the Court of First Instance of the Unified Patent Court, Munich Local Division, dated 6 August 2024
- Reference numbers: App\_ 25265/2024  
ORD\_27411/2024  
ACT\_5326/2024  
UPC\_CFI\_42/2024

## FACTS AND REQUESTS OF THE PARTIES

1. On 6 August 2024, the Munich Local Division of the Court of First Instance of the Unified Patent Court issued an order in the infringement proceedings brought by Motorola against Ericsson (hereinafter: the impugned order). In the impugned order, the Court of First Instance rejected Motorola's request for leave to change its claim. The Court did not grant leave to appeal.
2. Motorola lodged a request for discretionary review pursuant to R. 220.3 of the Rules of Procedure of the Unified Patent Court (hereinafter: RoP). Motorola argues that the Court of Appeal should hear the case to clarify the standard of application of R. 263 RoP and provide guidance for parties and establish a reliable and uniform decision practice. It submits that the impugned order is incorrect and that it does not provide a detailed interpretation and subsumption that would allow a generalization of the decision.
3. Ericsson responded to Motorola's request, arguing that the impugned order is correct and is a decision in an individual case that does not jeopardise the uniformity of the UPC's case law.

## GROUNDS FOR THE ORDER

4. Motorola failed to demonstrate that a review of the impugned order is necessary to ensure a consistent application and interpretation of the RoP (point 8 of the Preamble of the RoP) or any other objective of the discretionary review procedure. Its contention that the impugned order is incorrect and does not provide a detailed interpretation and subsumption that would allow a generalization of the decision, is not sufficient.

## PROCEDURAL ORDER

The request for discretionary review is rejected.

This order was issued on 6 September 2024.

Peter Blok, Standing judge