



**UPC\_CFI\_819/2024**  
**Procedural Order**  
**of the Court of First Instance of the Unified Patent Court**  
**issued on 2 April 2025**

**Applications:**

**8314/2025**

**8850/2025**

**8319/2025**

**8313/2025**

**8316/2025**

**8317/2025**

Claimant

**Corning Incorporated, One Riverfront Plaza - 14831 - Corning - US**

represented by: Dr. Marcus Grosch, Quinn Emanuel Urquhart & Sullivan, LLP,  
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Defendants

- 1) **Hisense Gorenje Germany GmbH,**  
(Applicant) - Parkring 31-33, 85748 Garching near Munich, Germany

- 2) **Hisense Europe Holding GmbH,**  
Wienerbergstraße 11, Turm B, Stock 13, 1100 Vienna, Austria
  
- 3) **TCL Deutschland GmbH & Co. KG**  
(Applicant) - Bernhard-Wicki-Straße 5 - 80636 - München - DE
  
- 4) **TCL Deutschland Verwaltungs GmbH**  
(Applicant) - Bernhard-Wicki-Straße 5 - 80636 - München - DE
  
- 5) **TCL Operations Polska, Sp. z o.o.**  
(Applicant) - ul. A. Mickiewicza 31/41 - 96-300 - Zyrardów - PL
  
- 6) **TCL Belgium, SA,**  
(Applicant) - Rue du Paruck 35/19, 1080 Molenbeek-Saint-Jean, Belgium
  
- 7) **LG Electronics Deutschland GmbH,**  
(Applicant) - Alfred-HerrhausenAllee 3-5, 65760 Eschborn, Germany
  
- 8) **LG Electronics European Shared Service Center B.V,**  
(Applicant) - Krijgsman 1, 1186 DM Amstelveen, the Netherlands

- 9) **LG Electronics European Holding B.V.**,  
(Applicant) - Krijgsman 1, 1186DM Amstelveen, the Netherlands

All defendants represented by: Felix Rödiger, Bird & Bird LLP  
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PATENT AT ISSUE: EP 3 296 274

DECIDING JUDGE: Prof. Dr. Peter Tochtermann acting as presiding judge and judge-rapporteur

LANGUAGE OF PROCEEDINGS: English

SUMMARY OF FACTS AND ORDERS SOUGHT

The defendants, which belong to three different groups of companies, namely TCL, Hisense and LG, filed applications for a stay acc. to R. 295(m) RoP in multiple workflows even though being represented by the same lawyers.

As main request they request to order a stay of the proceedings until a decision of the Court in action ACT\_66849/2024 (UPC\_CFI\_820/2024) has become final and binding.

As auxiliary request, they apply to combine both proceedings and stay the proceedings until service to the defendants in action ACT\_66849/2024 (UPC\_CFI\_820/2024) took place in China and Hong Kong, SAR.

In parallel, the identical defendants filed preliminary objections one by one, which will be addressed in a separate decision.

Defendants submit that the Claimant is claiming infringement of a product allegedly directly obtained by a production process allegedly applied in China: a method claim that stipulates a glass sheet directly obtained from a certain process. Defendants on the other hand were mere distributors of LCD-TV, which purchase glass sheets from their suppliers being LCD panel producers without having a direct connection to the glass manufacturer. Defendants had no knowledge of the chemical composition of the glass sheets in the LCD-TVs being sold in Germany by themselves. Claimant initiated separate proceedings against the alleged manufacturer of the glass also before the Local Division Mannheim (ACT\_66849/2024; UPC\_CFI\_820/2024).

In the eyes of defendants this amounts to an artificial splitting of connected cases only so as to expedite service which calls for a stay under R. 295 (m) RoP according to their requests. This artificial split would limit defendants possibility to defend against the infringement action as they were dependent on the input of the manufacturer with whom they had no contractual relationship. Suing three independent companies together would be counter to the principle of fair trial as the attacked embodiments were furthermore not identical. This were also counter to

Art 33(1)(b)UPCA which would demand to sue producer and supplier together and thereby establish a commercial relationship.

Claimant requests to reject the applications to stay the proceedings.

The requests were an obvious attempt to delay the proceedings. If the arguments of defendants were accepted, Claimant would be deprived of its right to effectively enforce its patent rights in the light of the limited lifespan of the patent. None of the flawed arguments warranted stay, which had to be limited to exceptional circumstances not present in the case at hand. Service in China and Hong Kong were time-consuming and prone to issues and delays. There were no such obligations to sue OEM's and their suppliers jointly. If Claimant had chosen not to sue the suppliers at all, defendants could also not raise as a defence that they do not have knowledge of the manufacturing process. Moreover, the infringement action were based on the investigations of Claimant testing the marketed product of defendants, which would also be possible for defendants, if they only were willing to do so. Rather, if sued jointly, the court would have been obliged to separate the actions so as to guarantee for expedited proceedings against those defendants upon which the statement of claim can be served without significant problems.

#### GROUNDS FOR THE ORDER

The requests to stay the proceedings are to be rejected.

1. Claimant was not obliged to sue the defendants to these proceedings jointly together with the defendants of ACT\_66849/2024; UPC\_CFI\_820/2024. There is no such obligation always to sue OEMs and suppliers in one proceeding. Rather it is common practice, which is not counter to any procedural rights of a defendant, to initiate proceedings against different parties separately, especially under circumstances, where the service of a statement of claim may be easy upon some defendants but problematic with regard to others. If filed jointly, it is common practice of the Local Division to separate proceedings so as to effect service in separate proceedings and guarantee for a practical possibility of enforcement of IP rights by allowing at least a part of the action to move forward swiftly.
2. The defendants also do not submit any legal argument but only submit a vague and general reference to fundamental principles of fair trial, which would apply to the situation at hand. However, the core argument of defendants is that they were otherwise deprived of their possibility to defend against Claimant's allegations. Neither is this true, as they may have own knowledge of the properties of the products they merchandise, nor are they, if they do not yet have such knowledge, barred from reaching out to their suppliers for detailed information or analyse their own products themselves. Rather, if the cases were joined, the enforcement of claimant's alleged patent rights were unduly delayed due to often complicated and time consuming service abroad in China and/or Hong Kong (SAR), which the Local division already encountered in its practice and forced it to split cases. In case service upon the suppliers is effected in due time, the panel may still decide to join the cases.
3. Also the reference to Art. 33(1)(b) UPCA is without persuasiveness as alleged lack of jurisdiction does not call for a stay of proceedings.
4. Furthermore, if it is true or not, that all glass sheets used by the groups of defendants are identical and therefore form one attacked embodiment is a question of substance which can and will only be answered in the further course of these proceedings. For the time

being, the case has been based on that allegation by claimant and will have to start based on that allegation.

5. The handling of the current proceedings calls for intervention from the side of the court. There is no plausible reason to file identical requests submitting identical arguments in multiple workflows instead of combining them, even where defendants of the same group are concerned, especially where all defendants are represented by identical counsel. This causes tremendous unnecessary work on the side of all parties concerned as well as for the court. Therefore, it had to be ordered that – except where procedural reasons call for separate filings – only one workflow of one defendant is used in the further course of the proceedings and that it is to be set out in the uploaded document on behalf of which defendants the arguments are submitted. In case of disobedience of the court order, the court will have to decide, if such procedural behaviour calls for penalty payments so as to enforce that order, R. 354.3 and 4 RoP. Furthermore R. 370.9(e)RoP allows to deny or decrease reimbursement of fees by taking into account the behaviour of the party as well as Art. 69 UPCA will allow the court, in its cost decision, to decide upon the reasonableness of costs produced in the course of the proceedings and attribute them accordingly.

ORDER:

1. Defendants requests to stay the proceedings are rejected.
2. It is ordered, unless the Rules of Procedure explicitly demand otherwise, that the parties use one single workflow of the CMS to submit their requests and arguments and clarify in the brief on behalf of which party the submission is being made.

Issued in Mannheim on 2 April 2025

Prof. Dr. Peter Tochtermann