

**Non-binding Guidance
for the use of the
“General Template for Order – UPC CFI”**

Order convening the interim conference

ORDER

of the Court of First Instance of the Unified Patent Court

Local division in ... / Regional division in ... / Central division (Paris seat or Munich Section)

issued on ... [dd month in words yyyy]

concerning ... [EP/UP/SPC/EP application at issue]

HEADNOTES : ... [required by R. 67 RegR] [to be provided by the Judge-rapporteur]

KEYWORDS: ... [required by R. 67 RegR] [to be provided by the Judge-rapporteur] interim conference, need to convene interim conference [yes/no]; discretion of judge-rapporteur; order to provide clarification on specific points / to answer specific questions / to produce evidence / to lodge specific documents incl. summary of orders sought; time period; decision by default; interim conference by telephone conference / video conference / in Court; open to public [yes/no]; confidentiality; language other than language of proceedings; audio recording; separate oral hearing of witnesses or experts by video conference (*non-exhaustive list for illustrative purposes*)

REFERENCE CODE ECLI: ... [required by R. 67 RegR] [to be provided by the Deputy-Registrar]

CLAIMANT:

... [name and postal address]

represented by ... [academic title (where applicable), name, national professional title, firm]

assisted by ... [academic title (where applicable), name, national professional title, firm]

DEFENDANT:

... [name and postal address]

represented by ... [academic title (where applicable), name, national professional title, firm]

assisted by ... [academic title (where applicable), name, national professional title, firm]

PATENT AT ISSUE (data to be retrieved in databases of the EPO)

European patent n° ... [hereafter referred to by its last three digits, e.g. EP 789]

[or European patent with unitary effect n° ... [e.g. UP 789]

[or Supplementary protection certificate ... [e.g. SPC 789]

[or European patent application n° ... [e.g. EP application 789]

PANEL/DIVISION

Panel [in divisions having more than one panel number of the panel: ...] of the Local [or: Regional]

Division in ... [or: of the Central Division (Paris Seat) or: of the Central Division (Munich Section)]

DECIDING JUDGE [R. 351.1(C) ROP]:

[in case the panel is issuing the Order]

This order has been issued by the Judge-rapporteur... [or: the Single judge ...]

SUMMARY OF FACTS

[Free text]

PARTIES' REQUESTS

- The Claimant is requesting
 - that an interim conference should be / not be convened
 - that the interim conference should be held by telephone or by video conference (R. 105.1 RoP) or in Court (R. 105.2 RoP)
 - ...
- The Defendant is requesting
 - that an interim conference should be / not be convened
 - that the interim conference should be held by telephone or by video conference (R. 105.1 RoP) or in Court (R. 105.2 RoP)
 - ...

POINTS AT ISSUE

[Free text]

GROUNDS FOR THE ORDER

- Considering that an interim conference should be convened to prepare for the oral hearing by telephone / video conference / in court
- Considering that preparatory discussions with witnesses or experts should be held during the interim conference (in presence of the parties) (R. 104(f) RoP)
- ...

or

*(in case the judge-rapporteur decides **not** to convene an interim conference*

- Considering that it is not necessary to convene an interim conference because
 - of urgency
 - [other reasons based on the list in R. 104(e) to (k) RoP, e.g.
 - all main issues have been identified and the relevant facts have been determined,
 - parties' position as regards all main issues and facts has been clarified,
 - a schedule for the further progress of the proceedings has already been established ...]
 - ...

ORDER [issued in accordance with R. 35(b), 101.1, 103.1, 104(f), 105.1 RoP]

For these grounds, having heard the parties on all aspects of relevance for the following Order, the judge-rapporteur orders that

- the written procedure is closed / will be closed on ... (R. 35(a) RoP) and no interim conference shall be held (R. 35(b) and 101.1 RoP)
- ...

or

- an interim conference shall be held before the judge-rapporteur (R. 101.1 RoP) and (optional) the technically qualified judge
 - on ... [dd month in words yyyy] [*must be a UPC working day*]
 - at ... [hour] [*must be within UPC working hours*]
 - with a time estimate of ... hours
- the interim conference shall be held
 - by telephone conference (R. 105.1 RoP)
 - by video conference (R. 105.1 RoP)
 - in Court, at the ... division in ... [full visiting address] (R. 105.2 RoP)
- the interim conference shall include preparatory discussions with the following witness or expert Mr./Mrs. ... (R. 104(f) RoP)

The judge-rapporteur furthermore orders that at least ... days before the interim conference (R. 103.1 RoP)

- the claimant shall lodge with the Court:
 - clarification on the following points: ...
 - answers to the following questions: ...
 - evidence of the following: ...
 - specific documents: ...
 - a summary of the orders sought at the interim conference: ...
 - ...
- the defendant shall lodge with the Court:
 - clarification on the following points: ...
 - answers to the following questions: ...
 - evidence of the following: ...
 - specific documents: ...
 - a summary of the orders sought at the interim conference: ...
 - ...

or

- ...

Suggested text for the section INSTRUCTIONS TO THE PARTIES AND TO THE REGISTRY concerning the next steps in the proceedings

- The Parties are requested to inform at least ... days before the interim conference the sub-registry at the ... division in ... of
- the names and quality of any person – other than parties’ representatives – who will participate in the interim conference
 - (in case the interim conference shall be held by telephone conference) a telephone number enabling the judge-rapporteur to contact parties’ representatives on the day of the interim conference

- the language in which parties’ representatives propose to hold the interim conference (if different from the language of proceedings), subject to the judge-rapporteur’s approval (R. 105.3 RoP)
- ...

Issued on ...

| NAMES AND SIGNATURES | |
|---|--|
| <i>Judge-rapporteur</i> <i>[Art. 8 UPCA, Art. 35(5) UPCS]</i> | <i>Deputy-Registrar</i> <i>[Art. 35(5) UPCS]</i> |
| <i>Judge-rapporteur ...</i> | <i>Deputy-Registrar ...</i> |

Suggested text for the section INFORMATION ABOUT DECISION BY DEFAULT

Should a party fail to comply with the present Order within the time period specified, a decision by default may be given in accordance with R. 355 RoP (R. 103.1, last sub-paragraph and .2 RoP).

Suggested text for the section INFORMATION ABOUT REVIEW BY PANEL

Any party may request that this Order be referred to the panel for a review pursuant to R. 333 RoP. Pending review, the Order shall be effective (R. 102.2 RoP).

Suggested text for the section TECHNICAL INFORMATION ABOUT INTERIM CONFERENCE HELD BY VIDEO CONFERENCE

1. Representatives have to ensure that their video-conference equipment enables participation in the interim conference.
2. The “Remote” interim conference will be accessible via the Cisco Webex Meeting Solution. Representatives have to ensure that their video-conference equipment enables participation in the interim conference using Cisco Webex Meeting Solution. Representatives also have to ensure that, beside technical equipment, the acoustic and light of the room are adapted to perform video-conferencing.
3. Link to interim conference to be added to the Order or to be sent separately by the Sub-Registry at the Local Division in .../Regional Division in .../Central Division (Paris Seat or Munich Section) where the interim conference takes place.
4. Representatives are encouraged to set up a test call with the Sub-Registry at the Local Division in .../Regional Division in .../Central Division (Paris seat or Munich section) well before the interim conference takes place.
The contact details for arranging such a test call is the following: ++ .. [telephone number and email address of the Sub-Registry at the Local Division in .../Regional Division in .../Central Division (Paris seat or Munich section)].

SUGGESTED TEXT FOR THE SECTION INFORMATION ABOUT INTERIM CONFERENCE HELD IN COURT

The interim conference shall be open to the public unless the judge-rapporteur decides to make it, to the extent necessary, confidential in the interests of one or both parties or third parties or in the general interest of justice or public order (R. 105.2 RoP).

Suggested text for the section INFORMATION ABOUT AUDIO RECORDING

The interim conference shall be recorded on audiotape / videotape. The recording shall be made available at the premises of the Court to the parties or their representatives after the interim conference (R. 106 RoP).