

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

Summons of parties and party experts to the oral hearing

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]

oral hearing, summons of parties, party experts; date set in written procedure / at interim conference; parties' agreement to shorter time period; simultaneous interpretation; at a party's cost; closure of interim conference.

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 JUDGES [R. 351.1(c) RoP]:

This order has been issued by the Judge-rapporteur

[in case the single judge is issuing the summons]

This order has been issued by the single judge ...

SUMMARY OF FACTS [OPTIONAL - MANDATORY IN CASE LEAVE TO APPEAL IS GRANTED BY SINGLE JUDGE, SEE R. 351.2(b) RoP]

[Free text]

STATEMENT OF FORMS OF ORDER SOUGHT BY THE APPLICANT [OPTIONAL - MANDATORY IN CASE LEAVE TO APPEAL IS GRANTED BY SINGLE JUDGE, SEE R. 351.2(a) RoP]

[Free text]

POINTS AT ISSUE [OPTIONAL - MANDATORY IN CASE LEAVE TO APPEAL IS GRANTED BY SINGLE JUDGE, SEE R. 351.2(b) RoP]

[Free text]

FOUNDATIONS FOR THE ORDER [OPTIONAL - MANDATORY IN CASE LEAVE TO APPEAL IS GRANTED BY SINGLE JUDGE, SEE R. 351.2(c) RoP]

[Free text]

ORDER (OPERATIVE PART) [R. 351.1(e) RoP]

[Optional standard text]

It is ordered that

- parties represented by their representatives (R. 8.2, 108 RoP)
- parties personally (R. 108 RoP)
- the party expert(s) *[name, address and description, R. 177, 181.1 RoP]*
- ... is(are) summoned to the oral hearing which shall take place
 - on ... [dd month in words yyyy] *[must be a UPC working day]*
 - at ...: [hour] R. 108 RoP]
 - in Court, at the ... division in ... [full visiting address]
 - by video-conference [R. 112.3(c) RoP]
- the party expert(s) shall be informed of the following:
 - the testimony of the expert(s) may be heard by the Court, in particular on the following facts of the action [R. 177.2(c), 181.1 RoP]: ...
 - the expert(s) may be questioned by the Court and the parties [R. 177.2(e), 181.1 RoP]
 - the language of the proceedings is Simultaneous interpretation between that language and the language of the witness is possible [R. 177.2(f), 181.1 RoP]
- the party expert(s) shall be informed of his/their duties [R. 177.3, 181.1 RoP]:
 - to obey the summons and attend the hearing [R. 179.1, 181.1 RoP]
 - to give evidence [R. 178.2, 181.1 RoP]

- to assist the Court impartially on matters relevant to his area of expertise [R. 181.2(a) RoP]
- to be independent and objective and not to act as an advocate for any party to the proceedings [R. 181.2(b) RoP]

INSTRUCTIONS TO THE PARTIES AND TO THE REGISTRY concerning the next steps in the proceedings [Optional]

The Parties are requested to inform the sub-registry at the ... division in ... of

- the names and quality of any person – other than parties’ representatives – who will participate in the oral hearing
- (in case the oral hearing shall be held by video conference, R. 112.3(c) RoP) a telephone number enabling the registry to contact parties’ representatives on the day of the oral hearing
- any arrangements re. simultaneous interpretation (R. 109 RoP)

NAMES AND SIGNATURES	
<p>Judge-rapporteur [Art. 8 UPCA, Art. 35(5) UPCS]</p> <p>Judge-rapporteur ...</p> <p><u>Or: Single judge ...</u></p>	<p>Deputy-Registrar [Art. 35(5) UPCS]</p> <p>Deputy-Registrar ...</p>

Service of the Order

This order shall be served on the representatives of the parties, R. 276.1, 271 RoP

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).

INFORMATION ABOUT APPEAL (only if order is issued by single judge; otherwise appeal only against panel decision after review pursuant to R. 333 RoP)

The present order may either

- be the subject of an appeal by any party which has been unsuccessful, in whole or in part, in its submissions together with the appeal against the final decision of the Court of First Instance in the main proceedings, or
- be appealed by any party which has been unsuccessful, in whole or in part, in its submissions at the Court of Appeal with the leave of the Court of First Instance within 15 days of service of the Court of First Instance’s decision to that effect (Art. 73(2)(b) UPCA, R. 220.2, 224.1(b) RoP).

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

[to be updated to technical standards at the UPC]

1. Representatives who intend to join by video conference have to inform the judge-rapporteur ... weeks after service of this order.

2. The “Remote” Hearing(s) will be accessible via the Cisco Webex Meeting Solution. Representatives have to ensure that their video-conference equipment enables participation in the video 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 video 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 oral hearing 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 oral hearing 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 ORAL HEARING HELD IN COURT

The oral hearing shall be open to the public unless the Court 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. 115 RoP).

Suggested text for the section INFORMATION ABOUT AUDIO RECORDING

The oral hearing shall be audio recorded. The recording shall be made available at the premises of the Court to the parties or their representatives after the oral hearing (R. 115 RoP).

Suggested text for the section Information About Absence Or Delay Of A Representative

A decision by default may be given, upon request, against a party that was duly summoned but fails to appear at the oral hearing (R. 355.1 (b) RoP).