

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

**Summons of witnesses 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, witnesses and 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 PARTIES [OPTIONAL - MANDATORY IN CASE LEAVE TO APPEAL IS GRANTED BY SINGLE JUDGE, SEE RULE 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

- witness ... [name, address and description, R. 177.2(a) RoP] is summoned to the oral hearing which shall place
  - on ... [dd month in words yyyy] [must be a UPC working day]
  - at ... [hour] [R. 177.2(b) RoP]
  - by video conference [R. 105.1, 112.3 RoP]
  - in Court, at the ... division in ... [full visiting address]
- the witness is informed of his/her following duties [R. 177.3 RoP]:
  - to obey the summons and attend the hearing [R. 179.1 RoP]
  - to make a declaration to the truth of the evidence to be given [R. 179.2, 178.1 RoP]
  - to declare whether and to what extent he/she confirms a written witness statement [R. 179.2, 178.3 RoP].
  - to give evidence [R. 179.2, 178.2 RoP]
- the witness is informed of the following:
  - He/she may be examined on the following facts of the action [R. 177.2(c) RoP]: ...
  - He/she may be questioned by the Court and the parties [R. 177.2(e), 178.4 and .5 RoP]
- the language of the proceedings is ... . Simultaneous interpretation between that language and the language of the witness will be provided [R. 177.2(f) RoP].
- the witness is informed about his right to refuse giving evidence or answering questions if he/she is a spouse, partner to a spouse under applicable national law, descendant, sibling or parent of a party or, if answering a question would violate a professional privilege or other duty of confidentiality imposed by the national law applicable to the witness or expose him or

- his/her spouse, partner equal to a spouse under applicable national law, descendant, sibling or parent to criminal prosecution under applicable national law [R. 179.3 RoP]
- the witness is informed that if a witness who has been duly summoned fails to appear before the Court or refuses to give evidence or make a declaration to the truth of the evidence to be given under R. 178.1 RoP the Court may impose upon him a pecuniary sanction not exceeding EUR 50.000 and may order that a further summons be served at the witness's own expense. [R. 179.2 RoP]
  - the witness is informed that in case of the giving of false evidence on his/her part the Court may decide to report to the competent authorities of Contracting Member States with courts having criminal jurisdiction [R. 179.4 RoP]

Issued on ...

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

Service of the order:

This order will be served on the witness by registered post at the address of the witness [R. 276.1, 275 RoP] unless the representative for the party offering the evidence has confirmed to the Court that the order may be served only on that representative.

Information about the reimbursement of the party expert and/or the witness [R. 177.2 (d), 181.1 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 under 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).