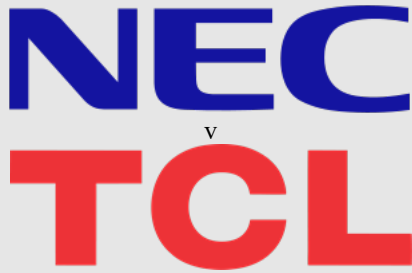


UPC CFI, Local Division Munich, 15 January 2025,
NEC v TCL



PATENT LAW – PROCEDURAL LAW

Withdrawal of the action by agreement; parties bearing their own costs, 60% of court fees reimbursed ([R. 265 RoP](#), [R. 370 RoP](#))

Source: [Unified Patent Court](#)

See also similar decision between the same parties in

- [UPC CFI 498/2023 regarding EP 3 057 321](#)

UPC Court of First Instance,

Local Division Munich, 15 January 2025

(U. Voß, D. Voß, A. Kupecz)

UPC_CFI_487/2023

Decision

of the Court of First Instance of the Unified Patent Court issued on 15 January 2025

CLAIMANT

NEC Corporation, 7-1 Shiba 5-chome Minato-ku, Tokyo 108-8001, Japan, represented by its President and Chief Executive Officer Mr. Takayuki Morita, *ibid*, represented by: Dr. Müller, Dr. Henke, BARDEHLE PAGENBERG Partnership mbB Patent attorneys, attorneys at law, Bohnenstraße 4, 20457 Hamburg.

DEFENDANTS:

1. TCL Deutschland GmbH & Co. KG, Am Seestern 4, 40547 Düsseldorf, represented by the general partner TCL Deutschland Verwaltungs GmbH, which in turn is represented by its managing directors, *ibid*,

2. TCL Industrial Holdings Co., Ltd., 22/F, TCL Technology Building, 17 Huifeng 3rd Road, Huizhou, 516000 Guangdong, China, represented by its directors, *ibid*,

3. TCT Mobile Germany GmbH, Am Seestern 4, 40547 Düsseldorf, Germany, represented by its managing directors, *ibid*,

4. TCT Mobile Europe SAS, 55 Avenue des Champs Pierreux, 92000 Nanterre, France, represented by its directors, *ibid*,

5. TCL Communication Technology Holdings Ltd., 5/F, Building 22E, Science Park East Avenue, Hong Kong Science Park, Shatin, Hong Kong, represented by its directors, *ibid*,

6. TCL Operations Polska Sp., Z.o.o., ul. A. Mickiewicza 31/41 96-300 Zyrardow, Poland, represented by its managing directors, *ibid*,

7. TCL Overseas Marketing Ltd., 13/F TCL Tower Tai Chung Road Tsuen Wan, New Territories, Hong Kong, represented by its directors, *ibid*.

Defendants 1), 2), 3), 4), 6) represented by: Dr. Nack, Dr. Gajeck, Noerr Partnerschaftsgesellschaft mbB, Brienner Str. 28, 80333 Munich, Germany.

INTERVENER

Access Advance LLC, 100 Cambridge Street, Suite 21400, Boston, MA 02114, USA,

represented by: Dr. Henke, Bardehle Pagenberg Partnership mbB, Bohnenstraße 4, 20457 Hamburg.

PATENT AT ISSUE

European patent no° [EP 2 645 714 B1](#)

PANEL/DIVISION

Panel 2 of the Local Division Munich

DECIDING JUDGE

This decision has been issued by Presiding Judge Ulrike Voß (Judge-Rapporteur), the Legally Qualified Judge Dr Daniel Voß and the Legally Qualified Judge András Kupecz.

LANGUAGE OF THE PROCEEDINGS

English

SUBJECT-MATTER OF THE PROCEEDINGS

Patent infringement – Notification of Service Defendant 2)

SUBJECT-MATTER OF THE PROCEEDINGS

Withdrawal action, [R 265 RoP](#) / Reimbursement court fees, [R 370 RoP](#)

SUMMARY OF FACTS

By statement of claim dated 22 December 2023, the Claimant filed a patent infringement action against the Defendants. The parties reached a contractual agreement before the closure of the written procedure. By written submission dated 14 January 2025, the Claimant declared the withdrawal of the infringement action.

The Claimant also requests partial reimbursement of the court fees paid by it, whereby the Claimant requests that the contractual agreement between the parties be taken into account.

The Claimant requests, to confirm that the Claimant must pay the court fees and that each party bears its own costs (no requests for cost compensation), to order that 60 % of the Court fees be reimbursed to the Claimant.

The Defendants have not submitted any comments

REASONS FOR THE ORDER

I.

Pursuant to [Rule 265.1](#), first sentence, RoP, a claimant may, as long as there is no final decision in the action, request that the action be withdrawn. The application for withdrawal is not allowed, according to sentence 3, if the other party has a legitimate interest in the action being decided by the Court.

On this basis, the withdrawal is permitted. The withdrawal of the action was declared before a final decision was issued. The Defendants have not asserted any legitimate interests pursuant to [Rule 265.1 RoP](#), nor can any such interests be identified in any other way.

II.

The consequence of permitting a withdrawal is, according to [Rule 265.2 \(a\) and \(b\) RoP](#), to give a

decision declaring the proceedings closed and to order the decision to be entered on the register.

According to [Rule 265.2\(c\) RoP](#), when permitting the withdrawal, the Court issues a decision on costs in accordance with Part 1, Chapter 5. An agreement between the parties regarding the costs or a settlement must be taken into account.

III.

Pursuant to [Rule 370.9 \(b\) i RoP](#) in conjunction with [Rule 370.11 RoP](#), 60 % of the court fees paid are to be reimbursed if the action – as in this case – is withdrawn before the closure of the written procedure.

ORDER

1. The withdrawal of the action is permitted.
2. The proceedings are declared closed.
3. This decision is to be entered on the register.
4. The parties shall bear their own extrajudicial costs.
5. Claimant is to be reimbursed 60 % of the court fees paid by it, and thus an amount of € 14.400,00.
6. The value of the action is set at € 1.750.000,00

INSTRUCTION FOR THE REGISTRY

The Registrar is instructed to make a payment of € 14.400,00 to the Claimant as soon as possible in accordance with point 5 of the Order, Rule 370.11 RoP.

DETAILS OF THE ORDER

ACT_595922/2023

UPC_CFI_487/2023

App_2272/2025

Ulrike Voß Presiding Judge

Dr Daniel Voß Legally Qualified Judge

András Kupecz Legally Qualified Judge
