UPC CFI, Local Division Mannheim, 4 April 2025, Fingon v Samsung

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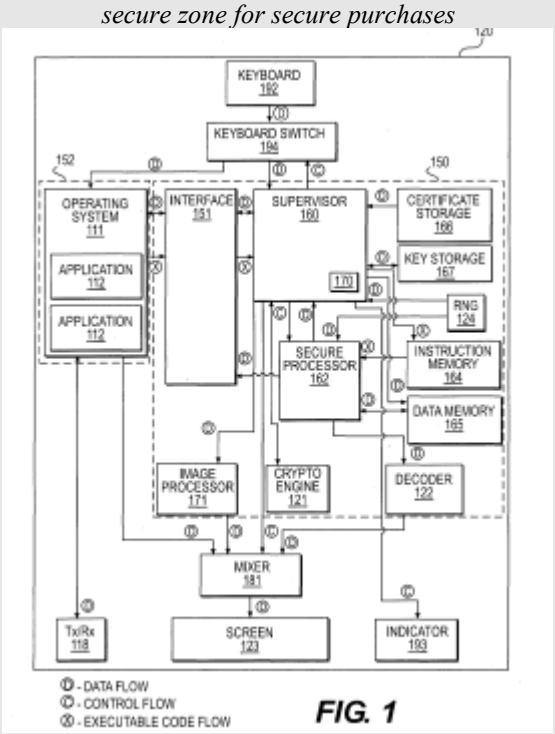

FIG. 1

PATENT LAW – PROCEDURAL LAW

Preliminary objection rejected (R. 20 RoP)

Inadmissible preliminary objection (R. 19 RoP)

- **the validity of the withdrawal of the opt-out does not constitute an admissible ground for a preliminary objection (Article 83 UPCA).**
- **Material ownership of the patent-in-suit is to be dealt with in the main proceedings (R. 20.2 RoP)**

Unfounded preliminary objection with regard to the temporal scope of jurisdiction.

- **No doubt about the UPC's jurisdiction regarding alleged infringing acts committed before its entry into force**

Source: Unified Patent Court

UPC Court of First Instance,
Local Division Mannheim, 4 April 2025
(Böttcher)
UPC_CFI_750/2024
Order
of the Court of First Instance of the Unified Patent Court issued on 4 April 2025
concerning EP 2 839 403
concerning App_2095/2025
(preliminary objection)
HEADNOTES:

1. Questions of fact and law that are relevant both for the jurisdiction of the UPCA in demarcation to the national courts of the UPCA member states and for the merits of the case are in principal not to be decided in the preliminary objection procedure, but must be reserved for the main proceedings.
2. Accordingly, the alleged lack of claimant's material ownership of the patent-in-suit, which, if true, would both render the infringement action meritless and invalidate a withdrawal of an opt-out, is not a proper subject-matter for a preliminary objection.

KEYNOTES:
R. 19 RoP; Art. 83 UPCA; alleged invalidity of the withdrawal of an opt-out due to lack of ownership of the patent-in-suit.
CLAIMANT:
Fingon LLC, 57 Pond Brook Road - CT 06470 - Newtown - US,
represented by: Simon Reuter
DEFENDANTS:
1. **Samsung Electronics GmbH,** Frankfurter Straße 2 - 65760 - Eschborn – DE,
represented by: Henrik Timmann
2. **Samsung Electronics France S.A.S.,** 6 Rue Fructidor - 93400 - Saint-Ouen-sur-Seine – FR,
represented by: Henrik Timmann
PATENT AT ISSUE:
European patent EP 2 839 403
PANEL/DIVISION:
Panel of the Local Division in Mannheim
DECIDING JUDGES:
This order was issued by the legally qualified judge Böttcher acting as judge-rapporteur.
LANGUAGE OF THE PROCEEDINGS:
English
SUBJECT OF THE PROCEEDINGS:
Patent infringement action – Preliminary objection pursuant to R. 19.1 (a) RoP, R. 20.1 RoP
BRIEF SUMMARY OF THE FACTS AND POINTS OF ISSUE:
Claimant is suing Defendants for infringement of the patent-in-suit and requests, inter alia, information, destruction, recall, permanent removal from the distribution channels, (provisional) damages and a declaration on damages.
According to Claimant, it and the former patent holder OLogN Technologies AG entered into a patent assignment agreement regarding the patent-in-suit with effective date of 29 April 2024 (exhibit PS1). An opt-out declared by the then patent holder OLogN Technologies AG for the patent-in-suit dated 25 May 2023 was withdrawn by Claimant on 13 November 2024. Claimant's aforementioned requests encompass acts committed before the entry into force of the UPCA and in the period between the declaration of the opt-out and its withdrawal.
Defendants filed a preliminary objection on 13 January 2024, after the statement of claim having been served on them on 13 December 2024. Claimant responded on 28 January 2025 after having been notified on 14 January 2025. Defendants replied on 19 March 2025 after having

been given the opportunity to do so in workflow ORD_11176/2025 and after having been granted restricted access to confidential information pursuant to R. 262A RoP contained in Claimant's response.
Defendants base their preliminary objection in particular on an alleged invalidity of Claimant's withdrawal of the opt-out and on the alleged lack of UPC's jurisdiction for certain time periods.
Defendants contest the effectiveness of the withdrawal due to invalidity of the patent assignment.
In Defendants' view, the UPC lacks competence ratione temporis for acts of use committed before the withdrawal of an opt-out and in any case, due to the principle of non-retroactivity under Art. 28 Vienna Convention on the Law of Treaties (VCLT) and due to an interpretation of the UPCA in accordance with Art. 31 VCLT, for acts of use committed before the entry into force of the UPCA. Defendants consider their legal position to be in line with principles of international law reflected in the work of the International Law Commission (ILC) and in particular in line with case law regarding the jurisdiction of other international courts such as the European Court of Human Rights (ECtHR) and its predecessor the European Commission on Human Rights which held that they are incompetent to entertain complaints regarding alleged violations of human rights said to have occurred prior to the entry into force of the relevant convention with respect to the member state in question. According to Defendants, such principles are also reflected in international investment law and international trade agreements such as the North American Free Trade Agreement (NAFTA). In Defendants' view, there is no sufficient indication for a retro-active effect of the UPCA either. Art. 3 (c) UPCA would not relate to secondary rights dealing with an infringement. In Defendants' opinion, the UPC also lacks competence for acts of use committed before its entry into force because such acts are govern by substantive national law and Art. 56 et seqq. UPCA do not provide for procedural powers in this respect, following, by not providing substantive claims, a different legal concept. Thus, Art. 56 et seqq. UPCA being not applicable with regard to claims resulting from substantive national law, the UPC lacks competence to adjudicate on such acts. In addition, Defendants are of the opinion that the requests under III.1.d, e, f and IV.2 of the operative part of the statement of claim have no legal basis in Art. 56 et seqq. UPCA, in particular in Art. 67 UPCA, and that an analogous application is not possible in absence of an intended lacuna (gap).
In Defendants' view, the withdrawal of the opt-out, if valid, would have ex nunc effect. Therefore, the UPC would at least lack jurisdiction for acts of use committed in the period of the opt-out before its withdrawal.
Claimant objectsto the preliminary objection. Relying on the validity of the patent assignment and the subsequent withdrawal of the opt-out, it insists on being and, at the time of said withdrawal, having been the true patent owner, thereby referring to further documents provided with its response to the preliminary objection, which concern the validity of the patent assignment dated 29 April 2024 and allegedly underpin its validity. In their reply, Defendants consider these further arguments and documents to be insufficient. In Claimant's opinion, its material ownership already follows from it being registered as patent holder with the relevant French, German, Swiss and UK patent register including the time of the withdrawal, thereby establishing the unrebutted assumption that Claimant is the true patent holder. In Claimant's view, the objections raised against the temporal scope of UPC's jurisdiction are inadmissible under R. 19 RoP from the outset and, in addition, unfounded in particular in the light of Art. 3 (c) UPCA and the recitals expressing the intention to mitigate the fragmentation of the patent market.
Defendants request (amendments by the brief of 19 March 2025 highlighted in italics):
I. The preliminary objection is allowed.
II. main request: The infringement action is dismissed in full.
first auxiliary request: The infringement action is dismissed to the extent it relates to the time before the withdrawal of the opt-out of European patent EP 2 839 403 became effective.
second auxiliary request: The infringement action is dismissed to the extent it relates to the time before the entering into force of the Agreement on a Unified Patent Court (UPCA) on 1 June 2023.
third auxiliary request: The Claimant's requests for information under sections III.1.d, e, and f as well as IV.2 of the motions are dismissed.
fourth auxiliary request: The infringement action is stayed pursuant to Rule 295(c) and (m) RoP and/or the court shall wait with a decision on the Defendants' preliminary objection dated 13 January 2025 pending the outcome of the appeals currently pending before the Court of Appeal under the case numbers UPC_CoA_156/2025 and UPC_CoA_170/2025, respectively.
fifth auxiliary request: The infringement action is stayed pursuant to the first sentence of Rule 266(5) of the Rules of Procedure of the Unified Patent Court (RoP) and the Court of Justice of the European Union (CJEU) is requested to give preliminary rulings on the following questions in accordance with Article 21 UPCA in conjunction with Article 267 of the Treaty on the Functioning of the European Union (TFEU):
a) Does the law of the European Union (EU) require the interpretation and application of the UPCA in line with those rules of the Vienna Convention on the Law of Treaties (VCLT) which form part of customary international law, e.g. Articles 28 and 31 VCLT?
b) Do the principles of customary international law enshrined in Article 28 VCLT and Article 31 VCLT, which form part of the EU legal order, require Article 32(1)(a) UPCA to be interpreted as meaning that the UPC has no competence for infringement actions under Article 32(1)(a) UPCA that relate to alleged acts of use that occurred before the UPCA entered into force on 1 June 2023?

c) Do the principles of primacy and effectiveness of EU law require a court common to several EU Member States like the UPC to apply Article 8 of the Rome II Regulation on an ex officio basis and to determine the applicable national law on an ex officio basis?
III. The Claimant as the unsuccessful party shall bear the legal costs incurred by the Defendants.
Claimant requests:
I. the Preliminary Objection, including the main request and the first to third auxiliary requests, is rejected;
II. in the alternative to item I.: to deal with the Preliminary Objection in the main proceedings according to R. 20.2 RoP;
III. Defendants' request to stay the proceedings (fourth auxiliary request) pursuant to R. 266.5 RoP along with the corresponding request that the Court of Justice of the European Union ("CJEU") gives a preliminary ruling on the questions cited in items II. a) and b) of the motions are dismissed;
IV. in the alternative to item III.: to request the CJEU to apply its expedited procedure pursuant to R. 266.3 RoP;
V. Defendants bear the costs of the Preliminary Objection proceedings.

REASONS FOR THE ORDER:

The preliminary objection is partly admissible and, to this extent, unfounded.

1. The preliminary objection is inadmissible as far as it relates to the alleged invalidity of the withdrawal of the opt-out. Otherwise, it is admissible.

a)

The preliminary objection was duly filed in accordance with R. 19.1, 19.2 and 19.3 RoP, in particular in due time. Since a preliminary objection may relate to one part of the infringement action only, it is permissible to base it on the grounds of an alleged lack of jurisdiction over acts committed in certain time periods (cf. LD Munich, order of 10 February 2025, UPC_CFI_342/2024, UPC_CFI_483/2024 para. 26). As far as Defendants elaborate on the applicable substantive law, they only do so in order to conclude that the applicability of substantive national laws of the member states to the UPCA results in the UPC not being able to exercise its powers, thus lacking jurisdiction. Such reasoning is a proper objection under R. 19.1 (a) RoP, because it aims at a lack of jurisdiction over acts of use committed before 1 June 2023. It is of no relevance for the admissibility of the preliminary objection in this regard, but only for its merits whether such reasoning is justified (cf. LD Munich, order of 10 February 2025, UPC_CFI_342/2024, UPC_CFI_483/2024 para. 27). The same applies as far as Claimant argues that the court would lack the power to grant certain substantive aspects of Claimant's request for information under Art. 67 UPCA and the request under part IV.2 of the operative part of the statement of claim and thus would also lack jurisdiction in this regard.

b)

The objection raised against the validity of the withdrawal of the opt-out in the case at hand does not constitute an admissible ground for a preliminary objection.

aa) R. 19.1 (a) RoP stipulates that the jurisdiction and competence of the court, including any objection that an opt-out pursuant to R. 5 RoP applies to the patent-in-suit, may be the subject-matter of a preliminary objection. Thus, in principal, objections based on a persistent opt-out due to its invalid withdrawal may be raised under R. 19.1(a) RoP.

bb) However, the reasons given for the objection at hand does not fall within the scope of R. 19.1 (a) RoP.

R. 19.1 (a) RoP serves the purpose of clarifying the jurisdiction of the UPC in demarcation to the national courts of the UPCA member states at an early stage of the proceedings. By contrast, it is not the purpose of a preliminary objection to clarify parts of the merits of the case including the material ownership of the patent-in-suit at an early stage. Otherwise, the judge-rapporteur would have to decide on issues of substance, the decision on which is in principal reserved to the panel after having heard the case in the oral hearing after the parties have elaborate on issues of substance in accordance with the regime as set out in R. 12 RoP. Against this backdrop, R. 19.1(a) RoP is to be interpreted as not to encompass objections based on the validity of an opt-out as far as the objections, if true, would render the infringement action meritless.

In addition, a defendant's legal defence against unfounded claims would be weakened compared to a situation without the UPCA if issues of substance, which, if true, would render the infringement action meritless, e.g. the material ownership of the patent-in-suit, were to be considered in the preliminary objection proceedings. Without the UPCA, if a claimant fails to demonstrate and, if necessary, to prove its material ownership, it would – on a regular basis – not be given a second opportunity to sue the defendant again. However, if material ownership were to be examined in the preliminary objection proceedings and claimant failed in this respect, he could possibly file a new infringement action against the defendant, based on new arguments and better evidence. Such result would be counter to recital 2 of the UPCA, thereby also confirming the finding outlined supra.

In the case at hand, Defendants' arguments concern Claimant's overall ownership of the patent-in-suit. According to Defendant's arguments, the invalidity of the withdrawal would be a mere consequence of the fact that Claimant generally has no material ownership. In particular, Defendants do not present arguments that address Claimant's ownership at the time of the withdrawal of the opt-out exclusively. Thus, it can be left open whether a preliminary objection would be permitted in such a case and whether it could depend on whether the ownership is challenged for additional reasons not affecting a possible ownership at the time of the withdrawal.

cc) Even if the preliminary objection were admissible in this regard, the arguments outlined supra would at least call for dealing with the material ownership of the patent-in-suit in the main proceedings pursuant to R. 20.2 RoP.

2. The preliminary objection with regard to the temporal scope of jurisdiction is unfounded.

a) The judge-rapporteur agrees with the views of the Local Division Munich (**LD Munich, order of 10 February 2025, UPC_CFI_342/2024, UPC_CFI_483/2024)**, to which full reference is made.

b) Contrary to Defendants, the UPC has jurisdiction over acts committed before the UPCA's entry into force, i.e., 1 June 2023 (cf. **Court of Appeal, decision of 16 January 2025, UPC CoA 30/2024**; **LD Munich, order of 10 February 2025, UPC_CFI_342/2024, UPC_CFI_483/2024**; **LD Mannheim, decision of 11 March 2025, UPC_CFI_159/2024, para. 46, UPC_CFI_162**, para. 50). Considering the lack of a provision determining a deviating temporal scope, **Art. 3 (c) UPCA** in conjunction with **Art. 31 (1)**, **Art. 83 UPCA** establishes the jurisdiction over traditional European bundle patents fulfilling the requirements as laid down therein. By referring to "actual or threatened infringements", **Art. 32 (1) (a) UPCA** solely relates to the qualification of the infringing act as to be actual or merely threatened, but relates not to the point in time when such act took place. Moreover, if the UPC did not have jurisdiction over acts committed before 1 June 2023, **Art. 3 (c) UPCA** would be superfluous with regard to infringement actions, because every act of infringement committed after 31 May 2023 presupposes that the European patent concerned has not yet lapsed on 1 June 2023 or was granted after that date.

This finding does not constitute an impermissible retro-active effect. The jurisdiction of the UPC does not apply with retro-active effect; rather the UPC decides on matters which occurred in the past. The fundamental principle not to apply new rules of law to facts exclusively lying in the past does not extend to the expectation that the procedural rules for future lawsuits that are yet to be filed and the rules determining the competent court for such future lawsuits remain unchanged compared to the situation when the acts forming the subject-matter of the future lawsuit were committed. Thus, the fundamental principle on retro-activity does not bar the amendment of procedural rules and court competence for future lawsuits yet to be filed. In addition, since the determination of the substantive law applicable to the facts of a case is to be strictly distinguished from the jurisdiction to hear the case, a party is – on a regular basis – not unduly burdened if the procedural law governing future court proceedings changes.

As far as for international conventions establishing their own international courts follows that these courts do not have jurisdiction over acts committed before their entry into existence, such finding cannot be transferred to the UPC because such finding is based on the legal structure of these conventions which deviates from the legal structure of the UPCA. The member states to such conventions did not aim at creating a common court replacing their own competent national courts with regard to a certain legal area. They rather aimed at creating international convention law with its own court to adjudicate on the compliance of the member states with such law. Naturally, in the absence of a retroactive effect validly established by the convention, there is no such convention law before the entry into force of the convention. Since the court is not tasked with applying national law and, at least for periods prior to its existence, with applying general international law to the detriment of the member states either, it consequently already lacks jurisdiction for acts committed before the entry into force of the convention. Moreover, according to the rulings and views provided by Defendants, there seems to have been no sufficiently clear intention of the contracting member states to the conventions to provide such courts with powers for time periods before their existence.

In contrast, the UPCA contains the clear intention to give the UPCA jurisdiction over acts committed before its entry into fore. By virtue of the UPCA, besides harmonizing their substantive national laws with regard to European bundle patents and creating a new European patent with unitary effect, the UPCA contracting member states built a new court common to them and tasked it with adjudicating not only on the new unitary patent but also, instead of their own national courts, on the European bundle patent, thereby foreseeing that the common court applies their national law where applicable (cf., e.g., **Art. 24**, **Art. 28**, **Art. 72 UPCA**). This finding is further supported by the aspects discussed above that clearly point to UPC's competence for acts committed before UPCA's entry into force. Moreover, a different view would result in an overly complicated fragmentation of court proceedingsthat would undermine the second recital of the UPCA, which clearly highlights "that the fragmented market for patents and the significant variations between national court systems are detrimental for innovation". This aim is not – at least not explicitly – restricted to European patents with unitary effect (cf. **Local Division Mannheim, decision of 11 March 2025, UPC_CFI_159/2024,** para. 91).

Since, in the light of the findings outlined above, there is no doubt about UPC's jurisdiction regarding alleged infringing acts committed before its entry into force, there is no contradiction to the general views of the International Law Commission cited by Defendants either.

Nothing else follows from the fact that substantive national law is applicable to acts committed before UPCA's entry into force (cf. **LD Mannheim, decision of 11 March 2025, UPC_CFI_159/2024, UPC_CFI_162**). The determination of the substantive law applicable to an alleged infringement is to be strictly distinguished from the jurisdiction to hear the case. There is no indication that the UPCA intends to deviate from this principle. By contrast, it acknowledges the primacy of and respect for Union law (**Art. 20 UPCA**) that reflects the distinction between jurisdiction and applicable law, for instance by the Brussels Ia Regulation (cf. **LD Munich, order of 10 February 2025, UPC_CFI_342/2024, UPC_CFI_483/2024** para. 42), the application of which is emphasized by **Art. 31 UPCA**. Thus, the applicability of substantive national

law to the facts of a case does not exclude the UPC's jurisdiction (cf. **LD Munich, order of 10 February 2025, UPC_CFI_342/2024, UPC_CFI_483/2024** para. 42). In this context, it can be left open whether the UPCA does not know substantive claims but only notions of court's competence. Even if this were the case and the legal concept of applicable substantive national law were counter to UPCA's legal concept and, moreover, at first glance, such legal concept prevented the UPC from awarding substantive claims under national law, this would not rule out UPC's jurisdiction over infringing acts committed before its entry into force and governed by national law either. Rather, the UPC, as every court dealing with foreign legal institutions unknown to its laws, would have to apply, within its own procedural legal framework, such substantive foreign legal institution so as to realize its essence and its effects at least to the outmost possible degree.

c) Contrary to Defendants, the time period between a (valid) opt-out and its (valid) withdrawal is not exempt from UPC's jurisdiction. The fact that opt-out and withdrawal take effect upon their entry into the register (cf. **Art. 83 (3) sentence 3, Art. 83 (4) sentence 4 UPCA**) serves the purpose of determining the relevant point in time from which the consequences of an opt-out and its withdrawal respectively apply to future law suits (cf. **LD Munich, order of 10 February 2025, UPC_CFI_342/2024, UPC_CFI_483/2024** paras. 34 et seqq.). There is no indication in **Art. 83 UPCA** that the UPCA intends to exempt periods between an opt-out and its withdrawal from UPC's jurisdiction, which would cause a high degree of fragmentation, since a claimant filing an infringement action with the UPC would have to file several additional infringement actions with the national courts covering the time period during which the opt-out was in force and a defendant would have to defend himself against such additional infringement actions. Moreover, as discussed supra, such a fragmentation would be counter to UPCA's recital 2.

Again, the jurisdiction of the UPC does not apply with impermissible retro-active effect, but only to lawsuits that have been filed at a point in time when the UPC had jurisdiction.

Any consequences for the applicable substantive law which a withdrawal of an opt-out may have cannot be addressed by a preliminary objection but are to be dealt with in the main proceedings.

3. The preliminary objection relating to the competence with regard to certain substantive aspects of Claimant's request for information and the request under part IV.2 of the operative part of the statement of claim is unfounded.

Again, it can be left open, whether the UPCA provides for implicit substantive claims corresponding to the powers as laid down in **Art. 56** et seqq. UPCA. In any event, the UPCA distinguishes between the court's jurisdiction and its powers within its jurisdiction without making the jurisdiction dependent on the scope of the powers. Thus, the question whether an infringement of the patent-in-suit, if established, would justify the legal remedies sought by Claimant does not relate to the court's jurisdiction but to the merits of the case (cf. **LD Munich, order of 10 February 2025, UPC_CFI_342/2024, UPC_CFI_483/2024,** paras. 41, 44).

4. There is no reason to refer the questions raised by Defendants to the ECJ by a request for preliminary rulings (**Art. 21 UPCA**, Art. 267 TFEU). With regard to the Defendants' question a), the judge-rapporteur has no doubt that the VCLT is applicable to the UPCA. Applying the VCLT, the judge-rapporteur has no doubt that the UPC has jurisdiction over acts committed before the UPCA's entry into force (question b). The subject-matter of question c) is of no relevance for the preliminary objection procedure. Therefore, the judge-rapporteur, exercising its discretion as a non-final-instance judge, does not refer the questions to the ECJ.

5. The judge-rapporteur refrains from staying the infringement action (including the preliminary objection procedure) until the Court of Appeal has ruled on the pending appeals against the orders of the Local Division Munich of 10 February cited above. Contrary to Defendants, **R. 295 (c) RoP** is not applicable to their request at hand. The provision relates to an appeal which concerns the proceedings to be stayed only. It can be left open whether the provisions **R. 295 (c)**, **21.2 RoP** allow for a stay of the proceedings under the condition that an appeal is brought forward against the order rejecting the preliminary objection. Similarly, it can remain open whether and under which circumstances **R. 295 (m) RoP** would allow for staying the proceedings in order to wait until the Court of Appeal decides on an appeal regarding another proceedings, which deals with a similar question of law. In any event, the judge-rapporteur, exercising its discretion, refrains from staying the proceedings in the case at hand. For the reasons outlined above, in particular in light of the **Court of Appeal's decision of 16 January 2025 (UPC_CoA_30/2024)**, there are no sufficient indications that the UPC lacks jurisdiction over acts committed before the UPCA's entry into force. In addition, the judge-rapporteur has no doubts that, if substantive parts of Claimant's requests, in particular of the request for information, were not justified under Art. 56 et seqq. UPC, in particular under **Art. 67 UPCA**, this would not exclude the court's jurisdiction in this regard. For the reasons outlined infra, not to stay the proceedings is not detrimental to the parties.

6. The judge-rapporteur refrains from granting leave to appeal.

Since the dismissal of the preliminary objection regarding the validity of the withdrawal is equivalent to dealing with it in the main proceedings, there is no need to grant leave to appeal in this regard. Since the objections against jurisdiction for said time periods are already the subject-matter of two appeal proceedings against the orders of the Local Division Munich of 10 February 2025 cited above, the relevant issues are likely to be decided by the Court of Appeal, so that leave to appeal is not required for the development of the law. Apart from that, the Court of Appeal has already found that the UPC has jurisdiction over acts committed before 1 June 2023 provided the European patent has not lapsed

before that date. As discussed supra, no reasons are apparent for a deviating result regarding the time period between an opt-out and its withdrawal. Should the Court of Appeal, however, in the pending cases rule that the UPC lacks jurisdiction over acts committed before 1 June 2023 or in the time period between an opt-out and its withdrawal, this findings would have to be taken into account in the further proceedings at hand. In any event, Defendants would have an opportunity to present additional arguments in support of their legal position in a possible appeal against the final decision on the merits in the case at hand. Thus, there is no necessity to grant leave to appeal in this regard either. The same applies to the question whether a lack of power to grant certain substantive aspects of Claimant's requests, if given, would lead to a lack of jurisdiction, since the orders of the Local Division Munich cited above also dealt with such issues.

Against this backdrop, there is no need to grant leave to appeal against the order not to stay the proceedings either.

7. Since Defendants' additional requests submitted by their brief of 19 March 2025 are rejected, there was no need to hear Claimant in this regard.

8. Since the preliminary objection is rejected, the parties are informed that the proceedings will be continued in accordance with the Rules of Procedure **(R. 21.1 RoP)**. The parties have the opportunity to submit any outstanding pleadings in due time. Thus, in the reply to the statement of defence and in the rejoinder thereto, there will be opportunity to comment in particular on the substantive ownership of the patent-in-suit.

ORDER:

1. The preliminary objection is rejected.

2. Defendants' request to stay the proceedings in order to wait for the outcome of the appeals currently pending before the Court of Appeal under the case numbers UPC_CoA_156/2025 and UPC_CoA_170/2025, respectively, is dismissed.

ORDER DETAILS

Order no. ORD_11176/2025 in ACTION NUMBER: ACT_63404/2024
UPC number: UPC_CFI_750/2024
Action type: Infringement Action
Related proceeding no. Application No.: 2095/2025
Application Type: Preliminary objection
Issued in Mannheim on 4 April 2025

NAME AND SIGNATURE

Dirk Andreas Böttcher
Judge-rapporteur

INFORMATION ABOUT APPEAL

The present order of the judge-rapporteur rejecting the preliminary objection may either - be the subject of an appeal together with the appeal against the final decision of the Court of First Instance in the main proceedings, or - be appealed with leave of the Court of First Instance within 15 days of service of the Court's decision to that effect (**Art. 73(2)(b) UPCA**, **R. 21.1 2nd sentence** and **220.2**, **224.1(b) RoP**)
