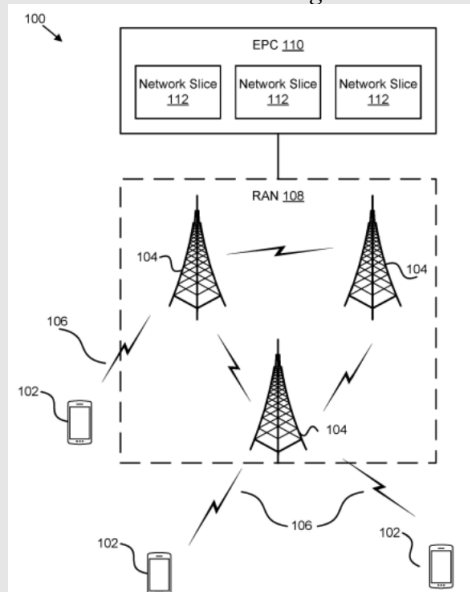


## UPC Court of Appeal, 11 April 2025, Ericsson v Motorola

*a wireless communication system for supporting network slicing*



### PATENT LAW – PROCEDURAL LAW

#### Withdrawal of action by party consent ([R. 265 RoP](#))

Both parties agree that there is no legitimate interest in the Court deciding on the action irrespective of the withdrawal

**60% of court fees reimbursed as per [R. 370 RoP](#) as the action was withdrawn before the written proceedings had concluded**

Source: [Unified Patent Court](#)

#### UPC Court of Appeal, 11 April 2025

(Kalden, Simonsson, Rombach)

UPC\_CoA\_201/2025

APL\_10785/2025

App\_16735/2025

#### ORDER

of the Court of Appeal of the Unified Patent Court issued on 11 April 2025 Withdrawal pursuant to [R. 265.1 RoP](#) and reimbursement of Court fees pursuant to [R. 370.9 RoP](#)

#### APPELLANTS (CLAIMANTS BEFORE THE COURT OF FIRST INSTANCE)

1. **Ericsson GmbH**, Prinzenallee 21, 40549 Düsseldorf, Germany

2. **Telefonaktiebolaget LM Ericsson**, Torshamnsgatan 21, Kista, 164 83 Stockholm, Sweden

(hereinafter jointly referred to as: Ericsson)

represented by: Dr. Christof Augenstein, attorney at law, Kather Augenstein Rechtsanwälte, Düsseldorf, Germany

#### RESPONDENT (DEFENDANT BEFORE THE COURT OF FIRST INSTANCE)

**Motorola Mobility LLC**, 222 W. Merchandise Mart Plaza, Suite 1800 Chicago, Illinois 60654 USA

(hereinafter: Motorola)

represented by: Klaus Haft, attorney at law, Hoyng Rokh Monegier, Munich, Germany

#### PATENT AT ISSUE

[EP 3 780 758](#)

#### LANGUAGE OF THE PROCEEDINGS

English

#### DECIDING JUDGES

Panel 2:

Rian Kalden, presiding judge and judge-rapporteur

Ingeborg Simonsson, legally qualified judge

Patricia Rombach, legally qualified judge

#### IMPUGNED DECISION OF THE COURT OF FIRST INSTANCE

[ORD 6149/2025 \(App 3212/2025\)](#) issued in relation to a preliminary objection in CC 63258/2024 [UPC CFI 740/2024](#), issued by the Local Division Munich on 5 February 2025.

#### POINT AT ISSUE

Withdrawal ([R. 265 RoP](#)) and reimbursement of Court fees ([R. 370.9 RoP](#))

#### SUMMARY OF FACTS (INsofar AS RELEVANT) AND INDICATION OF THE PARTIES' REQUESTS

1. Motorola filed an action against Ericsson before the Local Division Munich for the infringement of the patent at issue. Thereafter, it requested leave to amend this first action. Ericsson filed a counterclaim for revocation of the patent at issue.

2. After the rejection of its request for leave to amend the action, Motorola filed a second action against Ericsson for the infringement of the patent at issue. In response, Ericsson filed a second counterclaim for revocation of the patent at issue. Motorola replied to the latter by raising a preliminary objection, arguing that the Local Division Munich lacked jurisdiction, as there was already an ongoing counterclaim involving the same parties and the same patent.

3. The Local Division Munich allowed the preliminary objection and rejected as inadmissible the second counterclaim for revocation (CC\_63258/2024). Ericsson appealed this decision.

4. Ericsson filed an application pursuant to [R. 265.1 RoP](#) (App\_16735/2025) to withdraw its counterclaim for revocation (CC\_63258/2024) together with the appeal against the [impugned decision](#) of the Local Division Munich.

5. Both parties agree that there is no legitimate interest in the Court deciding on the action irrespective of the withdrawal.

6. The parties have agreed that each party shall bear its own costs and that applications for costs are not made. Ericsson requests confirmation of the parties' agreement that each party shall bear its own costs and that there is no reimbursement of costs between the parties

7. Ericsson further requests reimbursement of the court fees according to [R. 370.9 \(b\) \(i\) RoP](#).

8. Motorola declared its consent with Ericsson's requests.

#### **GROUND**

##### *Conditions for permitting the withdrawals*

9. The Court of Appeal is competent to decide on the application for withdrawal.

10. The application to withdraw the counterclaim for revocation and the appeal is admissible since there is no final decision in the action in view of the pending appeal.

11. In view of Motorola's consent, it cannot be considered to have a legitimate interest in the action being decided by the Court, and the application to withdraw the action can thus be permitted.

##### *Costs*

12. Although [R. 265.2 \(c\) RoP](#) provides that a decision on costs is to be taken in accordance with Part 1, Chapter 5, no decision on costs is required here, since both parties have declared that a cost decision is not requested.

##### *Reimbursement of Court fees*

13. In the event of the withdrawal of the action ([R. 265 RoP](#)), the party obliged to pay the Court fees shall upon request receive a refund of 60 % in accordance with [R. 370.9 \(b\) \(i\) RoP](#) if the action is withdrawn before the written proceedings have been concluded. This reimbursement is to be ordered in accordance with the application.

#### **ORDER**

The Court of Appeal:

- permits the withdrawal of the counterclaim for revocation (CC\_63258/2024) together with the appeal (APL\_10785/2025 UPC\_CoA\_201/2025) and declares the proceedings closed;
- orders that this decision shall be entered on the Register;
- declares that there is no need for a cost decision as the parties have agreed that each party shall bear its own costs and that there is no reimbursement of costs between the parties;
- orders that 60 % of the appeal Court fees be reimbursed to Ericsson.

Issued on 11 April 2025

Rian Kalden, presiding judge and judge-rapporteur

Ingeborg Simonsson, legally qualified judge

Patricia Rombach, legally qualified judge

-----