Neutral Citation Number: [2025] EWHC 2921 (Pat)

Case No: HP-2025-000043

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INTELLECTUAL PROPERTY LIST (ChD)
PATENTS COURT

The Rolls Building
7 Rolls Buildings
Fetter Lane
London EC4A 1NL

Date: Friday, 31st October 2025

Before:
MR. JUSTICE MEADE

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Between:

(1) AMAZON.COM, INC.
(a company incorporated in the State of Delaware, USA)
(2) AMAZON DIGITAL UK LIMITED
(3) AMAZON EUROPE CORE SARL
(a company incorporated in Luxembourg)
(4) AMAZON EU SARL
(a company incorporated in Luxembourg)
(5) AMAZON TECHNOLOGIES, INC.
(a company incorporated in the State of Nevada, USA)

Claimants

- and -

(1) INTERDIGITAL VC HOLDINGS, INC.
(a company incorporated in the State of Delaware, USA)
(2) INTERDIGITAL, INC.
(a company incorporated in the State of Pennsylvania, USA)
(3) INTERDIGITAL MADISON PATENT HOLDINGS SAS
(a company incorporated in France)
(4) INTERDIGITAL PATENT HOLDINGS, INC.
(a company incorporated in the State of Delaware, USA)
(5) INTERDIGITAL CE PATENT HOLDINGS SAS
(a company incorporated in France)
(6) THOMSON LICENSING SAS
(a company incorporated in France)
(7) VANTIVA SA
(a company incorporated in France)

Defendants

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MR. PAUL KEY KC, MR. THOMAS HINCHLIFFE and **MR. THOMAS LUNT** (instructed by **Hogan Lovells International LLP**) appeared for the **Claimants.**

DR. MICHAEL BLOCH KC and **MR. DOUGLAS CAMPBELL KC** (instructed by **Bird & Bird LLP**) appeared for the **First to Fifth Defendants**

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Approved Judgment

Transcript of the Stenograph Notes of Marten Walsh Cherer Ltd.,
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MR. JUSTICE MEADE:

1. I now have to decide about expedition of the substantive RAND trial on Amazon's application for it to be expedited. I refer to my two previous finalised judgments, and my judgment of yesterday, which I have not yet approved, concerning the jurisdiction hearing and the application to set aside my anti-anti-suit order for the overall context, which I will not repeat.

2. The general context of the expedition application is a familiar one. Infringement litigation is anticipated in the UPC and/or the German national courts and/or other national courts, although InterDigital has not yet begun any, and Amazon seeks the expedition of the RAND trial to try to reduce the risk of an injunction, or it would prefer to head it off entirely by obtaining a finding that it is entitled to a licence under the ITU regime, and that specific performance is available.

3. It is a distinguishing feature to a modest extent of this case that the foreign litigation has not yet begun, but, although InterDigital on this point, as many others, has declined to show its colours, it is obvious, I think, that it does concretely intend to bring infringement litigation soon.

4. This gives rise to the question of whether or not an injunction against infringement might come before the RAND trial, and on that, as often happens, the parties' evidence differs. Amazon says that a decision might come relatively soon, and that a high degree of expedition is therefore appropriate. InterDigital says, through its German lawyers, that an infringement decision is unlikely before the end of 2026 or early 2027.

5. Amazon seeks the expedition of this trial to May of next year. It says that if InterDigital was willing to stand behind its evidence about the timing of infringement trials, then a rational way forward would be for InterDigital to agree not to enforce any injunctions until the end of 2026 or early 2027, since, on InterDigital's evidence, no injunctions would be forthcoming until then anyway, in which case it would be unnecessary to expedite the RAND trial. InterDigital is not willing to agree to that. Again, its attitude is only thinly explained, but the inference is obvious, that it intends to try to get to an infringement decision, and enforce an injunction, as soon as possible.

6. InterDigital, I make clear, is fully entitled to bring infringement proceedings. Nothing I say cuts across that at all, and Amazon does not say that InterDigital is not entitled to bring infringement proceedings. Amazon's position is that if it manages to establish a licence, then it will have a defence in due course, but it is not saying that InterDigital cannot sue, and nor am I. It is also pertinent, I think, to reiterate that the substantive, final RAND trial, whose expedition I am considering, is not an interim licence or an interim licence declaration. Both of those matters are prevented from being litigated in this court by the German and UPC anti-suit injunctions, which Amazon is seeking, or will be seeking, to have set aside in those courts. The final RAND trial will be a determination of whether or not Amazon has substantive contractual rights to an actual, non-interim licence to some or all of the relevant streaming patents, on set terms and not terms adjustable at some later date.

7. The RAND trial will be a heavy one, on any view, and I approach the question of expedition with that very firmly in mind. I will deal with the question of expedition, and I have already indicated to the parties what I intend to do, in accordance with the

well-known principles in *WL Gore & Associates GmbH v Geox Spa* [2008] EWCA Civ 622. As I say, I have already told the parties what my decision is, and discussion has taken place about how to implement that in concrete terms, but, given the importance of this litigation generally, I think it is appropriate to give these reasons.

8. The first question to be assessed under *Gore v Geox* is whether there is a good reason for expedition. In the light of the weight of Patents Court authority bearing on closely analogous situations, the risk of an injunction with the obvious commercial disruption and damage that would bring, and the danger of Amazon being coerced into agreeing supra-FRAND rates to avoid such an injunction, both provide a good reason for expedition. I do not say that Amazon is right about any of its arguments in saying that, but I simply acknowledge that there is a sufficiently good reason for expedition for that part of my jurisdiction to be engaged and for me to move on to the other *Gore v Geox* considerations.

9. So I conclude that there is a good reason for expedition. It is only fair to say that Mr. Bloch KC accepted that on the authorities that that was the conclusion that I was bound to reach, albeit that that is not an admission, just an acceptance of the reality, which is a pragmatic one which has shortened the hearing somewhat.

10. The next question that I have to consider is the good administration of justice. On that front, I have considered the state of the lists in May, and this overlaps with prejudice to the parties, and in particular to InterDigital, by a May 2026 listing, as Amazon seeks. So I take these two together. I listened carefully to Mr. Hinchliffe KC's submissions yesterday about what is involved in the RAND trial and I reached the conclusion, in the light of that, that it is simply not possible to prepare fairly for a trial of all the issues that it involves in time for May. In exercising its discretion to expedite, the court is not seeking blindly or automatically to jump ahead of other national courts. It must only order an expedited trial if it is fair to do so, and if justice can be done at the trial. As I said during the course of argument, although many facets of InterDigital's conduct in this litigation have been of tremendous frustration to me, as indicated perhaps in my two judgments yesterday, expediting a trial is not a way of the court indicating displeasure or sanctioning a defendant; it is to be done only in the service of reaching a just result. So I would not have been willing to expedite the trial to May, simply on the basis that I do not think it could be fairly prepared by then.

11. In addition, it would have involved a significant degree of re-arrangement of the court's resources, in terms of other trials, to expedite to May, as I said to the parties, not because some other litigant would have to be ejected from the list (that would of course be an extreme step) but because other trials would have to be allocated to different judges, additional judicial resource would have had to be found, and possibly it would not have been quite so easy for the court to allocate the trials that are coming on then to the most ideal judges. In any event, that is a secondary consideration. My main reason for declining to expedite to May is that I do not think it is possible fairly to have the trial ready by then.

12. It is, however, possible, without too much difficulty, to make a judge available starting in the middle of September of next year. It is part of the Patents Court's Practice Statement that the court will hear trials in September if it enables cases to be brought on in accordance with the general objective of bringing cases to a resolution within 12 months or a little bit more. In addition, I think that if the trial begins in the middle of

September it is likely to be possible, for whichever judge hears it, to prepare his or her judgment immediately thereafter, so that a result comes out in about October.

13. This does not give Amazon perfect comfort. I do not think any trial could do that, even if Amazon wins, which is, of course, yet to be determined. However, given the evidence about the likely timing of infringement proceedings, I think it does substantial justice to Amazon, and is a practical result which can be accommodated by the court.

14. Therefore, I conclude that this trial should be expedited to begin in the middle of September 2026, with an estimate, which, for the moment, I provisionally set at 15 days. I record the indication I gave during the course of argument that cases such as this have to be managed down, if they possibly can be, so it will be a real goal to meet the 15 days, but if some small expansion is necessary that will certainly not be at the price of losing the trial date. The trial date is a reality now.

15. I will come back to the practical matters of dates and so forth in a moment, but before I do that I want to return to the situation with the proceedings on the continent, and in particular the UPC. As I recorded in my judgment on the anti-anti-suit injunction, there is a case management hearing to take place in the UPC on 14th November. I had hoped that the final resolution of the anti-anti-suit I made on 20 October would have taken place by then, because any challenge or application to set aside by InterDigital could have been made and determined. That has been made more difficult, and may be impossible now, because of InterDigital's failure to identify the grounds on which it sought to set aside the order, in accordance with my order, paragraph 7, prior to yesterday, although I have now directed that that must take place. There is some slim chance that that hearing can take place before the UPC hearing, but if it does not happen, then it does not, and I simply record that that is because of the way that InterDigital has conducted itself.

16. Much more importantly, Judge Tochtermann's UPC directions order of 14 October 2025, at paragraph 9, said that the parties should come to the hearing on 14th November in the UPC, ready to discuss ways to get to some agreed procedure for the resolution of this international dispute. I could not agree more with what Judge Tochtermann has said. I asked both parties today if they are willing to have a mediation, not about the final overall dispute, although of course that would be welcome, but about a route to resolution of the dispute in terms of issues and fora. Both sides have said that they are willing to have such a mediation. I simply record that for Judge Tochtermann to know and understand, but it is now over to him and his court to take that forward with the parties. My discussion with them was in no way intended to pre-empt what he has suggested, and which I support, and no doubt it is to be hoped that a fruitful discussion about that issue takes place on 14th November.

17. The practical decisions that I have to make, therefore, concern the giving of directions to keep this action on track to the September hearing. I think the best approach to take in relation to that is to make directions which will keep matters going until a further case management hearing can take place.

18. The question of what directions to make appeared at one stage to raise a disputed issue of approach and/or of jurisdiction, because Amazon has made an application for early disclosure. InterDigital objects to being required to take steps to give disclosure prior to the resolution of the jurisdiction hearing and says that the court has no power to do

that or, alternatively, that, even if it does theoretically have power, it should never be exercised in a situation such as the present. In addition, InterDigital says that the same applies to any requirement for it to present pleadings before the resolution of the jurisdiction application. I would have been willing to decide this point of principle, had I needed to, but I happily do not have to do that because InterDigital itself put forward a timetable which leads to it serving a defence on 5th January 2026, by which time it can reasonably confidently be expected that the jurisdiction issue will have been resolved, and to its serving a response to Amazon's RAND statement of case on 6th February 2026. As Mr. Campbell KC, who dealt with this part of the oral advocacy for InterDigital, said, it can hardly be for InterDigital to say that the timetable which it puts forward presents problems of the court's jurisdiction, and very fairly he does not say that. The objection would be to actually taking steps leading to the service of a pleading before the resolution of the jurisdiction application.

19. I do not think there is anything that stands in my way of adjusting the dates in InterDigital's timetable appropriately to preserve the timing of the proceedings down to the expedited trial in September, provided that I do not make them earlier than the resolution of the jurisdiction application. Amazon contended that certain steps ought to be taken the day after the decision on the jurisdiction application, but that is impractical, in my view, and too peremptory, because it would require InterDigital to plan to do something on a day when it did not know what the day was. So I do not intend to do that.

20. I also indicated, in the course of argument, that I was not attracted, at this stage anyway, to the quite wide disclosure that Amazon are currently seeking. However, in fact, by a process of discussion with counsel, quite a lot of the important points on early disclosure have been resolved. So InterDigital is prepared to put in the licences on which it relies, along with its RAND statement of case, in February, and also at the same time to provide a small number of specific licences, identified by Amazon, which are alleged to be licences in which NEPs were included for no additional cost. At the same time, InterDigital agrees to provide documents going to the question of whether the Thomson RAND obligations transferred to InterDigital or not. This actually, to my mind, covers a lot of the important matters raised by Amazon, although certainly not all of them, because, for example, I think it is premature to consider ordering disclosure of royalty statements, which is one of the things that was sought.

21. So I turn to the concrete question of when InterDigital should put in its documents. In my view, the time that is sought, which is 5th January for the defence (that is InterDigital's proposal in Table 4, which is one of a number of very helpful tables in the confidential second witness statement of Ms. Stephens of Bird & Bird), and 6th February for the responsive RAND statement of case are both too late, and more time than InterDigital really needs, given that it is accepted that work has already begun.

22. So my direction will be that the defence must be served on the last working day before Christmas, and we can work out exactly what that is, and that the responsive RAND statement of case must be served in mid-January, and again we can work out exactly what date that ought to be. That, I am confident, will keep things moving until a further CMC can be organised. The Table 4 set of dates provides for a CMC/early disclosure in mid/late January. I think a CMC should take place perhaps ever so slightly after that, when there has been time for both parties to absorb InterDigital's responsive RAND statement of case and to work out the next steps on disclosure.

23. Another point canvassed in argument was the question of when InterDigital should notify the counterparties to comparable licences that it intends to rely on of the possibility that they may be relied on in this case. In my view, InterDigital should do that as soon as is reasonably possible, but I do not require that to be done in advance of the decision on the jurisdiction hearing. I am told, and this seems to be accepted, that in the litigation between InterDigital and Disney an order has been made in the US for disclosure of comparable licences, which implies that the counterparties are aware of the possibility to that extent in that litigation, but that does not mean that they are automatically going to agree to a potentially different confidentiality club in different litigation. So, in my view, InterDigital ought to put the counterparties on notice as soon as the result of the jurisdiction hearing is known, assuming that InterDigital do not win, because of course if it does, then all of this will be moot. If the jurisdiction hearing goes against InterDigital, then it must put them on notice as soon as possible, with the objective that the agreements can be provided, even if within a very narrow confidentiality club, to relevant people on the Amazon side, with the RAND statement of case in mid-January.

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