



**Order**  
**of the Court of First Instance of the Unified Patent Court**  
**issued on 26 May 2026**  
**concerning EP 4 277 422 and EP 3 965 354**  
**(R. 19 RoP – preliminary objection)**

CLAIMANT:

**Telefonaktiebolaget LM Ericsson (publ),** Represented by  
Torshamnsgatan 21, Kista, 164 83 Stockholm, Sweden Christopher WEBER

DEFENDANTS:

- 1) **Shenzhen Transsion Holdings Co, Ltd.,** Represented by Steffen  
Unit 1, Floor 24, Chuanyin Building, No. 8, STEININGER  
Xianyuan Road, Xili Sub-district, Nanshan  
District, 518000, Shenzhen City, China,  
represented by its director Zhu Zhaojiang, ibid
- 2) **Tecno Mobile Limited,** Represented by Steffen  
Flat N, 16/F., Block B, Universal Industrial STEININGER  
Centre, 19 - 25 Shan Mei Street, Fotan NT, New  
Territories, 00000 Hong Kong SAR, China,  
represented by its directors Liang Gao and  
Chunlei Xia, ibid
- 3) **Infinix Mobility Limited,** Represented by Steffen  
Flat N, 16/F Block B, Universal Industrial STEININGER  
Centre, 19 - 25 Shan Mei Street, Fotan NT, New  
Territories, 00000 Hong Kong SAR, China,  
represented by its directors Liang Gao and  
Chunlei Xia, ibid

- 4) **Tekpoint GmbH,** Represented by Steffen  
Leopold Ungar Platz 2, 1190 Vienna, Austria, STEININGER  
represented by its CEO, Mark Schwazgorn, ibid
- 5) **IRD Distribuce, S.R.O,** Represented by Steffen  
3 - Vinohrady, nám. Jirího z Podebrad 1658/11, STEININGER  
13000, Prague, Czechia, represented by its  
directors Milan Semerád and Peter Pecha, ibid
- 6) **x-kom GmbH,** Represented by Steffen  
Charlottenstraße 34, 01099, Dresden, STEININGER  
Germany, by Kulas, Magorzata Izabela and  
Nitka, Marek Pawel, ibid
- 7) **TradeInn Retail Services, S.L.,**  
Dels Pirineus, 9, Nave 1B, Polígono Industrial  
Celrà 17460 Girona, Spain, represented by Juan  
David Martin Gaya, ibid
- 8) **Egenta s.r.o.,**  
Varšavská 715/36, Vinohrady, 120 00, Prague,  
Czechia, represented by Norman Wick, ibid
- 9) **NTT System S.A.,** Represented by Steffen  
Trakt Brzeski 89, Zakręt, 0555-007, Warszawa- STEININGER  
Wesoła, Wiazowna, Mazowieckie, Poland,  
represented by Tadeusz Kurek, Jacek  
Kozubowski, Witold Markiewicz, Marcin  
Olszewski and Grzegorz Kurek, ibid

PATENT AT ISSUE:

European patent EP4277422 and EP3965354

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 – R. 19 RoP

### BRIEF SUMMARY OF THE FACTS

On 24 November 2025, Claimant filed the present joint infringement action against Defendants for alleged infringement of Unitary Patent EP 4 277 422 B1 (“EP’422”) and European Patent EP 3 965 354 B1 (“EP’354”) (collectively “patents-in-suit”).

In parallel, Claimant filed infringement actions concerning other patents with the LD The Hague and the CD Paris Seat. The Statement of claim in the originally joint infringement action before the LD The Hague (UPC\_CFI\_1568/2025) encompasses so-called FRAND Specific Claims as defined therein and contained in section B. of its operative part.

The Statement of claim in the proceedings at hand (“SoC”) explains the relationship between the infringement actions pending before the LD The Hague, CD Paris Seat and LD Mannheim, thereby also defining the FRAND Specific Claims (cf. SoC, paras. 34, 39). However, section B. of the operative part that contains the FRAND Specific Claims in the originally joint infringement action before the LD The Hague is left blank in the SoC at hand and reads as follows:

#### *B. [Included as a placeholder – Reserved to The Hague Action]*

In the infringement action at hand, the requests for injunctive relief, recall, definite removal, destruction and publication of an infringement found (sections C.I. and C.II of the operative part) are made subject to a so-called FRAND Specific Condition (cf. SoC, paras. 42 et seqq.). The operative part further includes in particular requests for communication of information and for declaratory relief regarding damages (alongside an interim award for damages), which are not made subject to the FRAND Specific Condition (cf. section C.III., C.IV., C.V. of the operative part).

The FRAND Specific Condition contained in the operative part of the SoC at hand reads as follows:

#### C.

##### I. The Defendants are ordered to c e a s e and d e s i s t

only under the condition (FRAND Specific Condition) that:

the Defendant 1) does not, within two (2) weeks after service of any decision in the proceedings (before the UPC – LD The Hague, LD Mannheim and CD Paris) finding one or more of the Patents (i.e. EP 4 277 422, EP 3 965 354, EP 2 712 236, EP 3 836 631, EP 3 245 744, EP 3 659 314 and EP 3 672 085) infringed, enter into (or, in case the FRAND Specific Claims have not yet been decided by this Court, unconditionally and irrevocably undertake to the Court (the Unified Patents Court) and the Claimant) to enter into a cross-license agreement with Claimant on:

- (i) the terms of the Claimant’s July 2025 Offer; or
- (ii) only to the extent this Court considers Claimant’s July 2025 Offer is not FRAND-compliant, any revised FRAND-compliant terms by this Court

with the Defendant 1) and its affiliates and the respective Defendants thereby also undertaking to withdraw all pending legal actions against the Claimant and its affiliates upon conclusion of the license agreement;

[...]

- II. The Defendants are ordered, at their own expense,  
only under the FRAND Specific Condition as specified under No. C.I above, the Claimant further requests that the Court:

*[the requests for recall, definite removal, destruction and publication of an infringement found follow]*

The FRAND Specific Claims included in the infringement action before LD The Hague read as follow (cf. Claimant's reply to the preliminary objection in the case at hand, para. 5):

- II. **primarily**
- a. declares that Ericsson's proposal to Shenzhen Transsion Holdings Co., Ltd. ("**Transsion**") of 10 July 2025 including the non-financial terms proposed on 18 July 2025 (the "**July 2025 Offer**") for a licence agreement under Ericsson's 4G and 5G SEP portfolios (including the Patents) complies with FRAND (Article 64 UPCA);
- alternatively**
- b. under the condition and to the extent that this Court considers Ericsson's July 2025 Offer does not comply with FRAND, determines, in the proper administration of justice, FRAND-compliant terms and conditions for a worldwide cross-licence agreement in respect of Ericsson's and Transsion's 4G and 5G SEPs (including the Patents) (Article 64 UPCA);

On 4 March 2026, within the extended relevant time period, Defendants 1 to 6 and 9 ("Transsion Defendants") raised a precautionary preliminary objection against the FRAND Specific Claims in the event that those claims are considered by the judge-rapporteur as pending before the LD Mannheim; however, they are primarily requesting the court to confirm that this is not the case.

The Transsion Defendants argue that the FRAND Specific Claims are pending exclusively before the LD The Hague for several reasons, and that the FRAND Specific Condition and the request for an injunction made subject to that condition ("FRAND Injunction"), respectively, do not constitute/involve a request to the LD Mannheim to make a FRAND determination. Furthermore, they argue that the Claimant's reservation to file the FRAND Specific Claims with the LD Mannheim in the event that the LD The Hague does not adjudicate on them and the presentation by Claimant of arguments and evidence in this regard in the Statement of claim do not trigger, in the LD Mannheim proceedings, a time period for filing a preliminary objection against the FRAND Specific Claims. As a precautionary measure, however, they elaborate on why the UPC lacks jurisdiction over the FRAND Specific Claims and the FRAND Injunction (should the latter involve a request to the LD Mannheim to make a FRAND determination), both referred by them as "Claimant's FRAND claims".

The Claimant confirms that the FRAND Specific Claims were only filed with the LD The Hague (section B. of the infringement action pending there) and are currently not pending before the LD Mannheim (reply to the preliminary objection ("Reply\_PO"), paras. 3, 4, 16).

Apart from that, Claimant opposes Transsion Defendants' requests. Claimant argues that the declaration sought by request I. of the preliminary objection does not constitute a permissible subject-matter under R. 19 RoP. With regard to the arguments of Transsion Defendants in the event that the FRAND Specific Claims were pending before the LD Mannheim or the FRAND Specific

Condition within the FRAND Injunction should involve a request to the LD Mannheim to make a FRAND determination, Claimant objects that a preliminary objection merely against parts of an infringement action would not be permissible. Moreover, Claimant argues that the UPC has jurisdiction over the FRAND Specific Claims as they are part of an infringement action and the actions against Defendants remain primary infringement actions. In Claimant's view, the FRAND Specific Claims and the FRAND Specific Condition that hinges on the FRAND Specific Claims simply anticipate a FRAND defense by Defendants and already reflect requirements arising therefrom in the requests sought with the Statement of claim.

The Transsion Defendants request the Court (preliminary objection, p. 5 et seq.):

- I. To declare that the "FRAND Specific Claims" (as defined in the SoC, paras. 34, 39) are not pending in the present proceedings before the Local Division Mannheim (docket number UPC\_CFI\_1570/2025) and therefore cannot give rise to a preliminary objection at this stage of the proceedings;**  
**– In the alternative –**
- II. To declare that the Court lacks competence and/or jurisdiction to rule on the "FRAND Specific Claims";**  
**– and therefore –**
  - a. To dismiss the Claimant's action as inadmissible insofar as it relates to the "FRAND Specific Claims"**
  - b. To order the Claimant to bear the costs of the preliminary objection proceedings;****– And in any event –**
- III. To the extent that the Court would consider that the "FRAND Injunction" (as defined in SoC, para. 42) required the Court to adjudicate a FRAND-related claim in the present proceedings, to extend the abovementioned remedies under I. and II. to the "FRAND Injunction".**

Claimant requests that the LD Mannheim

I.

a) Primarily

Rejects the Transsion Defendants' PO and in particular the request which the Transsion Defendants make on page 5 of the PO.

b) Alternatively

Rejects the Transsion Defendants' PO, in particular the request which the Transsion Defendants make on page 5 of the PO, and that the admissibility of the Statement of Claim is dealt with in the main proceedings.

II. That the Claimant's costs of responding to the PO are taken into account in the main proceedings.

### REASONS FOR THE ORDER

The judge-rapporteur does not need to rule on the preliminary objection at hand, as the preliminary objection was merely raised as precautionary measure, and the scenarios in respect of which the preliminary objection was raised are not given.

1. In principle, a defendant may raise a preliminary objection as a precautionary measure in the event that a request contained in the Statement of claim may be interpreted in a way that, in defendant's view, results in jurisdiction of the UPC and/or competence of the division seized being to be declined.

2. In the case at hand, Transsion Defendants raised their preliminary objection as precautionary measure in the event that, contrary to their belief, the FRAND Specific Claims are pending before the LD Mannheim or that the FRAND Specific Condition and the request for an injunction made subject to that condition ("FRAND Injunction"), respectively, constitute/involve a request to the LD Mannheim to make a FRAND determination, i.e. granting declaratory relief stating that Claimant's licence offer is FRAND or how this offer is to be amended in order to make it FRAND compliant. The additional scenario in respect of which they wish to meet the time period for filing a preliminary objection relates to the fact that Claimant, in its Statement of claim, expressly reserves the right to file the FRAND Specific Claims with the LD Mannheim at a later stage if the LD The Hague does not adjudicate on them for any reason. They obviously fear that this scenario may mean that their objections against jurisdiction over the FRAND Specific Claims must already be raised in the proceedings at hand within the time period for a preliminary objection starting from the service of the Statement of claim (as extended in the case at hand).

3. The proceedings at hand do not contain the FRAND Specific Claims, nor does the FRAND Specific Condition and the FRAND Injunction involve a request to the LD Mannheim to make a FRAND determination.

In the reasoning of the SoC, Claimant clearly explains that it brings the FRAND Specific Claims exclusively before the LD The Hague for the time being (SoC, paras. 34, 41, 46, 50, 51 (the reference to LD Mannheim instead of LD The Hague in one instance in para. 51 is a clerical typographical error), para. 52). Claimant also explains that, insofar as the SoC contains submissions and evidence relating to the FRAND Specific Claims, this pertains to Claimant's reservation to request the LD Mannheim at a later stage of the proceedings to adjudicate on the FRAND Specific Claims in the event that the LD The Hague will not adjudicate on them (SoC, para. 51). Therefore, the FRAND Specific Claims are currently not pending before the LD Mannheim. This is confirmed by Claimant's reply to the preliminary objection (paras. 2 to 5). As far as Claimant states, in para. 35 of its Reply to the preliminary objection, that the FRAND Specific Claims are an integral part of the

infringement action before the LD Mannheim, this merely relates to arguments that Claimant brings forward in the event that, contrary to its belief, the FRAND Specific Claims would already be part of the present infringement action, and otherwise merely reflects the FRAND Specific Condition.

The fact that the request for injunctive relief is made subject to the FRAND Specific Condition does not involve any request to the LD Mannheim to make a FRAND determination. Rather, as explained by Claimant in its Statement of claim (paras. 30 et seqq., in particular paras. 42 et seq. and para. 50) and, again, in its reply to the preliminary objection (in particular para. 3), the FRAND Specific Condition merely entails the consequence that, even if an infringement is found, any injunction against Defendants only has effect if the FRAND Specific Condition is fulfilled. This in particular includes that Defendant 1 does not enter into a licence agreement on terms adjudicated to be FRAND-compliant by the LD The Hague under the FRAND Specific Claims pending before the LD The Hague (SoC, paras. 34, 41, 46, 50, 54, 56, 697; Reply\_PO, para. 3). This is also reflected in the wording of the FRAND Specific Condition in section C.I. of the operative part of the SoC which reflects, in the parenthesis “(or, in case the FRAND Specific Claims have not yet been decided by this Court, unconditionally and irrevocably undertake to the Court (the Unified Patents Court) and the Claimant)”, the scenario that the court, currently the LD The Hague before which the FRAND Specific Claims are currently pending, has not yet adjudicate on the FRAND Specific Claims. It can be left open at this stage of the proceedings whether such a condition is procedural permissible and what happens if the condition is not permissible or if it becomes impossible to fulfill the condition. In any event such scenarios would not automatically constitute a request to the LD Mannheim to make a FRAND determination instead of the LD The Hague. The procedural permissibility of such a condition under the UPCA and the Rules of Procedure is not a question of jurisdiction. Even in the event that the panel when deciding on the merits in the proceedings at hand should come to the conclusion that the FRAND Specific Condition is not permissible on the ground that the UPC and therefore currently the LD The Hague do not have jurisdiction over the FRAND Specific Claims (so that the condition is impossible to meet) this still would not impact LD Mannheim’s jurisdiction to adjudicate on the injunction that is made subject to the FRAND Specific condition.

Even if the first of the alternative conditions in the FRAND Specific Condition (section C.I. (i) of the operative part of the SoC) were to be understood as meaning that the LD Mannheim must assess whether Claimant’s offer is actually FRAND in the event that the LD The Hague has not yet adjudicated on the FRAND Specific Claim this would not involve making a FRAND determination. Rather, the LD Mannheim would, as in any SEP case, assess whether the patent in question is infringed, and, if this is the case and provided the requests containing the FRAND Specific Condition are procedurally permissible, proceed by assessing whether a FRAND defence is successful. In the event that the FRAND defence is unsuccessful, a conditional injunction like in section C.I.(i) (that, for the sake of argument, is deemed not to hinge on a decision of the LD The Hague on the FRAND Specific claim and deemed to be permissible) may be grantable if the respective licence offer made by the SEP holder to the implementer is actually FRAND-compliant, and such conditional injunction must be dismissed if the offer is not FRAND-compliant. Such a scenario, in which the licence offer is not FRAND and the FRAND defence nevertheless fails, might be that the implementer does not express its willingness to conclude a licensing agreement on FRAND terms (cf. ECJ, judgment of 16 July 2015, C-170/13, Huawei v ZTE, para. 63). In any event, the FRAND Specific Condition and the FRAND Injunction (and the other requests made subject to the FRAND Specific Condition) still would not constitute/involve a request to the LD Mannheim to make a FRAND determination.

In the event that the panel when deciding on the merits of the case may see it differently and

comes to the conclusion that the LD Mannheim is requested to make a FRAND determination in the proceedings at hand, the precautionary preliminary objection by Transsion Defendants against jurisdiction regarding FRAND determination is duly noted.

4. The power of the JR to inform the parties about his preliminary views on the issues by an order finds its basis in the case management powers of the JR, as in particular set out in R. 9.1, R. 334 RoP.

5. The costs will be dealt with in the main proceedings.

ORDER:

1. The parties are informed that the judge-rapporteur opines
  - a) that the FRAND Specific Claims (as defined in the SoC, paras. 34, 39, 40) are currently not pending in the present proceedings before the LD Mannheim and therefore do not require the filing of a preliminary objection in this regard within the present proceedings before the LD Mannheim;
  - b) that the FRAND Injunction (as defined in SoC, para. 42) does not constitute/involve a request to the LD Mannheim to make a FRAND determination, i.e. granting declaratory relief stating that Claimant's licence offer is FRAND or how this offer is to be amended in order to make it FRAND compliant, and therefore does not require Transsion Defendants to file, in the present proceedings before the LD Mannheim, a preliminary objection against the jurisdiction of the UPC over a request to make a FRAND determination.
2. The address of Defendant 5 will only be changed to the address stated in the Statement of Defence, after Claimant has had the opportunity to comment, at the latest in Claimant's Reply to the Statement of Defence.

Issued in Mannheim on 26 May 2026

NAME AND SIGNATURE

Böttcher  
Judge-rapporteur