

UPC CFI, Local Division Munich, 9 May 2024, NEC v TCL

See also:

[IPPT20240527, UPC CFI, LD Munich, NEC V TCL](#)



PATENT LAW – PROCEDURAL LAW

Plaintiff ordered to amend the statement of claim within 10 days by providing the correct HEVC standard ([Rule 9 RoP](#))

- [This can be done by filing an amended version of the statement of claim. In doing so, the plaintiff may also amend any other information that will facilitate service on defendants 2, 5 and 7.](#)

The parties are reminded that the time limit for lodging the statement of defence may be extended accordingly for defendants 1, 3, 4 and 6 upon request. This can be conveniently dealt with in workstream App_24843/2024 in connection with a request by the plaintiff to shorten the time limit for defendants 3, 4 and 6 to 23/05/2024

Source: [Unified Patent Court](#)

UPC Court of First Instance,
Local Division Munich, 25 May 2024

(Zigann)

UPC_CFI_498/2023

Procedural Order

of the Court of First Instance of the Unified Patent Court in the main proceedings related to European Patent [3057321](#)

delivered on 09/05/2024

Date of receipt of Statement of claim : 22/12/2023

TCL Deutschland GmbH & Co. KG (Defendant) - Am Seestern 4 - 40547 - Düsseldorf - DE

Statement of claim served on 23/02/2024

TCL Industrial Holdings Co., Ltd. (Defendant) - 22/F, TCL Technology Building, 17 Huifeng 3rd Road, Huizhou, - 516000 - Guangdong, - CN

Statement of claim served on 24/03/2024

TCT Mobile Germany GmbH (Defendant) - Am Seestern 4 - 40547 - Düsseldorf - DE

Statement of claim served on 23/03/2024

TCT Mobile Europe SAS (Defendant) - 55 Avenue des Champs Pierreux - 92000 - Nanterre - FR

Statement of claim served on 23/03/2024

TCL Communication Technology Holdings Ltd. (Defendant) - 5/F, Building 22E, Science Park East Avenue, Hong Kong Science Park, - 00000 - Sha-tin, Hong Kong - CN

TCL Operations Polska Sp. z.o.o (Defendant) - ul. A. Mickiewicza 31/41 - 96-300 - Zyrardow - PL

TCL Overseas Marketing Ltd., (Defendant) - 13/F TCL Tower Tai Chung Road Tsuen Wan, New Territories - 00000 - Hong Kong - CN

APPLICANT/S

1) **TCT Mobile Europe SAS** (Applicant) - 55 Avenue des Champs Pierreux - 92000 - Nanterre - FR

Represented by Ralph Nack

2) **TCT Mobile Germany GmbH** (Applicant) - Am Seestern 4 - 40547 - Düsseldorf - DE

Represented by Ralph Nack

3) **TCL Deutschland GmbH & Co. KG** (Applicant) - Am Seestern 4 - 40547 - Düsseldorf - DE

Represented by Ralph Nack

4) **TCL Operations Polska Sp. z.o.o** (Applicant) - ul. A. Mickiewicza 31/41 - 96-300 - Zyrardow - PL

Represented by Ralph Nack

RELEVANT PROCEEDING PARTIES

1) **NEC Corporation** (Main proceeding party - Claimant) - 7-1 Shiba 5-chome Minato-ku - 108-8001 - Tokyo - JP

2) **TCL Industrial Holdings Co., Ltd.** (Main proceeding party - Defendant) - 22/F, TCL Technology Building, 17 Huifeng 3rd Road, Huizhou, - 516000 - Guangdong, - CN

3) **TCL Communication Technology Holdings Ltd.** (Main proceeding party - Defendant) - 5/F, Building 22E, Science Park East Avenue, Hong Kong Science Park, - 00000 - Sha-tin, Hong Kong - CN

4) **TCL Overseas Marketing Ltd.,** (Main proceeding party - Defendant) - 13/F TCL Tower Tai Chung Road Tsuen Wan, New Territories - 00000 - Hong Kong - CN

PATENT AT ISSUE

Patent no. Proprietor/s

[EP3057321](#) NEC Corporation

DECIDING JUDGE

COMPOSITION OF PANEL – FULL PANEL

Presiding judge and Judge-rapporteur Matthias Zigann

Legally qualified judge Tobias Pichlmaier

Legally qualified judge Andras Kupecz

The order was made by Presiding Judge Matthias Zigann, acting as Judge-Rapporteur.

LANGUAGE OF PROCEEDINGS: English

SUBJECT-MATTER OF THE PROCEEDINGS

Patent infringement; here: missing or wrong annexes in the statement of claim

STATEMENT OF THE FORMS OF ORDER SOUGHT BY THE PARTIES

Defendants 1, 3, 6 and 6 request: The Plaintiff is ordered to submit to the Defendants the HEVC standard version which it refers to on page 51 of its Statement of Claim dated 22 December 2023.

SUMMARY OF FACTS

The statement of claim was lodged on 22/12/2023. Service was effected on defendant 1 on 23/02/2024, on defendant 3 on 24/03/2024 and on defendants 4 and 6 on 23/03/2024. Service on defendants 2, 5 and 7 is still to be effected.

By letter of 08/05/2024, the representative of defendants 1, 3, 4 and 6 informed the Court that the plaintiff had

failed to provide substantial evidence of the alleged infringement in his statement of claim of 22/12/2023. The plaintiff did not provide any version of the HEVC standard. The allegedly relevant standard version submitted as Annex BP 6 does not show the HEVC standard, but its predecessor, the AVC standard.

Representative of plaintiff proactively informed the Court by email on 08/05/2024 that the irrelevant AVC standard had in fact been inadvertently submitted in all three proceedings instead of the HEVC standard. The correct standard will be uploaded to the CMS as soon as the Court grants the opportunity to amend the pleadings. Therefore, a final order could be issued without first inviting comments from the applicant.

GROUND FOR THE ORDER

The plaintiff should be ordered to provide the correct standard version. This can be done by filing an amended version of the statement of claim. In doing so, the plaintiff may also amend any other information that will facilitate service on defendants 2, 5 and 7.

The parties are reminded that the time limit for lodging the statement of defence may be extended accordingly for defendants 1, 3, 4 and 6 upon request. This can be conveniently dealt with in workstream App_24843/2024 in connection with a request by the plaintiff to shorten the time limit for defendants 3, 4 and 6 to 23/05/2024.

ORDER

Plaintiff is ordered to amend the statement of claim accordingly within 10 days.

Dr. Zigann Presiding Judge and Judge-rapporteur

ORDER DETAILS

Order no. ORD_26426/2024 in ACTION NUMBER:
ACT_596658/2023

UPC number: UPC_CFI_498/2023

Action type: Infringement Action

Related proceeding no. Application No.: 26104/2024

Application Type: Generic procedural Application
