

UPC Court of Appeal, 22 May 2024, Texas Instruments v NST



PATENT LAW – SUBSTANTIVE LAW

Request by the Appellants to expedite the appeal

- [and shorten any deadlines where possible is denied for being too unspecified and insufficiently substantiated. \(Rule 9\(3\) RoP, Rule 224\(2\)\(b\) RoP\)](#)

6. Texas Instruments has not explained that and why it would have a particular interest in the Statement of response being filed before any particular date, prior to the end of the time period of 15 days as provided for in [R.224.2\(b\) RoP](#). Failing such a reason, the Court of Appeal cannot, in view of the interests of NST and the principles of proportionality, fairness and equity, also taking into account the time period Texas Instruments have taken to lodge its Statement of grounds of appeal, see any reason to shorten the time period within which NST is to lodge its Statement of response.

7. Insofar as the further appeal proceedings are concerned, the request is too unspecified and insufficiently substantiated to justify the shortening of any of the future time periods at this stage of the proceedings.

Source: [Unified Patent Court](#)

Similar orders at the same date in [App 27158/2024](#) and [App 27159/2024](#)

UPC Court of Appeal, 22 May 2024

(Kalden, Simonsson, Rombach)

UPC Court of Appeal

UPC_CoA_223/2024

APL_25951/2024

[App_27157/2024](#)

Order

of the Court of Appeal of the Unified Patent Court issued on 22 May 2024

concerning a request for expedition of the appeal pursuant to [R.225\(e\)](#), [R.9.3\(b\)](#) Rules of Procedure

HEADNOTES:

In the appeal against an order in which an application for security for costs was dismissed, a request by the Appellants to expedite the appeal and shorten any deadlines where possible in accordance with [R. 9.3 \(b\) RoP](#) is denied for being too unspecified and insufficiently substantiated.

KEYWORDS

Expedition of the appeal, [R.225 \(e\)](#), [R.9.3 \(b\) RoP](#)

APPELLANT/APPLICANT IN THE PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE

1. **Texas Instruments Incorporated**, Dallas, Texas, United States of America;

2. **Texas Instruments Deutschland GmbH**, Freising, Germany;

Hereinafter also jointly referred to as: ‘Texas Instruments c.s. (in singular)’

represented by: Klaus Haft, Rechtsanwalt, Hoyng Rokh Monegier, Munich, Germany

RESPONDENT / CLAIMANT IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE

Network Systems Technologies LLC., Portland, ME, Unites States of America

Hereinafter also referred to as NST,

represented by: Dr Thomas Gniadek, Simmons&Simmons, Munich, Germany

LANGUAGE OF THE PROCEEDINGS:

English

PATENT AT ISSUE

[EP 1 552 669](#)

PANEL

Second Panel

DECIDING JUDGES:

This order has been adopted by

Rian Kalden, Presiding judge and judge-rapporteur

Ingeborg Simonsson, legally qualified judge

Patricia Rombach, legally qualified judge

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

□ Date: 23 April 2024 (signed 25 April 2024); ORD_12476/2024 in related proceedings (requests for security for costs) App_11431/2024, App_11444/2024 and App_11835/2024 in the main infringement action ACT_597691/2023)

□ Action number attributed by the Court of First Instance Local Division Munich): UPC_CFI_513/2023

SUMMARY OF FACTS

On 4 March 2024 Texas Instruments filed an application under [Art. 69.4 UPCA](#) and [R.158.1 RoP](#) (App. 11835/2024), requesting the Court to order NST to provide adequate security for legal costs and other expenses incurred by Texas Instruments. The Court of First Instance denied the Application. Leave to appeal was granted in the Order.

INDICATION OF PARTIES’REQUESTS

In the appeal proceedings, Texas Instruments requests that the impugned order shall be set aside. It argues that the Court of First Instance applied a wrong legal standard by placing a too high burden of demonstration and proof on Texas Instruments and that it insufficiently considered the facts which were submitted by the parties.

In the request for expedition of the appeal, Texas Instruments request the Court of Appeal to expedite the appeal and shorten any deadlines where possible in accordance with [R. 9\(3\)\(b\) RoP](#). Texas Instruments argues that it continues to incur legal costs for defending themselves in the underlying infringement proceedings

including the required counterclaim for revocation. The longer the appeal proceedings last, the higher the costs it has to incur without receiving adequate security that these costs will later be reimbursed by NST.

POINTS AT ISSUE

Request for expedition of the appeal, [R.225 \(e\)](#), [R.9.3 \(b\) RoP](#)

GROUND FOR THE ORDER

1. The request for expedition is admissible.
2. There is no need to consult NST about this request.
3. Pursuant to [R.235](#) and [R.224.2\(b\) RoP](#) a respondent has 15 days from service of the Statement of grounds of appeal to lodge a Statement of response.
4. [R.9.3\(b\) RoP](#) empowers the Court to shorten any time period on a reasoned request by a party.
5. Texas Instruments filed the request for expedition of the appeal, at the same time as it lodged the Statement of appeal, containing the grounds of appeal, 14 days after the signature date of the impugned order.
6. Texas Instruments has not explained that and why it would have a particular interest in the Statement of response being filed before any particular date, prior to the end of the time period of 15 days as provided for in [R.224.2\(b\) RoP](#). Failing such a reason, the Court of Appeal cannot, in view of the interests of NST and the principles of proportionality, fairness and equity, also taking into account the time period Texas Instruments have taken to lodge its Statement of grounds of appeal, see any reason to shorten the time period within which NST is to lodge its Statement of response.
7. Insofar as the further appeal proceedings are concerned, the request is too unspecified and insufficiently substantiated to justify the shortening of any of the future time periods at this stage of the proceedings.

ORDER

The request for expedition of the appeal is rejected.

INSTRUCTIONS TO THE PARTIES AND TO THE REGISTRY CONCERNING THE NEXT STEPS

This order closes App_27157/2024.

Issued on 22 May 2024

NAMES AND SIGNATURES

Judges Rian Kalden, Presiding judge and judge-rapporteur

Ingeborg Simonsson, legally qualified judge

Patricia Rombach, legally qualified judge
