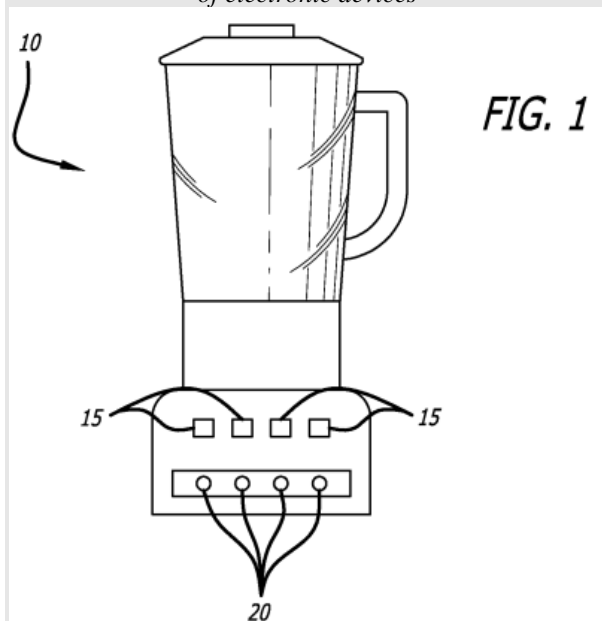


## UPC Court of Appeal, 7 July 2024, ARM v ICPillar

*system and method for universal control  
of electronic devices*



## PATENT LAW – PROCEDURAL LAW

## Deadline extension and confidentiality club

- [Time period for lodging Statement of response extended with 15 days after unredacted version of Exhibit 4 has been made available to ARM's representatives \(Rule 9 RoP, Rule 262A RoP, Rule 235\)](#)

Source: [Unified Patent Court](#)

UPC Court of Appeal,  
7 July 2024

(Kalden, Simonsson, Rombach)

UPC\_CoA\_301/2024

APL\_33746/2024

App\_40131/2024

**ORDER**

of the Court of Appeal of the Unified Patent Court  
issued on 7 July 2024

concerning a procedural application

pursuant to [R.9 RoP](#)

**APPLICANTS / RESPONDENTS IN THE APPEAL  
PROCEEDINGS / DEFENDANTS IN THE MAIN  
PROCEEDINGS BEFORE THE COURT OF  
FIRST INSTANCE**

1. **ARM Limited**, Cambridge, United Kingdom.
3. **Apical Limited**, Cambridge, United Kingdom
4. **Arm France SAS**, Biot, France
5. **Arm Germany GmbH**, Grasbrunn, Germany
6. **Arm Germany d.o.o.**, Sentjernej, Slovenia
7. **Arm Ireland Limited, LTD**, Galway, Ireland
8. **Arm Poland Sp. z.o.o.**, Katowice, Poland
9. **Arm Sweden AB**, Lund, Sweden

10. **Simulity Labs Limited**, Cambridge, United Kingdom

12. **SVF Holdco**, London, United Kingdom  
hereinafter also jointly referred to (in singular) as  
'ARM',

represented by: Christoph Crützen, Mayer Brown LLP,  
Düsseldorf, Germany

**RESPONDENT / APPELLANT IN THE APPEAL  
PROCEEDINGS/ CLAIMANT IN THE MAIN  
PROCEEDINGS BEFORE THE COURT OF  
FIRST INSTANCE:**

**ICPillar LLC**, Houston, Texas, USA,  
hereinafter also referred to as: 'ICPillar',  
represented by: Lionel Martin, Attorney at law and  
European patent attorney, SCP August Debouzy, Paris,  
France

**LANGUAGE OF THE PROCEEDINGS:**

English

**PATENT AT ISSUE**

[EP3000239](#)

**DECIDING PANEL AND JUDGES:**

This order was adopted by the second panel of the Court  
of Appeal, consisting of

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: [21 May 2024; ORD 23494/2024 in related  
proceedings \(application for security for costs\)  
App 22767/2024, in the main infringement action  
ACT 596432/2023](#)

□ Action number attributed by the Court of First  
Instance, Local Division Paris: UPC\_CFI\_495/2023

**PROCEDURAL HISTORY**

1. In the infringement proceedings before the Court of  
First Instance, ARM filed an application under [R.158.1  
RoP](#) (App. 22767/2024) on 26 April, requesting the  
Court of First Instance to order ICPillar to provide  
adequate security for legal costs and other expenses  
incurred by ARM. The Court of First Instance allowed  
the Application by [order of 21 May 2024](#).

2. Leave to appeal was requested by ICPillar on 28 May  
and granted by the Court of First Instance by order dated  
30 May 2024 (App\_31590/2024).

3. ICPillar lodged a Statement of appeal and grounds of  
appeal on 5 June 2024. On 11 June 2024 the formal  
checks were finalized and according to the activities log  
of the Court's case management system (CMS), ARM  
was notified through the CMS of the Statement of appeal  
and grounds of appeal on that same day.

4. The Court of Appeal on 20 June 2024 issued a  
preliminary order, requesting ARM to comment on  
ICPillar's request pursuant to [R.262A RoP](#). When the  
Registry contacted both parties by e-mail about this  
order, as there was a technical problem with the CMS,  
ARM responded that it had not received any notification  
on 11 June 2024 and was unable to access the case. On  
21 June 2024, the Registry at ARM's request forwarded  
to ARM the access code that, according to its provider,

had been sent to ARM. ARM accessed the case file in CMS that same day.

5. On 25 June 2024, ARM commented on the request for protection of confidential information (App\_37946/2024).

6. By e-mail of 4 July, the Registry informed the representative of ARM that the Court of Appeal considered 21 June 2024 as the date of notice of the Statement of appeal and grounds of appeal, so that the time period for lodging the Statement of response would end on 8 July 2024.

#### **INDICATION OF PARTIES' REQUESTS**

7. In the main appeal proceedings, ICPillar requests that the impugned order shall be set aside.

8. In its request for confidentiality pursuant to [R.262A RoP](#), ICPillar requests the Court of Appeal to order that certain parts of Exhibit 4 to its Statement of appeal and grounds of appeal be kept confidential in relation to members of the public and will only be fully disclosed to the representatives of ARM and not more than two of all the ARM companies who are respondents in these proceedings.

9. On 5 July 2024, ARM lodged a request pursuant to [R.9 RoP](#), requesting (as a main request) a declaration that the Statement of grounds of appeal has not been served on ARM, or (in the alternative) that the deadline for lodging the Statement of response is extended to a date that is 15 days from the date the unredacted version of Exhibit 4 of ICPillar's Statement of appeal and grounds of appeal (hereinafter in short: Exhibit 4) is made available to ARM's respondents pursuant to the Court of Appeal's preliminary order in the R.262A workflow (App\_33764/2024).

#### **POINTS AT ISSUE**

Extension of the time period for lodging the Statement of response.

#### **GROUNDINGS FOR THE ORDER**

10. The main request must be rejected. As stated in the e-mail of 4 July, the Statement of appeal and grounds of appeal must be considered served on ARM on 21 June 2024 when it – uncontested – received the access code and accessed the case file in the CMS.

11. It appears that, as ICPillar had not uploaded the redacted and unredacted version of Exhibit 4 in the [R.262A RoP](#) workflow, but instead in the workflow for the main appeal proceedings, the unredacted version of Exhibit 4 could not be made available to ARM together with the preliminary order in the [R.262A RoP](#) workflow, as it should have. Pending the outcome of ICPillar's R.262A RoP request, the unredacted version of Exhibit 4 as uploaded in the main appeal proceedings, was not visible for ARM either.

12. In the main appeal proceedings, ICPillar argues (in summary) that the Court of First Instance should not have allowed ARM's request for security for costs, because it has taken out insurance with the aim to be able to comply with a possible order to compensate ARM's legal costs and expenses.

13. Under these circumstances, the Court of Appeal agrees with ARM that due process requires that at least the representative of ARM has access to the unredacted

version of Exhibit 4, which is a copy of the insurance policy that ICPillar relies on in the main appeal proceedings.

14. As the representatives have not yet received the unredacted version of Exhibit 4 due to technical issues in relation to the CMS, the Court of Appeal allows the alternative request and orders that the time period for lodging the Statement of response by ARM shall end on the 15th day after the unredacted version of Exhibit 4 is made available to ARM's representative. The Court of Appeal shall see to it that this is done as soon as possible.

#### **ORDER**

The Court of Appeal orders that the time period for lodging a Statement of response by ARM shall end on the 15th day after the unredacted version of ICPillar's Exhibit 4 to the Statement of appeal and grounds of appeal is made available to the representative of ARM.

Issued on 7 July 2024,

Rian Kalden, Presiding judge and judge-rapporteur

Ingeborg Simonsson, legally qualified judge

Patricia Rombach, legally qualified judge

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