



UPC Court of Appeal  
App\_34719/2025  
UPC\_CoA\_740/2025  
App\_34722/2025  
UPC\_CoA\_741/2025

**ORDER**  
**of the Court of Appeal of the Unified Patent Court**  
**issued on 15 August 2025**  
**applications for suspensive effect (R. 223 RoP)**

Headnotes:

- It is not possible to apply for suspensive effect before an appeal is lodged (R. 223.1 RoP, with reference to Art. 74 UPCA).
- In cases of extreme urgency the applicant may apply at any time without formality for an order for suspensive effect to the standing judge pursuant to R. 223.4 RoP. Nevertheless, for this provision to be applicable, the applicant must first have lodged a Statement of appeal (R. 224.1 RoP) and paid the appeal fee in accordance with R. 228 RoP. Lodging the Statement of grounds of appeal is not a prerequisite (R. 224.2 RoP).

Keyword:

- Suspensive effect (R. 223 RoP)

APPLICANT (AND CLAIMANT BEFORE THE COURT OF FIRST INSTANCE)

**Sun Patent Trust**, New York, USA (hereinafter: Sun)

represented by attorney at law Caroline Levesque, HOYNG ROKH MONEGIER, Paris, France, and other representatives from that firm

RESPONDENT (AND DEFENDANT BEFORE THE COURT OF FIRST INSTANCE)

1. **Vivo Mobile Communication Co., Ltd.**, Dongguan City, China
2. **Vivo Tech GmbH**, Düsseldorf, Germany
3. **Vivo Mobile Communication Iberia SL**, Madrid, Spain

(hereinafter jointly referred to as: Vivo)

all represented by attorney at law Georg Andreas Rauh, Vossius & Partner, Munich, Germany, and other representatives from that firm

PATENTS AT ISSUE

EP 3 407 524 and EP 3 852 468

#### PANEL AND DECIDING JUDGE

Panel 2

Ingeborg Simonsson, standing judge

#### ORDERS OF THE COURT OF FIRST INSTANCE

Paris Local Division, 31 July 2025, infringement action ACT\_18934/2025, UPC\_CFI\_362/2025, App\_18982/2025, ORD\_33183/2025

Paris Local Division, 31 July 2025, infringement action ACT\_18933/2025, UPC\_CFI\_361/2025, App\_18978/2025, ORD\_33179/2025

#### LANGUAGE OF THE PROCEEDINGS

English

#### FACTS AND PARTYS' REQUESTS

1. Sun brought two infringement actions against Vivo before the Court of First Instance, Paris Local Division.
2. On 31 July 2025, the Local Division ordered that access to information categorised as highly confidential shall be restricted to the following persons only on the Vivo side:
  - representative of the Defendants mentioned in the CMS: Dr. Georg Rauh (attorney-at-law),
  - and his legal team involved in the present proceedings,
  - three natural persons (employees of VIVO).
3. A similar provision was made for information categorised as confidential. The Local Division made a general provision that the information shall not be used or disclosed outside of the court proceedings, reminded that in the event of a culpable breach of the order, the Court may impose a penalty payment, and provided instructions for access to the information for members of the representative's team.
4. The Local Division granted leave to appeal by orders of 11 August 2025 (Order No. ORD\_34317/2025 and ORD\_34319/2025).
5. Sun has not yet appealed the orders of 31 July 2025 but is nevertheless applying for suspensive effect.
6. Vivo has submitted comments on its own motion (App\_34758/2025, App\_34757/2025) objecting against the Applications for suspensive effect.

#### SUBMISSIONS OF THE PARTIES

7. Sun is arguing that extreme urgency of the situation allows the Claimant to request a suspensive effect of the order from the standing judge at any time, i.e even before the appeal is actually lodged (R. 223.4 RoP).
8. Vivo is objecting against the Application made by Sun.

#### REASONS

9. Sun's Application for suspensive effect is inadmissible.
10. It is not possible to apply for suspensive effect before an appeal is lodged. This is clear from R. 223.1 RoP, according to which a party may lodge an Application for suspensive effect, in accordance with Art. 74 UPCA where paragraph 1 states that *an appeal* has no suspensive effect unless the Court of Appeal decides otherwise at the motivated request of one of the parties (emphasis added).
11. In cases of extreme urgency the applicant may apply at any time without formality for an order for suspensive effect to the standing judge pursuant to R. 223.4 RoP. Nevertheless, for this provision to be applicable, the applicant must first have lodged a Statement of appeal (R. 224.1 RoP) and paid the appeal fee in accordance with R. 228 RoP. Lodging the Statement of grounds of appeal is not a prerequisite (R. 224.2 RoP).
12. Absent a Statement of appeal and the payment of an appeal fee there is no pending appeal and thus no legal interest in having an Application for suspensive effect tried.
13. Sun's references to CoA orders of 10 July 2025, UPC\_CoA\_581/2025, App\_30685/2025, OTEC, and CoA order of 6 November 2023, UPC\_CoA\_407/2023, App\_584588/2023, Ocado, are misplaced. In OTEC, the appeal and the application for suspensive effect were lodged on the same day, as was also the case in Ocado.
14. For these reasons, Sun's Application is inadmissible. Sun can reapply for suspensive effect once a timely Statement of appeal is lodged and the appeal fee is paid in accordance with R. 228 RoP.

#### ORDER

The applications are rejected as inadmissible.

Issued on 15 August 2025

Ingeborg Simonsson, standing judge