



Appeal n°:	
UPC_CoA_755/2025	UPC_CoA_757/2025
APL_34965/2025	APL_34967/2025
App_35938/2025	App_35936/2025

PROCEDURAL ORDER
of the Court of Appeal of the Unified Patent Court
concerning an application to intervene (R. 313 RoP)
issued on 23 September 2025

APPLICANT/INTERVENER IN THE PROCEEDINGS BEFORE THE COURT OF APPEAL

APPLE Inc., One Apple Park Way Cupertino, CA 95014, United States

(hereinafter “**APPLE**”)

represented by Oscar Lamme, attorney-at-law, and other representatives of Simmons & Simmons LLP

APPELLANT (CLAIMANT IN THE PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

Sun Patent Trust, 437 Madison Avenue, 35th Floor, 10022 New York, United States of America

(hereinafter “**SUN PATENT**”)

represented by

- Sabine Agé, attorney-at-law, and other representatives of HOYNG ROKH MONEGIER (in APL_34965/2025 App_35938/2025)
- Caroline Levesque, attorney-at-law, and other representatives of HOYNG ROKH MONEGIER (in APL_34967/2025 App_35936/2025)

RESPONDENTS (DEFENDANTS IN THE PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

1) Vivo Mobile Communication Co.,Ltd., No. 1, Vivo Road, Chang'an Town, Dongguan City, Guangdong 523866, China

2) Vivo Tech GmbH, Speditionstrasse 21 40221 Düsseldorf, Germany

3) Vivo Mobile Communication Iberia SL, Calle Orense 58, Planta 12 C, 28020 Madrid, Spain

(hereinafter jointly “**VIVO**”)

represented by Georg Rauh, attorney-at-law, VOSSIUS

PATENTS AT ISSUE

EP 3 407 524

EP 3 852 468

DECIDING JUDGES

Panel 1a

Klaus Grabinski, presiding judge and President of the Court of Appeal

Emmanuel Gougé, legally qualified judge and judge-rapporteur

Peter Blok, legally qualified judge

LANGUAGE OF THE PROCEEDINGS

English

IMPUGNED ORDERS OF THE COURT OF FIRST INSTANCE

- ☐ Order of the Court of First Instance of the Unified Patent Court, Paris Local Division, dated 31 July 2025
Reference numbers:

UPC_CFI_362/2025

ACT_18934/2025

App_18982/2025

ORD_33183/2025

- ☐ Order of the Court of First Instance of the Unified Patent Court, Paris Local Division, dated 31 July 2025
Reference numbers:

UPC_CFI_361/2025

ACT_18933/2025

App_18978/2025

ORD_33179/2025

FACTS AND REQUESTS OF THE PARTIES

1. On 18 April 2025, SUN PATENT brought two actions against VIVO before the Court of First Instance, Paris Local Division (ACT_18933/2025 UPC_CFI_361/2025) for infringement of the patents at issue, claiming inter alia that the terms of a licence to the patents at issue offered by SUN PATENT to VIVO are fair, reasonable and non-discriminatory ("FRAND").
2. On the same day, SUN PATENT filed an application for protection of confidential information under R. 262A RoP (App_18978/2025 UPC_CFI_361/2025 and App_18982/2025 UPC_CFI_362/2025), requesting inter alia that the access to the unredacted version of the statement of claim and relevant exhibits containing confidential information classified as highly confidential information (hereafter "HCI") shall be restricted to certain persons, including VIVO's legal representatives as well as, under certain conditions, no more than three employees of VIVO. SUN PATENT subsequently limited its request for confidentiality, pursuant to R. 263 RoP, with regard to the list of individuals having access to the HCI, requesting the Court to exclude VIVO employees from having access to the HCI and to limit the confidentiality regime to an "External Eyes Only" regime.

3. On 31 July 2025, the Paris Local Division restricted access to information categorized as confidential and highly confidential to specific persons (impugned orders, ORD_33179/2025 and ORD_33183/2025), including three employees of VIVO.
4. SUN PATENT lodged an appeal against the impugned orders (APL_34965/2025 UPC_CoA_755/2025 and APL_34967/2025 UPC_CoA_757/2025), requesting that the unredacted version of the statement of claim and relevant exhibits containing the HCI shall not be accessible to VIVO's employees or, in the alternative, that access to said HCI shall be granted to no more than three VIVO's employees who shall not participate in or advise upon any licensing negotiations with the counterparties to the disclosed license agreements or related agreements for a certain period.
5. APPLE lodged an application to intervene pursuant to R. 313 RoP, requesting the Court to (i) admit APPLE as an intervener in the appeal proceedings in support of SUN PATENT's position that the impugned order should be set aside and that an attorney's eyes only ("AEO") or external eyes only ("EEO") confidentiality regime should apply for APPLE's confidential information, or in the alternative, a stricter confidentiality regime by imposing measures such as a licensing bar, (ii) give APPLE a period of 15 days after the judge-rapporteur decides on the admissibility of the intervention to lodge a Statement of Intervention, and (iii) allow APPLE to participate in the oral hearing to support SPT in their appeal.
6. APPLE argues that agreements between SUN PATENT and APPLE which contain highly sensitive business information, including materials relating to the formation and performance of the agreements, have been submitted in the UPC proceedings between SUN PATENT and VIVO and may be disclosed to VIVO, to APPLE's commercial detriment and that disclosure to VIVO's employees could lead to an undue advantage for VIVO.
7. VIVO, in its comments on Application to intervene, requests the Court to order that the application to intervene is rejected as inadmissible and that the applicant bears the costs in these proceedings on the application to intervene. It argues that R. 313.1 RoP provides a basis for intervention only if the applicant has a legal interest in the result of the proceedings and that an interest is only present if the person is at least potentially still in a position to realise its interest by intervening in the proceedings, in that the result of these proceedings can actually still be influenced in the sense of the interest. Since APPLE's interest to protect its confidential information by an AEO or EEO confidentiality regime to prohibit VIVO or the three VIVO's employees from accessing APPLE's confidential information has been resolved by factual events, including the fact that the three VIVO's employees have meanwhile accessed the HCI pursuant to the impugned order, APPLE has no presented legal interest in the result of the proceedings.

REASONS FOR THE ORDER

8. R. 314 RoP provides that the judge-rapporteur shall decide on the admissibility of an application to intervene by way of order. In the present case, the judge-rapporteur referred the order to the panel pursuant to R. 331.2 RoP.
9. APPLE's applications for intervention are admissible for the following reasons.
10. Under R. 313.1 RoP, an application to intervene may be lodged at any stage of the proceedings by any person establishing a legal interest in the result of an action submitted to the Court. R. 313.2 RoP provides that an

application to intervene shall be admissible if it is made in support, in whole or in part, of a claim, order or remedy sought by one of the parties.

11. In the present case, APPLE has a legal interest in an order sought by one of the parties. It has a direct and present interest in the outcome of the appeals against the panel review orders, as the confidential information at issue includes information on agreements between APPLE and SUN PATENT. The fact that, following the impugned orders, HCI may have been made accessible to the three VIVO's designated employees, does not exclude that APPLE is affected by such orders and has a legal interest in the appeal against such orders. In the event the Court of Appeal, in the pending appeal, decides to revoke the impugned orders insofar as it held that the HCI shall be accessible to the three VIVO's designated employees, said employees would no longer have access and would not be allowed to use the unredacted version of the statement of claims and relevant exhibits disclosing the HCI containing APPLE's confidential information, as well as any further exchange of submissions and exhibits containing such confidential information, whether for the purpose of these court proceedings or any other purpose (CoA Orders of 25 August 2025, ORD_35142/2025 and ORD_35139/2025).
12. Whether all APPLE's concerns relating to the confidentiality regime are well-founded and whether APPLE's submissions are sufficient to grant the orders sought by SUN PATENT will have to be decided in the final orders in the appeal proceedings. The fact that APPLE is a party to the agreements is sufficient to admit it to intervene.
13. It follows that APPLE's applications for intervention are admissible. APPLE will be given the opportunity to file a Statement in intervention within 15 days of the service of this order and APPLE will be allowed to participate in the oral hearing to support SUN PATENT.
14. SUN PATENT and VIVO will be informed of this order by service of the order on them through the Court's case management system (R. 315.1 sub a RoP). They will be given the opportunity to respond to APPLE's Statement in intervention within 15 days of the service of APPLE's Statement in intervention.

ORDER

- I. APPLE is admitted as an intervener in the appeal proceedings in support of SUN PATENT's appeal and requests to the extent that confidential information of APPLE is concerned;
- II. APPLE is given the opportunity to file a Statement in intervention within 15 days of the service of this order on APPLE;
- III. SUN PATENT and VIVO will have the opportunity to respond to APPLE's Statement in intervention within 15 days of the service of APPLE's Statement in intervention on these parties;
- IV. APPLE will be allowed to participate in the oral hearing to support SUN PATENT in its appeals.

This order was issued on 23 September 2025.

Klaus Grabinski, presiding judge and President of the Court of Appeal
Signed on his behalf in his absence

Emmanuel Gougé, legally qualified judge and judge-rapporteur

Peter Blok, legally qualified judge