



Reference no.:  
UPC-CoA\_74/2026

**Procedural Order**  
**of the Court of Appeal of the Unified Patent Court**  
**concerning a request for a discretionary review (R. 220.3 RoP)**  
**issued on 26 May 2026**

KEYWORDS

Discretionary review; security for costs.

APPLICANT (CLAIMANT IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

**Advanced Standard Communication LLC**, Garland, USA

(hereinafter "**ASC**")

represented by Dr. Michael Schneider, attorney-at-law, Eisenführ Speiser and other representatives of the same firm

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

1. **Motorola Mobility LLC**, Chicago, Illinois, USA
2. **Motorola Mobility International Sales LLC**, Chicago, Illinois, USA
3. **Lenovo (Deutschland) GmbH**, Stuttgart, Germany
4. **Motorola Mobility Germany GmbH**, Stuttgart, Germany

(hereinafter together "**Respondents**"),

represented by Dr. Tobias Wuttke, attorney-at-law, Bardehle Pagenberg, and other representatives of the same firm

PATENT AT ISSUE

EP 3 016 464

DECIDING JUDGE

Emmanuel Gougé, Standing judge

LANGUAGE OF THE PROCEEDINGS

English

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

- Order of the Court of First Instance of the Unified Patent Court, Munich Local Division, dated

24 April 2026

□ Reference number: UPC\_CFI\_798/2025

#### FACTS AND REQUESTS OF THE PARTIES

1. ASC filed an infringement action before the Munich Local Division (“Munich LD”) alleging the infringement of the patent at issue by the Respondents.
2. Respondents lodged a Statement of defense, raising inter alia that ASC requests for injunctive relief must be dismissed upon Fair Reasonable and Non-Discriminatory (FRAND) objection, and filed a counterclaim for revocation of the patent at issue.
3. On 12 January 2026, Respondents applied for an order requesting ASC to provide security for costs.
4. By order of the panel dated 24 April 2026 (“the impugned order”), the Munich LD - in summary - ordered ASC to provide security for costs within eight weeks from the date of service of the order and rejected the request to grant leave to appeal.
5. On 11 May 2026, ASC filed a request for a discretionary review pursuant to R. 220.3 RoP requesting the Court of Appeal, *inter alia*, to set aside the impugned order and to dismiss Respondents request for security of costs or, in the alternative, order security for costs unless ASC provides proof of having secured litigation insurance with anti-avoidance endorsement from an insurer licensed in the European Union.
6. Following an order of the judge-judge giving the Respondents an opportunity to respond to the request for discretionary review, Respondents request the R. 220.3 request to be rejected and, in the alternative, to extend Motorola’s deadline to comment on ASC’s request for discretionary review by one week (Respondents comments of 22 May 2026).

#### GROUNDS FOR THE ORDER

7. The request for discretionary review is admissible but must be rejected.
8. When deciding whether to allow a discretionary review, the Court of Appeal must consider whether the impugned order of the Court of First Instance (“CFI”) is manifestly erroneous and whether the impugned order raises a fundamental question of law and its review is necessary to ensure a consistent application and interpretation of the Rules of Procedure or any other objective of the discretionary review (CoA, UPC\_CoA\_489/2024, order of 6 September 2024, Motorola v. Ericsson, para. 4; UPC\_CoA\_805/2025, order of 1 September 2025, Centripetal v. Keysight, paras. 8 and 11; UPC\_CoA\_67/2026, order of 19 May 2026, Advanced Standard Communication v Xiaomi, para. 10).
9. ASC presented a number of reasons why, in its view, the impugned order is incorrect, including new arguments not raised with the CFI. It failed, however, to demonstrate or even argue that the alleged errors are manifest. The impugned order is not manifestly erroneous for the following reasons.
10. ASC failed to demonstrate that the Munich LD erred in finding that the Respondents, who, inter alia, had submitted financial information relating to the financial situation of ASC, had met the burden of presenting facts and evidence to support their assertion of a risk of cost recovery. ASC has not indicated any information that, in addition to the evidence already provided by the Respondents, the latter could reasonably have obtained and submitted to further support the risk of cost recovery.
11. Further, the fact that, in the context of separate proceedings in which the Respondents are not parties, parties have submitted a licence offer to ASC and have, on 30 January 2026, provided a bank guarantee for payments under the offered licence, cannot lead to a manifest error of the Munich LD in its findings on the risk of cost

recovery since these facts and arguments had not been raised by ASC and have thus not been discussed in the CFI proceedings (CFI\_798/2025).

12. The LD Munich did also not err in not considering the possibility for ASC to provide a secured litigation insurance with anti-avoidance endorsement from an insurer. Although such a possibility may, according to ASC, have been discussed in parallel proceedings, it was neither argued by ASC (see ASC Reply and Comments to Defendants' Request for Security for Costs dated 29 January 2026) nor discussed with the Court and the other parties in these CFI proceedings (CFI\_798/2025), so that the impugned order cannot be considered manifestly erroneous on this ground.

#### ORDER

The request for discretionary review is rejected.

This order was issued on 26 May 2026.

Emmanuel Gougé  
Standing judge