



LISBON – LOCAL DIVISION

UPC_CFI_850/2026

ORDER

of the Court of First Instance of the Unified Patent Court

issued on 26 May 2026

CLAIMANT:

Shenzhen Transsion Holdings Co. Ltd.

Unit 1, Floor 24, Chuanyin Building, No.8, Xianyuan Road,

Xili Sub-district, Nanshan District, 518000,

Shenzhen City, People's Republic of China

represented by

Mr. Andreas Kramer

Mr. Alex Wilson

Mr. Ari Laakkonen

DEFENDANTS:

Telefonaktiebolaget LM Ericsson (Publ)

Torshamnsgatan 21, Kista, 164 83 Stockholm, Sweden

Ericsson Holding International B.V.

Stationslaan 222, Platform C, 3rd floor, 4815 GW Breda, the Netherlands

Ericsson Telecommunicatie B.V.

Stationslaan 222, 4815 GW Breda, the Netherlands

Ericsson Telecomunicações, Lda.

Lagoas Park, Edifício 4, Piso 0, 2740-267 Porto Salvo, Portugal

represented by

Mr. Wim Maas

PATENT AT ISSUE:

EUROPEAN PATENT NO EP4123910

PANEL:

Presiding judge and

Judge-rapporteur: Rute Lopes

Legally qualified judge: András Kupecz

Legally qualified judge: François Thomas

LANGUAGE OF THE PROCEEDINGS: English.

SUBJECT: SUBJECT: Application under R 360 and 361 RoP

SUMMARY OF PROCEDURAL FACTS AND PARTIES' REQUESTS

1 These proceedings have been brought by the claimant (hereinafter also referred to as "Transsion") on 6 March 2026, in relation to the infringement of patent EP4123910 (hereinafter "EP 910"). Transsion is seeking an injunction and related remedies against Ericsson.

2 On 28 April 2026, the defendants (hereinafter also referred to as "Ericsson") requested that:

I. Transsion's SoC and associated claims for relief be dismissed on the basis that they are either "devoid of purpose", pursuant to R. 360 RoP, and/or "manifestly bound to fail", including being "manifestly inadmissible" and "manifestly lacking any foundation in law", pursuant to R. 361 RoP, in relation to (i) the requests for injunctive relief at Section O(1) and (ii) by extension, requests for the destruction of and recall of products from the market (Section O(3)) and penalty payments (Sections O(7) and O(8)), together the "Injunctive Relief Requests";

II. Transsion to bear reasonable and proportionate legal costs and other expenses incurred by Ericsson in making this Strike-out Application and (to the extent applicable) dealing with the Injunctive Relief Requests in the main proceedings (Article 69(1) UPCA, R. 118.5 RoP).

3 Ericsson argues that Transsion's Injunctive Relief Requests should be subject to strike-out, pursuant to R. 360 and R. 361 of RoP, as they are manifestly bound to fail and/or devoid of purpose, with the following further reasoning:

- Ericsson filed three actions against Transsion (one at LD The Hague regarding three patents; one at LD Mannheim regarding two patents; and one at LD Paris Hague regarding two patents). In these actions, requests for permanent injunctions were made under the condition that Transsion does not enter into a cross-licence as determined by the Court upon a decision finding one or more of the Patents infringed;

- In those actions, Ericsson has provided an undertaking to enter into a FRAND-compliant licence;

- In the action filed at the Hague, Ericsson asked the UPC to adjudicate FRAND-compliant terms for a worldwide cross-licence agreement in respect of Ericsson's and Transsion's 4G and 5G SEPs.

- The cross-licence referred to in The Hague action would encompass the (alleged) 5G SEP asserted by Transsion in these proceedings, EP 910. This means that: (i) Transsion cannot seek unconditional relief in respect of EP 910 in one local division, when the FRAND issues pertaining to that same patent are already in issue before the UPC in another local division; and (ii) if Transsion

declines to enter a court-approved cross-licence, Transsion will be explicitly confirming that it is an unwilling licensee/licensor in respect of the FRAND-compliant terms adjudicated by the UPC. In that regard, Transsion could not be entitled to an injunction against Ericsson in the UPC territory.

- Transsion accepts it owes Ericsson a net balancing payment under a FRAND-compliant worldwide cross-licence covering 5G SEPs.

- In these proceedings, Transsion has not established that it has complied with its FRAND obligations in respect of EP 910, despite acknowledging those FRAND obligations in the Statement of Claim. There is therefore no basis in law or fact for an unconditional claim to injunctive relief in the Lisbon Action.

4 In response, Transsion requested that Ericsson's claims be dismissed on the grounds that they lack legal basis.

5 Transsion asserts that:

- Transition's defence at the Hague LD leaves open the jurisdiction issue raised as a preliminary objection, which the Court decided would be decided at trial and whether there will be a cross-licence adjudicated by the UPC and/or whether Transition will be established in the UPC as an "unwilling licensee."

- Ericsson does not clearly state any *lis pendens* objection to the injunctive relief in these Lisbon LD proceedings, and in any event, Ericsson has chosen not to file a preliminary objection in these Lisbon LD proceedings. So, Ericsson does not raise a jurisdictional objection, and the Court does not need to consider jurisdiction/*lis pendens*.

- R. 361 RoP is reserved for clear-cut cases, which this case is not.

- With regard to R 360 RoP, Ericsson has not shown that Transsion's request for an injunction has become devoid of purpose such that there is no need to adjudicate on it. Furthermore, Transsion continues to have a legal interest in an injunction if Ericsson's defence fails.

GROUNDS FOR THE ORDER

Rule 360 RoP: action that becomes devoid of purpose.

6 Pursuant to R. 360 RoP, if the Court finds that an action has become devoid of purpose and that there is no longer any need to adjudicate on it, it may at any time, on the application of a party or of its own motion, after giving the parties an opportunity to be heard, dispose of the action by way of order.

- 7 The wording of R. 360 RoP: “action has become devoid of purpose” and “there is no longer need to adjudicate” (emphasis added) indicates that this provision applies where an event occurred after the action was filed, rendering the action inadmissible or unfounded (differently from R. 361, as will be seen).
- 8 This provision gives the Court broad discretion to consider whether the prerequisites for disposing of the action are present. The assessment is not in the hands of the parties, although the facts and arguments brought forward by them can have an impact on the Court’s decision – CoA, 12 May 2025, UPC_CoA_328/2024, para. 42.
- 9 To assess if an action has become devoid of purpose, the Court must take into consideration the interest of the party that filed the action. In fact, as the CoA has pointed out, an action is not devoid of purpose if the party filing the action has a legal interest. A legal interest exists where the interested party, if successful, benefits from an advantage – CoA, 9 January 2025, UPC_CoA_584/2024. In this regard, the Court notes that in R. 360 RoP, contrary to the withdrawal under R. 265.1 RoP, the interest of the other party stated in a Statement of Defence is not autonomously taken into consideration. The assessment is made in light of the interest of the party filing the action.
- 10 The present action has not become devoid of purpose. Ericsson does not claim that any event occurring after the filing of the action has rendered it inadmissible. Instead, Ericsson relies on another action filed four months earlier, concerning a cross-licensing agreement which, if approved by the Court, would cover the patent in suit in these proceedings. This, the relevant event either occurred before this action was filed (if we consider the filing of the action at The Hague) or has not yet occurred (if we consider the decision to be taken in such proceedings at The Hague). In either case, there are no grounds to conclude that this action has become devoid of purpose by an event that occurred after the action was filed.
- 11 Notwithstanding the above, Transsion continues to have an interest in these proceedings, as no Court ruling has yet assessed its claim, nor has any other event affected its rights.
- 12 The request that the action be dismissed on the grounds that it has become devoid of purpose is therefore unfounded.

Rule 361 RoP: action manifestly bound to fail

- 13 The interest in ensuring expeditious decisions and proceedings to be conducted most efficiently justifies that, where it is clear that the Court has no jurisdiction to take cognisance of an action or of certain of the claims therein or where the action or defence is, in whole or in part, manifestly inadmissible or manifestly lacking any foundation in law, the Court may give a decision by way of order – R. 361 RoP.

- 14** Ericsson argues that the action should be dismissed as it is manifestly bound to fail (par. 19 of the application). R. 361 RoP, contrary to R. 360 RoP, does not require that the grounds occur after the filing of the action.
- 15** For an action or a claim thereof to be considered manifestly inadmissible or manifestly lacking any foundation in law, the lack of grounds must be evident, clear, and obvious even upon preliminary review, resulting in the claim being doomed to failure without the need for in-depth analysis, as it conflicts with the law or established case law, or is legally impossible. Such an assessment allows the Court to reach a quick initial conclusion without examining the merits in depth. As clearly pointed out by the Court of Appeal, proceedings under R.361 RoP should not result in a full exchange of arguments and evidence, but – as is clear from the use of the word ‘manifestly’ – must be reserved for clear-cut cases - UPC_CoA_265/2024 of 18 September 2024, Volkswagen/NST.
- 16** This understanding is consistent with the literal wording of the provision. It is also consistent with the principle of proportionality, according to which the Court must give due consideration to the nature and complexity of each action and its importance, and to the principle of fairness and equity, according to which the Court must have regard to the legitimate interests of all parties (CD Paris, 16 September 2024, UPC_CFI_164/2024).
- 17** The Court finds that Ericsson’s assertion that the cross-licence referred to in The Hague action would encompass the (alleged) 5G SEP asserted by Transsion in these proceedings is not sufficient to justify dismissing the present action as manifestly inadmissible, for the following reasons.
- 18** The Court first notes that, as the patent holder, Transsion is entitled to file an action to protect its rights. This understanding follows the consistent case law of the ECJ (e.g., par. 46 of Huawei v. ZTE, 16 July 2015). Although the Court acknowledges that the right to obtain an injunction is not absolute, and that a Court may limit or deny an injunction in specific circumstances, those are to be assessed in the action filed and in light of the evidence produced. Not on a *prima facie* basis, as R. 361 requests.
- 19** Furthermore, Ericsson treats the inclusion of EP 910 in the cross-licence proceedings in The Hague as a possible outcome (as indicated by its use of the word “would”). This assumption of an eventual future result is, in itself, insufficient to justify dismissing the present action as manifestly inadmissible, as a mere conjecture about a possible future development falls far short of the clear and immediate assessment of manifest inadmissibility. Moreover, Ericsson’s argument that this action is manifestly inadmissible relies on proceedings that still require a full assessment of facts, law, and evidence, rendering it even less manifest that this action is bound to fail. The CD Munich (CD Munich, 24 March 2026, 2296/2025) has held that where an assessment of facts, law and evidence is necessary, the action is not manifestly inadmissible within the meaning of R. 361 RoP. The same reasoning applies here. Indeed, since such an assessment is required in both sets of proceedings, it is even more evident that the threshold for manifest inadmissibility is not met.

20 The request under R. 361 RoP must therefore be dismissed.

ORDER

Ericsson's requests are dismissed.

Rute Lopes, Presiding judge and Judge-rapporteur	
András Kupecz, Legally qualified judge	
François Thomas, Legally qualified judge	

AS THIS IS NOT AN ORDER DISMISSING MANIFESTLY INADMISSIBLE CLAIMS, R. 363.2 IS NOT APPLICABLE. LEAVE TO APPEAL IS GRANTED. THE PRESENT ORDER MAY BE APPEALED WITHIN 15 DAYS OF SERVICE OF THIS ORDER (ART. 73(2)(b)(ii) UPCA, RULE 220.2).