Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Milan Local Division

UPC CFI no. 1130/2026
related to case on the merits
UPC CFI no. 319/2024 - no. 728/2024

order
issued on 17.6.2026

HEADNOTES:

1. Applications for provisional measures (including injunctions) can be submitted at any stage of the main proceedings, even towards the end. Since there is no respective legal limitation in R. 206.1 RoP, these requests must insofar be regarded as admissible.
2. When a request for interim relief is filed after the main proceedings on the merits of the case has started, the requirements of urgency and balancing the parties' interests have a more specific meaning. Pursuant to Art. 62 UPCA and R. 206 - 211 RoP, these conditions take on particular significance in the final stage of proceedings on the merits.
   In particular, the applicant must highlight any new or escalating risk that has arisen during the ongoing proceedings and explain why these new facts alter the existing situation to such an extent that a provisional measure is necessary and that it would not be justified to wait for a decision on the merits.
   In other words and according to these same principles, if the proceedings on the merits have reached the final stages, the Court must assess whether the applicant can be expected to await the final decision on the merits. If so, the Court may dismiss the application for provisional measures.
3. The applicant must prove that it is not possible to await the final decision on the merits, without being exposed to a serious, unforeseen prejudice that recently arose during the proceedings.
   If the patent holder decides to submit an application for interim measures during ongoing proceedings on the merits, the applicant cannot simply rely on a continuation of the defendant's unlawful conduct. Instead, the applicant has a specific burden of proof to demonstrate the existence of new, different and supervening factual circumstances which unequivocally indicate an objective deterioration of the existing situation.
   It is not sufficient to substantiate these circumstances merely by demonstrating an increase in financial loss. Once infringement has commenced, temporal aggravation of economic damage during the proceedings - without the injured party having sought urgent relief - is usually inherent, as patent infringement is often continued at least until a final order is issued. In other words, if the applicant chooses to seek protection of its rights

within the timeframes specific to the proceedings on the merits, the application for interim relief must be based on grounds going beyond a temporal aggravation related to the time required to reach a conclusion of the proceedings.

APPLICANT

TELEFONAKTIEBOLAGET LM ERICSSON

21 Torshamnsgatan, Kista, 164 83 Stockholm, Sweden

represented by

Wim Maas and David Mulder, at *Taylor Wessing N.V.*, Parnassusweg 803-805a, 1082 LZ, Amsterdam, the Netherlands,

Faziel Abdul, at *Taylor Wessing N.V.* at Kennedyplein 201, 5611 ZT Eindhoven, the Netherlands

DEFENDANTS

1) ASUSTEK COMPUTER INC.

1 F No. 15 Lide Rd Beitou Dist, Tapei City 11259, Taiwan

2) ARVATO NETHERLANDS B.V.

Brem 1, 6598 MH Heijen, The Netherlands

both represented by

Alexander Wiese and Eva Geschke, at *Wildanger Kehrwald Graf v. Schwerin & Partner mbB Rechtsanwälte,* Couvenstraße 8, 40211 - Düsseldorf, Germany

PATENT AT ISSUE

EP 3 076 673 B1 (hereafter referred to as EP'673) entitled "*Decoding and encoding of pictures of a video sequence*"

DECIDING JUDGE

This order has been issued by the Court of First Instance - Milan Local Division in the following panel:

-	Pierluigi	PERROTTI	presiding judge and judge rapporteur
-	Alima	ZANA	legally qualified judge
-	Rute	LOPES	legally qualified judge
-	Christoph	NORRENBROCK	technically qualified judge

LANGUAGE OF PROCEEDINGS

English

SUBJECT-MATTER OF THE ORDER

Application R. 206 RoP

SUMMARY OF FACTS

1. On 1 April 2026, Telefonaktiebolaget LM Ericsson (hereafter referred to as Ericsson or the applicant) filed an application for provisional measures after the main proceedings on the merits of the case had commenced. The main proceedings were pending before the Local Division Milan (UPC CFI no. 319/2024 (infringement) - no. 728/2024 (counterclaim for revocation).
The applicant clarified that the same application had initially been filed on 20 March 2026 as an 'internal' application relating to the proceedings on the merits. According to the Court's instructions, the application was refiled as a separate one, subject to the payment of court fees. Ericsson disagreed with the necessity of a separate filing, considering that the application was related to an already pending case on the merits. No additional fees would have been payable for the purpose of this application.

Ericsson brings forward that it has developed video coding technologies related to the High Efficiency Video Coding standard, or HEVC standard, also known as H.265 standard ("HEVC/H.265 standard"). In particular, Ericsson was the proprietor of EP 3076673 B1 (EP'673 or patent in suit), validated and currently in force in the following UPC Member States: Denmark, Germany, France, Italy, The Netherlands and Romania.
According to Ericsson, ASUSTeK Computer Inc. (hereafter ASUSTeK) manufactured and marketed electronic computing devices that directly or indirectly infringe one or more claims of the patent in suit, either literally and/or under the doctrine of equivalents. All of these products utilized industry standard video coding technology. The infringing products included, but were not limited to, ASUSTeK's laptops, desktops and chromebook computers that implemented the HEVC/H.265 standard.

Ericsson relied on all its written defences in the main proceedings and submitted some specific additional facts in support of its application. These facts relate to: (i) a delay of the main proceedings, (ii) the recent outcome of two German national proceedings and (iii) ASUSTeK's launch of new infringing products.

Regarding the delay of the main proceedings, the applicant pointed out that they had initiated these proceedings on 14 June 2024, with the oral hearing scheduled - by Court's order issued on 12 February 2026 - to take place on 24-25 September 2026, more than two years and three months after the commencement of the proceedings. This case management interfered with Ericsson's right to obtain relief against the ongoing infringement by the defendants within a reasonable timeframe and increased the irreparable harm suffered by Ericsson with each day that the proceedings continued.

Ericsson recently discovered that ASUSTeK has been injuncted on two separate but similar cases in Germany and should have stopped its sales there.
In both cases ASUSTeK resulted as an implementer of patented technology in its products. One case concerned the HEVC/H.265 standard (Nokia vs. ASUSTeK, Landgericht München, decision of 22 January 2026), and the other concerned the WI-FI 6 standard (Wilus vs ASUSTeK, Landgericht München, decision of 8 January 2026).

ASUSTeK was ordered to pay damages in these proceedings, but had not yet made any payment. Furthermore, ASUSTeK failed to provide adequate security in both cases and the German Court concluded that ASUSTeK did not meet the standard expected of a willing licensee. As a Taiwan-based company with no substantial assets in the EU, there was a direct and concrete risk of Ericsson not being able to recover damages.

Ericsson further explains that on 17 March 2026, ASUSTeK announced the imminent launch of new infringing products, including the 2026 ROG Strix G16 (G615), 2026 ROG Strix G18 (G815), ASUS TUF Gaming A16 (FA608UP/ UM/ UH) and ASUS TUF Gaming F16 (FX608LMG/ LPG) (see Annex Z33). These products were compliant with the HEVC/H.265 standard and therefore infringed.

The applicant reiterated everything that had been submitted in writing in the main proceedings with regard to the patent at issue, including formal aspects, background, invention, interpretation of the claims, validity, infringement and acts of infringement.
These submissions demonstrated that EP'673 was more likely than not to be considered valid and infringed.

Ericsson specified that the application was necessary, appropriate and urgent.
In particular, the balance of interests between Ericsson's interests in obtaining an injunction and the defendants' interests in being able to continue their activities in the market should be decided in Ericsson's favour.

2. On the same date, 31 March 2026, the applicant also filed an application for the protection of confidential information and requested that the confidentiality regime defined by multiple orders in the main proceedings be automatically extended to the proceedings for provisional measures.

3. Pursuant to R. 208.3 RoP, on 1 April 2026, the application for provisional measures was immediately referred to the Panel to which the case on the merits was assigned.

4. Service was effected on the defendants on 2 April 2026.

5. By order of 3 April 2026, the judge rapporteur:
- invited the defendants to lodge an objection by 27 April 2026;
- summoned the parties to the hearing on 8 May 2026, to be held by videoconference;
- confirmed that the confidentiality regime set out in the main proceedings was to apply automatically to the PI proceedings.

6. On 14 April 2026, the defendants filed a brief by which they expressly agreed that the confidentiality regime established in the main proceedings should automatically extend to the present PI proceedings.

7. On 27 April 2026, ASUSTeK and Arvato lodged their objection, disputing that the requirements of preliminary measures had been met.

Firstly, it was contradictory that Ericsson saw no need for an urgent decision between June 2024 and January 2026, when no hearing date had been scheduled, yet suddenly assumed urgency in March 2026, after the oral hearing had been formally summoned.
The alleged delay to the main proceedings was mainly caused by the applicant itself.
In its submission of 20 December 2024, Ericsson requested that the deadline for filing its reply be suspended indefinitely until the conclusion of the R. 262a RoP proceedings, in which Ericsson sought to obtain an "*external eyes only*" regime. The reply was eventually filed on 30 July 2025, resulting in a five-month delay on Ericsson's account.
Ericsson filed its final rejoinder concerning the application to amend in the EP'673 proceedings on 27 November 2025.
On 16 January 2026, the Court scheduled the hearing for 23-24 June 2026, confirming that it had first awaited the outcome of the appeal procedure in the R. 262a RoP proceedings. Therefore, the additional delay of approximately one month was not due to a Court's inactivity, but to the R. 262a RoP "side battle" that Ericsson had initiated.
On 28 January 2026, the Court rescheduled the oral hearing to 14-15 July 2026 due to other court appointments of two ASUSTeK representatives.
On 30 January 2026, Ericsson requested that the oral hearing be rescheduled, as its representative was unavailable on these new dates. Consequently, the Court rescheduled the hearing for 24 and 25 September 2026.
This resulted in a delay of approximately nine months caused by the applicant's tactics.

Secondly, Ericsson's statements on the German cases were inaccurate and misleading.
Both judgments were non-final and subject to appeal proceedings before the Munich Higher Regional Court.
ASUSTeK was not ordered to pay damages, as the judgments only declared ASUSTeK's liability for damages without determining any amounts. Therefore, ASUSTeK was under no obligation to pay any amount following the decisions.
ASUSTeK withdrew its products from the German market in compliance with the provisional enforcement of the injunction granted in favour of Nokia. The defendant removed the affected products from its German website and did not offer or place them on the German market. Compliance with an unrelated judgment could not be an argument in support of the request for provisional measures in this case.
In the Nokia judgment, the Regional Court of Munich I explicitly considered ASUSTeK to be a willing licensee. The Munich Court's ruling in this case was based solely on the finding that Nokia's offer was FRAND and not on any conclusion that ASUSTeK's conduct was non-FRAND.

Thirdly, the launch of new products by the defendants did not constitute a new situation that revived - or gave rise to - urgency. Launching new products was a common practice in the

consumer electronics industry, and ASUSTeK has consistently launched new products in 2024 and 2025 since the main proceedings commenced.
Ericsson did not suggest that ASUSTeK's most recent launches had intensified or aggravated the situation caused by the alleged infringement in any way. They were merely a continuation of a situation that had existed - and was known to the applicant - since at least May 2024. After initiating the main proceedings, the applicant never considered any of ASUSTeK's product launches in 2024 or 2025 to present a new or aggravated situation that could provide a basis for seeking a preliminary injunction.

Fourthly, the applicant unreasonably delayed filing its application for provisional measures.
Ericsson has been aware of all the relevant facts since the commencement of the main proceedings.
Even if the starting date indicated by the applicant were to be accepted as correct, it took the applicant more than one month to file the application R. 206 RoP - an unreasonable amount of time, given the repetition of the arguments already presented in the case on the merits.

Fifthly, the balance of interests should be in favour of the defendants, since a preliminary injunction would cause them reputational and financial harm.

Furthermore, it was more likely than not that the patent had not been infringed and was invalid for the reasons already explained in the main proceedings.

The FRAND defense alone prevents any request for a preliminary injunction. Alternatively, ASUSTeK's FRAND defence is well founded. Arvato is also in a peculiar position in this respect.

Finally, Ericsson was not entitled to security under Art. 62 UPCA.

8. On 27 April 2026, the defendants filed an application for a confidentiality order pursuant to Art. 58 UPCA and R. 262.2 RoP.

9. On 8 May 2026, the parties discussed the case in the oral hearing.

REQUESTS OF THE PARTIES

10. Ericsson requests that the Court, for the Contracting Member States, in which the Patents are valid and in force:
(a) Primarily (Art. 25 and 62(1) UPCA, R. 211.1(a) RoP)
- grants for the duration of the main proceedings an immediate enforceable injunction for direct and/or indirect infringement of the Patents by prohibiting the defendants, individually and jointly, from infringing the patents in any way, in particular by making, offering, placing on the market and/or using the infringing products as well as by importing or storing the infringing products (or components thereof) for those purposes

and/or by supplying or offering to supply the infringing products (or components thereof) to persons who are not entitled to exploit the patents;

Alternatively

- orders the defendants to jointly and severally, within 14 days after the order to be given in this matter, provide guarantees for the recovery of damages to the benefit of Ericsson for an amount of [redacted] or alternatively an amount of [redacted] or in a further alternative another amount to be determined by this Court in the proper administration of justice, by putting up at their own expense a bank guarantee with a bank with a good reputation within the territory of the Contracting Member States, or another form of guarantee as determined by this Court in the proper administration of justice, failure of which shall automatically result in an immediate enforceable injunction for the duration of the Main Proceedings for direct and/or indirect infringement of the Patents by prohibiting the Defendants, individually and jointly from infringing the Patents in any way, in particular by making, offering, placing on the market and/or using the Infringing Products as well as by importing or storing the Infringing Products (or components thereof) for those purposes and/or by supplying or offering to supply the Infringing Products (or components thereof) to persons who are not entitled to exploit the Patents;

(b) (Art. 62 UPCA and R. 354.3 RoP) orders the defendants jointly and severally to comply with the orders under (a), subject to a recurring penalty payment of EUR 250,000.00 for each violation of, or non-compliance with, the order(s), plus EUR 100,000.00 for each day, a part of a day counting as an entire day, that the violation or non-compliance continues, or a recurring penalty of EUR 5,000.00 for each infringing product with which the order(s) is / are violated, or another amount as determined by this Court in the proper administration of justice;
(c) (Art. 82(1) UPCA) appends an order for the enforcement to its decision, while declaring that the judgment is immediately enforceable;
(d) (Art. 69, R. 211.1(d) RoP) orders the defendants, jointly and severally, to bear reasonable and proportionate legal costs and other expenses incurred by Ericsson in these proceedings and determines that both (i) the final determination of the amount of such costs and (ii) any interim award of costs shall be decided at the time of the final decision in the main proceedings.
Any amount of security be fixed separately for each enforceable part of the Court's decision.

11. ASUSTeK and Arvato request that:

- the application for provisional measures be dismissed;
- the applicant bear the costs of the proceedings, including reasonable and proportionate legal costs and other expenses incurred by the defendants.

GROUNDS FOR THE ORDER

1. Separate filing of the application

12. With regard to the preliminary issue raised by the applicant concerning the unnecessary separate filing of application R. 206 RoP for the purpose of paying (or not paying) court fees, the Court notes that R. 206.5 RoP expressly states that the applicant must pay the application

fee for provisional measures in accordance with Part 6 of the Rules of Procedure (R. 370 et seq.).
The provisions in question do not differentiate between R. 206 applications based on whether they are filed before or during ongoing proceedings on the merits. Therefore, court fees are required in both cases.
In support of its argument that separate filing is not mandatory, Ericsson refers to UPC CoA no. 388/2024, order of 19 August 2024, pertaining to an application for suspensive effect, and to UPC CFI no. 1568-1791-1793/2025, LD The Hague, order of 13 February 2026, UPC CFI no. 1571/2025, CD Paris, order of 19 February 2026, both related to applications R. 262A RoP. The case law cited by Ericsson relates to applications that do not actually originate actions/proceedings, which the application for a provisional measure certainly does.
In any case, the cited provision of R. 206.5 RoP is unambiguous.

2. Guiding principles for the assessment of an application for provisional measures. In general.

13. The guiding principles for the assessment of an application for provisional measures in the RoP have been established in the case law of the UPC (UPC CFI no. 317/2024, LD Lisbon, order of 15 October 2024; UPC CFI no. 582/2024, LD Brussels, order of 21 March 2025, with reference to the relevant case law of the court of first instance and the court of appeal).
For ease of reference, these guiding principles (also taking into consideration UPC CoA no. 382/2024, order of 14 February 2024) and more specifically the conditions for granting an application for provisional measures, are set out below:

- entitlement: an applicant should provide reasonable evidence with a sufficient degree of certainty that he is entitled to initiate proceedings under Art. 47 UPCA (Art. 62(4) UPCA).
- validity and infringement: an applicant should provide reasonable evidence with a sufficient degree of certainty that the patent is valid and that its rights are being infringed, or that such infringement is imminent (Art. 62(4) UPCA and R. 211.2 RoP).
- urgency: an applicant should prove its need for early and prompt protection of its right to avoid further damage resulting from delays in resolving the case on its merits. This would not be the case if an applicant has acted negligently or hesitated in requesting provisional measures after gathering all the necessary elements for legal action (from an objective standpoint and taking into consideration factual circumstances). To assess urgency from an objective standpoint, it is necessary that the applicant provides the Court with a specific date when he became aware the alleged infringement. (R. 211.4 RoP).
- weighing the interest of the parties: an applicant should prove that the balance of interests weighs in his advantage (Art. 62(2) UPCA, R. 209.1(b), 211.2 and 211.3 RoP); the risk of an irreparable harm - and therefore necessity of the measure - has to be considered in comparison to the interests of the counterparty.

14. Only a *prima facie* analysis of the facts (conditions) is required. Such *prima facie* analysis is articulated in R. 211.2 RoP by requiring an applicant to prove the made allegations only with "a sufficient degree of certainty". Achieving a sufficient degree of certainty requires the Court

to consider it "at least more likely than not" that the conditions of the mentioned rule are met: (i) the applicant is entitled to initiate proceedings, (ii) the patent is valid, and (iii) the patent is infringed.
Although the mentioned conditions already state that it is up to an applicant to provide the requested evidence (and as such bears the burden of proof), the burden of proof that the patent is not valid in respect of inter partes preliminary injunctions lies with the defendant.
The *prima facie* analysis (articulated as a "a sufficient degree of certainty") does not apply for the assessment of (i) the (international or substantive) jurisdiction of the UPC and (territorial) competence of a division (which foregoes any decision or order of the Court), (ii) the requirement of urgency, and (iii) the weighing of interests.

15. For what is mainly relevant in this case, it should be noted that the mentioned conditions are of a cumulative nature in the sense that not meeting one of these conditions implies the claims for provisional measures to be held unfounded without the necessity or obligation for the Court to further assess any other requirement. Such limited assessment is in line with the purpose of an application for provisional measures and the procedural economy of such proceedings which should not lead to a mini-trial on the merits.

3. Guiding principles for the assessment of an application for provisional measures. In particular, when the proceedings on the merits have already commenced.

16. This general legal framework should also take into account the particular circumstances of this case, in which a request for interim relief was filed after the main proceedings on the merits of the case had started.

17. In this case, the requirements of urgency and balancing the parties' interests have a more specific meaning. In particular, the applicant must highlight any new or escalating risk that has arisen during the ongoing proceedings and explain why these new facts alter the existing situation to such an extent that a provisional measure is necessary and that it would not be justified to wait for a decision on the merits.

18. This clarification is consistent with the previous case law of the Court of Appeal of the Unified Patent Court, according to which proceedings for the granting of interim measures may be applied for where it is not possible to await the outcome of the main proceedings due to the circumstances of the case. If it is possible to await the outcome of the main proceedings, interim measures are not necessary as the main proceedings offer greater procedural certainty. When weighing up the interests of the parties against one another, the court considers not only the damage to one of the parties, but also the time factor. In particular, the court examines whether it is possible to await proceedings on the merits or whether interim measures are necessary (see UPC CoA no. 540/2024, order of 24 February 2025).

19. The Court notes that the protection granted through an application for an interim measure is considered exceptional in principle, whereas the protection granted following the outcome of the main proceedings is considered the standard procedure in the UPC's system: "*in procedural*

terms, the proceedings on the merits are the rule, while the preliminary proceedings, with their summary examination and the possibility of a subsequent legal defence, are the exception. This relationship follows directly from the provisional nature of the order for interim measures". (see UPC CFI no. 387/2025, LD Hamburg, order of 14 August 2025; UPC CFI no. 347/2024, LD Düsseldorf, order of 31 October 2024).
In particular, applications for provisional measures (including injunctions) can be submitted at any stage of the main proceedings, even towards the end. Since there is no respective legal limitation in R. 206.1 RoP, these requests must insofar be regarded as admissible.

20. However, they are subject to the same general principles governing such remedies, namely urgency and necessity (pursuant to Art. 62 UPCA and R. 206 - 211 RoP). These conditions take on particular significance in the final stage of proceedings on the merits.
In other words and according to these same principles, if the proceedings on the merits are in their final stage, the court will consider whether the expected remaining time until their conclusion still justifies an interim measure.

21. With regard to the requirement of urgency, which is not explicitly mentioned in Art. 62 UPCA as a requirement for interim measures, but which R. 209.2(b) RoP provides the Court to consider when exercising its discretion, if the proceedings on the merits have reached the final stages, the Court must assess whether the applicant can be expected to await the final decision on the merits. If so, the Court may dismiss the application for provisional measures.
The Court of Appeal of the UPC has emphasised that urgency must be assessed on a case-by-case basis, and that whether or not there is an unreasonable delay within the meaning of R. 211.4 RoP depends on the circumstances of the specific case (see UPC CoA no. 182/2024, order of 25 September 2024).
In particular (see UPC CoA no. 899/2025, order of 30 March 2026), the Court of Appeal recently ruled as follows:
"*227. When considering the interests of the parties involved, the court must take into account any unreasonable delay in applying for provisional measures, as set out in R. 211.4 RoP in conjunction with R. 209.1(b) RoP. If the patent proprietor's conduct indicates that enforcing their rights is no longer urgent, there is no need to order provisional measures.*
228. The urgency required for the order of provisional measures is lacking only if the injured party has pursued its claims so negligently and hesitantly that it can be objectively assumed that it has no interest in the rapid enforcement of its rights, in which case it would not be appropriate to order provisional measures. In this context, it should be noted that no party can be expected to initiate proceedings without preparation. Rather, adequate preparation of the proceedings is required. The applicant should only apply for a preliminary injunction if they have reliable knowledge of all the facts that make legal action in PI proceedings promising.".

22. Therefore, the applicant must prove that it is not possible to await the final decision on the merits, without being exposed to a serious, unforeseen prejudice that recently arose during the proceedings. If the patent holder decides to submit an application for interim measures during ongoing proceedings, the applicant cannot simply rely on a continuation of the defendant's

unlawful conduct. Instead, the applicant has a specific burden of proof to demonstrate the existence of new, different and supervening factual circumstances which unequivocally indicate an objective deterioration of the existing situation.
It is not sufficient to substantiate these circumstances merely by demonstrating an increase in financial loss. Once infringement has commenced, temporal aggravation of economic damage during the proceedings - without the injured party having sought urgent relief - is usually inherent, as patent infringement is often continued at least until a final order is issued. In other words, if the applicant chooses to seek protection of its rights within the timeframes specific to the proceedings on the merits the application for interim relief must be based on grounds going beyond a temporal aggravation related to the time required to reach a conclusion of the proceedings.

23. Ultimately, it is the applicant's responsibility to provide evidence of new and compelling circumstances that have had an adverse effect on the situation and - only now - give rise to the need for interim relief during the proceedings on the merits.

4. Urgency in the present case

24. In the present case, Ericsson initiated proceedings for the granting of interim measures on 1 April 2026, during the proceedings on the merits which started on 14 June 2024.

25. The Court notes that Ericsson tolerated the defendants' conduct for at least 16 months insofar as it had not filed an application for provisional measures during this time.
However, closer inspection reveals that this tolerance was in fact more extensive beyond the mere time moment, given that the applicant has reported about ongoing discussions between the parties regarding the implementation of the HEVC standard by ASUSTeK, since several years before the commencement of the proceedings on the merits.

26. The new circumstances submitted by the applicant in support of the urgency of the matter are as follows:
1) delay of the main proceedings;
2) two judgments handed down by the German national Courts on 8 and 22 January 2026;
3) launch of new products.

4.1. Length of the main proceedings

27. To assess the matter of the length of the main proceedings, the Court takes into consideration the following procedural facts in relation to these UPC CFI proceedings no. 319/2024, as well as the related counterclaim for revocation, UPC CFI no. 728/2024.

28. Ericsson lodged its statement of claim on 14 June 2024. Initially, there were three defendants: ASUSTeK, Arvato, and Digital River Ireland Ltd..

On 2-6 August 2024, the defendants filed three identical applications for the alignment of their deadlines. They pointed out that they had been served on three different dates. Ericsson gave

express consent, and therefore, by order of 6 August 2024, the deadlines for the defendants to file their statements of defence were aligned, with the deadline for all defendants extended to 29 October 2024 as requested.

On 13 September 2024, Ericsson lodged a first application for leave to amend the claim, followed by a second one, lodged on 30 September 2024.

On 8 October 2024, the parties filed an application jointly requesting that the Court:
(i) grant the claimant's application for leave to amend the claim of 13 September 2024;
(ii) grant the claimant's application for leave to amend the claim of 30 September 2024;
(iii) extend the deadline for the defendants to lodge their statements of defence and counterclaims for revocation to 29 November 2024.
The application was fully granted by order of 21 October 2024.

On 29 November 2024, the defendants filed a counterclaim for revocation and raised a (F)RAND defence. On the same date, the defendants also filed an application pursuant to R. 262A RoP. On 3 December 2024, the judge rapporteur invited the claimant to comment on the application no later than 20 December 2024.
Due to a technical issue with the "old" case management system that prevented Ericsson's representatives from accessing the documents filed by the defendants with the application, the defendants had to resubmit those documents by 31 January 2025. The claimant was then allowed to respond to the application by 17 February 2025.
On 17 February 2025 Ericsson responded to the application pursuant to R. 262A RoP, requesting that any confidential documents (be it ASUSTeK Confidential Documents or Ericsson Confidential Documents) be restricted to an '*external eyes only*' regime (hereafter EEO regime). At the same time, Ericsson also expressly stated that, should it obtain authorisation for the requested EEO regime, it might subsequently file various highly confidential licence agreements, relevant to the decision on the RAND defence.
The parties agreed on the need to extend the terms of the written proceedings until the confidentiality arrangements had been finalised, as it would otherwise have been entirely unclear, in the meantime, 'who was allowed to read what'.

On 26 February 2025, an order was issued acknowledging the complexity of the case, inviting the parties to negotiate a confidentiality regime and to inform the Court of the outcome of the negotiations by 14 March 2025. This deadline was later extended to 17 April 2025 due to the following upcoming circumstances.

On 28 February 2025, the defendants filed an application to stay the proceedings pursuant to R. 311 and/or 295 RoP, due to the initiation of an insolvency procedure for Digital River Ireland.
On 13 March 2025 Ericsson filed an application to withdraw the infringement action brought against Digital River Ireland. On 24 March 2025, Digital River Ireland lodged an application to withdraw its counterclaim for revocation against Ericsson. On 8 May 2025, the Court allowed

the mutual withdrawal, after which the proceedings continued between Ericsson and ASUSTeK / Arvato.

The parties announced on 7-8 April 2025 that they had reached a general agreement on the confidentiality regime, with the sole exception of the application of the EEO regime, on which Ericsson insisted.
On 28 April 2025, the judge rapporteur took note of the parties' agreement and rejected Ericsson's request to implement an EEO regime. In response to earlier request by Ericsson for an extension to the time limits for the written procedure, the same order authorised the claimant to file its reply to the statement of defence and its application to amend the patent by 28 June 2025.

On 12 May 2025, Ericsson filed a request for a review of order 262A dated 28 April 2025.
On 20 June 2025, the panel dismissed the request for review. Considering that this was the first decision on an EEO regime issue, the Court deemed it "*appropriate to grant the Claimant leave to appeal in order to give the Court of Appeal the opportunity to set a standard for the UPC*".

On 30 June 2025, Ericsson filed an application R. 190 RoP, reiterating its intention to submit licence agreements concluded with its partners. The claimant stated the following: "*Accordingly, this/these license agreement(s) are not submitted and were not used by Ericsson's expert* [...] *in his expert opinion, as ASUSTeK shall be able to piece together which confidential information relates to which party/parties. Ericsson reserves the right to produce this/these comparable license agreement(s) at a later stage in these proceedings and reserves the right to request its expert* [...] *to update his expert opinion accordingly, after an order has been given on appeal regarding Ericsson's application for an EEO regime*".

On 8 July 2025, Ericsson lodged an appeal against the review order of 28 June 2025 (UPC CoA no. 631-632/2025).

On 5 August 2025, ASUSTeK filed an urgent application to define the timeline for the remainder of the written procedure, in light of the potential outcome of the ongoing parallel proceedings before the Court of Appeal relating to the confidentiality regime. Ericsson opposed this request.
By order of 13 August 2025, the request was dismissed. The judge rapporteur only granted a slight adjustment - from 1 September to 8 September 2025 - to the next deadline for the defendants in the written procedure.

On 13 August - 4 September 2025, the defendants notified the Court of a change in their representation.

On 27 August 2025, the defendants requested a two-week extension, from 8 September to 22 September, to file their reply to the defence to the counterclaim for revocation. Ericsson gave express consent. By order of 3 September 2025, the deadline was extended accordingly.

ASUSTeK and Arvato's reply was lodged on 25 September 2025.
On 27 October 2025, Ericsson filed the rejoinder to the reply to the defence to the counterclaim, including a reply to the defence to the application to amend the patent.
According to R. 32 RoP, the last term of the written procedure expired on 27 November 2025, the date on which the defendants lodged the rejoinder to the reply to the request to amend the patent.

As previously mentioned, Ericsson reserved the right to submit additional relevant documents if the application for authorisation of the EEO regime was granted.
The Court of Appeal ruled on Ericsson's appeal by order of 26 January 2026, definitively rejecting Ericsson's request to authorise an EEO regime.

On 23 December 2025, Ericsson filed an application with the request to set the dates of the interim conference and the oral hearing.
By order of 16 January 2026, the Court clarified that "*it was awaiting the outcome of the appeal on the confidentiality regime* (UPC CoA Nos. 631/2025 and 632/2025) *before setting the hearing schedule*" and proposed a first set of dates by order: 29 April 2026 for the interim conference, 23 - 24 June 2026 for the oral hearing.
The defendants declared that both the attorneys and their legal team were unavailable to attend the proposed oral hearing date and offered 13 - 14 July as an alternative. Ericsson opposed this solution, providing no details of any actual unavailability on the proposed dates, and counter-proposed an earlier date in the first week of June 2026.
As this last option was not possible for the Court, it proposed a second set of dates for the oral hearing: 14 - 15 July 2026.
Ericsson was unavailable on the newly proposed hearing dates.
On 2 February 2026, the Court invited the parties to indicate any periods of unavailability between 8 June and 16 July and between 15 September and 8 October.
The outcome of this consultation was that the only available dates were 24 - 25 September 2026.

29. Considering the procedural circumstances of the case, as summarised above, the Court makes the following observations.
All the deadline extensions were granted upon mutual agreement between the parties and after an assessment of the fairness of the extension to the parties' rights.
As the decision on the EEO regime was decisive to the unfolding of the proceedings and as Ericsson stated that the submission of further evidence was dependent on a favourable final decision regarding the EEO regime, it was not possible to schedule the oral hearing before the final decision of the Court of Appeal on this issue was delivered. In fact, speeding up the proceedings while the final decision on the EEO regime was still pending would have been contrary to the parties' legitimate expectation of a fair trial, potentially undermining the claimant's right to a full defence.
Finally, the oral hearing was scheduled for the nearest possible date on which all the parties and the court had availability.

In light of these facts, the length of the proceedings was justified by the specific and very complex circumstances of the case, in accordance with the general provision of the Preamble of the Rules of Procedure, paragraph 7.

30. Therefore, contrary to Ericsson's arguments, the evolving duration of the proceedings on the merits did not create a new, different and supervening factual circumstance which unequivocally indicated an objective deterioration of the existing situation. In particular, the order setting the date for the oral hearing, issued in a late stage of the proceedings, does not provide evidence of new and compelling circumstances that give rise to a necessity for interim relief.

4.2. Judgments handed down by the German national Courts

31. In general, the Court observes that the recent conduct deemed prejudicial and carried out by ASUSTeK, as discovered by Ericsson — namely, the failure to pay creditors who are other market operators, as determined by recent court rulings on patent infringement — is 'subjective' in nature, relating to specific parties of these proceedings, rather than being 'objective'.
In other words, there is no allegation that the defendant's financial or asset position has deteriorated to the extent that it affects all potential creditors, including Ericsson, independently.

32. The allegations concern specific cases and cannot constitute evidence relevant to the present case, unless they are supported by evidence of systematic evasive conduct by ASUSTeK that would qualify it as a market operator evading court orders systematically.
In any event, as specified by the defendants, the German cases do not demonstrate a failure by ASUSTeK to pay the damages awarded by a court. Indeed, as clarified by the defendants:
(i) both judgments are not final and are subject to appeal proceedings before the Munich Higher Regional Court (case no. 6 U 273/26 (Wilus) and case no. 6 U 378/26 (Nokia);
(ii) ASUSTeK was not 'ordered to pay damages'; the judgments merely declare ASUSTeK liable for damages, but the amount is to be determined in separate proceedings;
(iii) ASUSTeK has complied with the order to remove the affected product from the German website, and is not offering or placing it on the German market.

33. The Court therefore notes that there is no evidence that ASUSTeK has failed, or will fail, to comply with the German court order, or with any subsequent orders, and / or that it is acting in breach of these orders.

34. It is also undisputed that the judgments relate to proceedings in which ASUSTeK is opposed by parties other than Ericsson, namely Nokia and Wilus.
Any findings contained in these decisions relating to ASUSTeK's conduct, particularly regarding whether it can be classified as a willing licensor, can therefore only relate to its specific dealings with each of the aforementioned parties. These assessments cannot be automatically extended to dealings with Ericsson concerning negotiations relating to the patent at issue in the present proceedings. In one of the two German national cases, the proceedings

also relate to a WI-FI-standard that is entirely different from HEVC. Even in relation to the same standard, however, it is clear that relationships with various patent holders may have had different contents, characteristics, developments and trends in practice, and must therefore be assessed in a completely independent manner.

35. In light of the above, the court reiterates that, in this regard too, Ericsson has also failed to prove the existence of supervening circumstances that adversely affected the situation and gave rise to the need for interim relief during the proceedings on the merits.

4.3. Launch of new products

36. It is undisputed that ASUSTeK has consistently launched new products in 2024 and 2025. For example, in 2025, ASUSTeK launched, *inter alia*, the laptop model Xenbook DUO, Zenbook 14, Vivobook S16 and ProArt P16.
This annual replacement may be considered a routine commercial activity, often referred to as a 'technology refresh', which involves updating or replacing hardware (and software) at regular intervals before it becomes obsolete or fails, without changing the core technology.

37. The applicant has not put forward any further arguments regarding these circumstances.
In particular, Ericsson has not demonstrated that the update to ASUSTeK's commercial offering, implemented in early 2026, was capable of significantly worsening any harm suffered or, in any event, represented a significant increase in Ericsson's risk.

38. Therefore, these circumstances can only be considered as the continuation of a situation that has existed since at least May 2024, and there is no proof that they are significantly aggravating the situation.

5. Alternative request of the applicant: security for damages

39. Alternatively, Ericsson has requested that the defendants be ordered to provide a bank guarantee to secure the recovery of damages.
First and foremost, there are doubts as to the admissibility of this request, since it does not appear to be based on any precise provision of the UPCA and/or the RoP.

40. Various provisions of the UPCA and the RoP cover the admissibility of security, but none of these rules clearly stipulate that the court may order the alleged infringer to provide security to safeguard the patent holder's right to compensation for damage suffered.
Article 60(7) UPCA and R. 196 RoP state that the measures to preserve evidence may be subject to the lodging by the applicant of adequate security or an equivalent assurance intended to ensure compensation for any prejudice suffered by the defendant.
Article 69(4) UPCA and R. 158 RoP stipulate that at the request of the defendant, the Court may order the applicant to provide adequate security for the legal costs and other expenses incurred by the defendant which the applicant may be liable to bear.
Article 82 UPCA, R. 118.8, R. 352 and R. 355 RoP stipulate that where appropriate, the enforcement of a decision may be subject to the provision of security - or an equivalent

assurance - to be given by the successful party to the unsuccessful party to ensure compensation for any damage suffered, in particular in the case of injunctions.
Again, R. 136 RoP stipulates that the Court may stay the application for a determination of damages pending any appeal on the merits pursuant to Rule 295(h) RoP on a reasoned request by the unsuccessful party. If the Court continues the proceedings on the application, it may order the applicant to render a security according to R. 352 RoP, in order to assure a proper balance of interests.
Finally, pursuant to R. 211.5 RoP, the Court may order the applicant to provide adequate security for appropriate compensation for any injury likely to be caused to the defendant which the applicant may be liable to bear in the event that the Court revokes the order for provisional measures. The Court shall do so where interim measures are ordered without the defendant having been heard unless there are special circumstances not to do so. The Court shall decide whether it is appropriate to order the security by deposit or bank guarantee. The order shall be effective only after the security has been given to the defendant in accordance with the Court's decision.

41. As the applicant's request does not fall within the scope of any of the above provisions, it seems to be inadmissible.

42. However, given the nature of the claim and the purpose of safeguarding the right to compensation for damages in particular, Ericsson's claim could fall within the scope of Art. 62(3) UPCA and R. 211.1(c) RoP.
In accordance with these provisions, the court may order the precautionary seizure of the movable and immovable property of the alleged infringer, including blocking their bank accounts and other assets, if an applicant demonstrates circumstances likely to endanger the recovery of damages. The court may also order the seizure of the defendant's property, including blocking their bank accounts and other assets.
The court notes that the purpose of the precautionary seizure is to prevent the reduction or dissipation of financial assets where a claim for damages has been made, by restricting the disposal of certain assets forming part of the alleged infringer's patrimony.

43. For the sake of precision, in the present case the court is not being requested to authorise a precautionary seizure, but rather to order the defendants to provide guarantees for the recovery of damages.
If such a broad application were possible, even by analogy, it would be necessary to refer once again to all the arguments made in points 31 et seq.
As noted above, the two judgments handed down by German national courts merely ordered ASUSTeK to pay general damages, without quantifying or imposing a specific sum. Both judgments were delivered at first instance and have been appealed. This fact has not been contested by Ericsson.
As the case currently stands, the applicant has not provided evidence to cast doubt on ASUSTeK's solvency or demonstrated any deterioration in the defendant's financial position since the proceedings began in June 2024. In particular, Ericsson is deemed to have been aware

since the start of the proceedings that there are no substantial assets in the European Union, particularly in the UPC Member states, which can be attributed to ASUSTeK. On this specific point, there has been no detrimental development in the factual circumstances.

44. Furthermore, there is no evidence that ASUSTeK has behaved in a manner that suggests an intention to evade or delay these proceedings, at least not in the context of this judgment.
In particular, ASUSTeK has explicitly accepted jurisdiction and has not raised any preliminary objections designed to delay the proceedings. This is because ASUSTeK has stated that, should the patent be valid and infringed, it would be interested in obtaining a RAND license.

45. During the oral hearing, the Court raised the issue of the apparent discrepancy between the value of the infringement claim, which was agreed by the parties at the interim conferences to be 1 million EUR, and the amount of the security sought, which was set at a much higher figure. As the application is rejected, any further consideration of this specific point is unnecessary.

6. Conclusions

46. The application for provisional measures filed by Ericsson is dismissed for lack of urgency.

47. The conditions to be met to grant preliminary measures are of a cumulative nature, in the sense that not meeting one of these conditions implies the claims for provisional measures to be held unfounded without the necessity or obligation for the Court to further assess any other requirement. Such limited assessment is in line with the purpose of an application for provisional measures and the procedural-economy of such proceedings which should not lead to a mini-trial on the merits (UPC CFI no. 317/2024, LD Lisbon, order of 15 October 2024; UPC CFI no. 582/2024, LD Brussels, order of 21 March 2025).

48. In light of the above, there is no need for any further assessment on the other issues discussed between the parties.

7. ASUSTeK's application R. 262.2 RoP

49. As previously established in the order issued on 28 April 2025 in relation to the proceedings on the merits, it is not necessary at this stage to issue an order in response to the defendants' request to prevent the public from accessing the information listed in the application filed on 27 April 2026.
Any decision will be postponed until access is actually requested by a member of the public.

ORDER

The application for provisional measures filed by Telefonaktiebolaget LM Ericsson is dismissed.
There is no need to adjudicate on the application R. 262.2 RoP filed by ASUSTeK.
The costs of these proceedings will be determined in the main proceedings.

Parties may lodge an appeal within fifteen days of being served with this order pursuant to Articles 60 and 73(2)(a) UPCA and R. 220.1(c) and 224.2(b) RoP.

Milan, 17 June 2026.

Pierluigi Perrotti presiding judge and judge rapporteur	Pierluigi Perrotti Firmato digitalmente da Pierluigi Perrotti Data: 2026.06.16 18:03:57 +02'00'
Alima Zana legally qualified judge	ALIMA ZANA Firmato digitalmente da ALIMA ZANA Data: 2026.06.16 17:29:59 +02'00'
Rute Lopes legally qualified judge	RUTE ALEXANDRA DA SILVA SABINO LOPES Assinado de forma digital por RUTE ALEXANDRA DA SILVA SABINO LOPES Dados: 2026.06.16 15:52:46 +01'00'
Christoph Norrenbrock technically qualified judge	Digitally signed Dr. Norrenbrock Christoph Robert 2026-06-16 15:04:15 +0200 Unified Patent Court Einheitliches Patentgericht Juridiction unifiée du brevet
for the Deputy Registrar	Digitally signed Ferretti Maddalena 2026-06-17 09:04:16 +0200 Unified Patent Court Einheitliches Patentgericht Juridiction unifiée du brevet