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Claim No. HP-2024-000028

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INTELLECTUAL PROPERTY LIST (ChD)
PATENTS COURT

The Rolls Building
7 Rolls Buildings
Fetter Lane
London EC4A 1NL

Date: Tuesday, 15th April 2025

Before:

MR. JUSTICE MEADE

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Between:

(1) MEDIATEK, INC **(a company incorporated under the laws of Taiwan)** **(2) HFI INNOVATIONS, INC** **(a company incorporated under the laws of Taiwan)** **(3) MTK WIRELESS LIMITED**	**Claimants**
- and -	
(1) HUAWEI TECHNOLOGIES CO., LTD **(a company incorporated under the laws of the People's Republic of China)** **(2) HUAWEI TECHNOLOGIES (UK) CO., LTD**	**Defendants**

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MR. ANDREW LYKIARDOPOULOS KC (instructed by **Kirkland & Ellis International LLP**) appeared for the **Claimants.**

MR. THOMAS HINCHLIFFE KC, MS. JENNIFER DIXON and **MS. KYRA NEZAMI** (instructed by **Bird & Bird LLP**) appeared for the **Defendants.**

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Approved Judgment

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MR. JUSTICE MEADE :

1. In a judgment of 18th March 2025 ([2025] EWHC 649 (Pat)), Leech J dismissed various jurisdictional challenges made by the defendants in these proceedings (collectively "Huawei"), and he also refused (at [214ff]) to make a case management stay in favour of proceedings that are going on in China.

2. The background to this litigation, the parties and the worldwide proceedings, are set out in his very detailed judgment, and I do not intend to repeat them.

3. Following that judgment, a number of important litigation developments have taken place, including a number of further actions being launched, in particular proceedings have been begun in Brazil by Huawei, and matters have been ramped up in the UPC as well.

4. Additionally, although it is hard to be certain what influence this has had on the applications before me today, the SEP/FRAND litigation between Nokia and Amazon settled, as I think is well-known, potentially freeing up time in the Patents Court diary in the Michaelmas term of this year. In any event, concerned as it is by the injunction threat to its business around the world, MediaTek (by "MediaTek" I mean the Claimants collectively) has made an application to expedite the FRAND trial in these proceedings, and it seeks expedition to either the Michaelmas term this year or to February next year, that is 2026, or generally that the FRAND trial should come on as soon as possible, sooner rather than later.

5. Last week, Huawei changed its solicitors and is now represented by Bird & Bird. Again, it is unclear exactly what connection that has with the matters that have come before me today, but certainly close in time to that change Huawei has made an application, again, to stay these proceedings in favour of proceedings in China. Materially, it does so in conjunction with somewhat different undertakings to those which were offered to Leech J on the hearing of the jurisdiction challenge, and which he deals with in the section of his judgment dealing with case management stay (see his judgment at [217-219]).

6. The fresh application for a stay is, to some extent, wrapped up with the application for expedition, but the hearing today has come on very rapidly, and only a day was available for it. Because the application for a stay invites, to some extent, a reconsideration of the matters that came before Leech J in the light of the revised undertakings, as well as because of the sheer timing issues, I told the parties at the beginning of the hearing today that the stay application would be considered by him, that is to say Leech J, next term, and, within practical limits, as soon as possible. Therefore the application for expedition was to be considered today on the basis that there is not going to be a stay. Of course, if Leech J is persuaded that there should be a stay, then that any order for expedition will be set aside and there will not be an expedited trial.

7. As it has turned out, the argument on expedition has taken the better part of a day, although we started slightly later, and I think my instinct that there was not time to deal with the stay application as well has thus been vindicated.

8. MediaTek's application for expedition closely follows the pattern of a number of recent cases, and it seeks expedition so that there can be the determination of

FRAND terms in the hope that this will remove or reduce the injunction risk to it around the world. A very similar situation, at a high strategic level, was considered by Mellor J recently in *Samsung Electronics Co., Ltd & Anor v ZTE Corporation & Ors* [2025] EWHC 705 (Pat), by his judgment of 24th March, where he reviewed the recent authorities. I mention only some of them, but in particular he mentioned the *Nokia v Amazon* litigation, *Lenovo v InterDigital*, the decision of the Court of Appeal in *Panasonic v Xiaomi*, and so on. In that case he concluded that expedition was warranted. I do not believe there is any criticism of the factors that he took into account, which are extremely well known from *Gore v Geox* [2008] EWCA Civ 622. He found that there was a good reason for expedition in the light of the prospect of damaging injunctions being granted against the defendant, by which, in that instance, I mean Samsung, and also, as he saw it, in [97], to protect the integrity of the UK proceedings and to protect against the possibility that Samsung would be driven into having to abandon them altogether. He also helpfully summarised the time to trial that had been directed in FRAND cases where expedition had been granted, at [92].

9. The situation in the present case is a complex one, and, as often happens, both parties have made comparisons with other SEP/FRAND cases. It is tempting to do that and it can be useful, but one has to be careful because all of them are unique.

10. In the current case, the overall dynamic is important, as I see it. The parties have sued one another in a number of fora, and it is agreed that a licence in both directions needs to be considered, but their positions are not mirrors of each other. MediaTek would be content not to enforce any relief if there is a commitment by Huawei to the licence which will emerge from these proceedings and it says it will not enforce any injunctions it does obtain if Huawei does not. Whereas Huawei says that it will enforce injunctions that it obtains, unless MediaTek does one of two things, the first one being taking Huawei's licence terms, which obviously is unattractive at this stage of the litigation, or, otherwise, if MediaTek agrees to the determination of global FRAND terms in the courts of the People's Republic of China. I accept that characterisation of the imbalance in the parties' positions.

11. I just mentioned the possibility of a global FRAND determination in China, and it is important to be clear about what that means. There has been a FRAND hearing in China, and a decision is awaited, but that is to set a rate for Chinese patents; it is not a global determination. Yet, Huawei's recent proposal is that the parties either agree to take from the forthcoming Chinese decision the global rate which it is said will be used to derive the Chinese rate and agreed to that for the whole world, or that MediaTek should agree to re-open the Chinese proceedings so that they can be reshaped to have a worldwide scope. This is unattractive to MediaTek, which is unwilling to agree to that. In part, I think it is obvious that the reason for that is that, in large measure, the jurisdictional battle has been a fight for the parties each to get their preferred forum, but also, more substantively, MediaTek explains, and I accept, that it has been engaged in the Chinese proceedings so far for the setting of a Chinese rate, and might have conducted them differently if they were to have a worldwide scope.

12. There is a complicated and unclear dispute about the extent to which worldwide rates have been deployed by MediaTek and/or Huawei as part of their logic for arriving at the Chinese rate, in the Chinese proceedings, which I do not feel able to resolve conclusively, except to say that it does not appear that MediaTek has done that in relation to the Huawei portfolio, where it seems that its position has primarily been a passive one, attacking Huawei's case.

13. It was explained to me by Mr. Hinchliffe KC, for Huawei, that the purpose of the recently-begun Brazilian proceedings, and indeed of the German proceedings (and I suppose the position would be the same in relation to the UPC proceedings, whose resolution is somewhat further off) is simply to enforce the patents in question. I reject this. In line with the recent Court of Appeal decisions in *Panasonic v Xiaomi* and in *Nokia v Amazon*, the conclusion that I think is the proper one to reach, and which I would reach anyway, is that the purpose of Huawei in bringing these various proceedings, but most especially the proceedings in Brazil, is to try to coerce MediaTek by threat of injunctions coming up very soon into paying supra-FRAND rates, or, alternatively, given the procedural context which I have just explained, to give up on these UK proceedings and to agree, contrary to its preference, to a global rate determination in China.

14. I also heard argument about the German approach to the grant or withholding of injunctions following a successful finding of infringement, depending on FRAND defences. This is in flux at the moment, following the recent decision in *VoiceAge*, but it is also right to say that it is just an unexplored question what attitude the German court would take if it came to consider the grant or refusal of an injunction of a SEP following a finding of infringement, if the Patents Court had decided conclusively what global FRAND terms were, or was about to do that. Similarly, although I accept that Brazil has a regime for considering FRAND defences, it is unknown what the attitude of its courts would be to a concluded or imminent decision about global FRAND terms in this court.

15. None of these comments is in any way a criticism of the procedure of any of those jurisdictions' courts, but it means that it ought to be recognised, as it has been in a number of these cases, that there is real potential utility in defending against an injunction having a FRAND determination in the UK, to which, according to the decision of Leech J, MediaTek has an entitlement as of right. There is also the more *realpolitik* question of whether Huawei would, in the end, ignore a decision of the UK court about what FRAND terms are.

16. So I proceed to consider the question of expedition against the background of there being real utility to a decision about FRAND from this court, in a time frame which brings it at the same time as or close to, possibly even before, proceedings abroad. For example, it might be that in Brazil there is an application to set aside an interim injunction, or those go on appeal, and by the time those stages in the Brazilian proceedings are arrived at, a decision on FRAND terms is close in this court, or potentially has even taken place.

17. I received evidence about the timing of injunctions in these various proceedings. There is a degree of dispute, as there always is in these situations, but it appears that in Germany, and there is little to no dispute about this, the risk of an

injunction arises from October to December this year, it depending rather on whether the court gives a decision in favour of an injunction at the hearing or only later (I mention parenthetically that injunctions have been announced at the hearing by German infringement courts, so that cannot be discounted). In China, there is a considerable variance in opinion. MediaTek say that there is a risk as from this November and Huawei say that really it is not until the end of 2026, to which Huawei respond that that is the absolute latest, and, as I say, that there is some risk from this November.

18. In Brazil, it appears that interim injunctions have already been granted in the last few days. Mr. Lykiardopoulos KC for MediaTek told me, on instructions, during the course of the hearing, that another one has been granted today. However, in any case, events are moving faster in Brazil and if there are not any injunctions, there may be soon, subject to appeals and setting aside, and so forth.

19. The overall position is somewhat unclear, but an injunction risk clearly exists, and will mount as time goes on.

20. The critical question, it seems to me, therefore, on this application, is whether an expedited trial, as sought by MediaTek, can be fitted in, in the timescale that it indicates, because if I consider the *Gore v Geox* factors in the same way that Mellor J did in *Samsung v ZTE*, I would hold that there is a good reason for expedition arising from the prospect of damaging injunctions and, although less emphasis was placed on this today, the desirability of bringing the proceedings worldwide to a close. There is also the point about protecting the integrity of the English proceedings, referred to by Mellor J in [97] and which applies here too. I also hold that there is no risk of interference with the good administration of justice in relation to either of the trial dates sought by MediaTek, in the sense that there is time in the Patents Court diary, either in October or in February without jeopardising any other litigant's trial slots.

21. The question, therefore, revolves around factor three in *Gore v Geox*, whether expedition would cause prejudice, which, in the current context, means could the parties realistically and fairly be ready for those trials dates (I mention it so as to sweep it away that special factors - factor four - seem to me, in the context of this case, to overlap entirely and not require consideration separately from factor one).

22. I mentioned that Mellor J set out in his judgment the sort of time that had been ordered to trial, where expedition had been directed in SEP FRAND cases, and those have ranged from 10 months in *Lenovo v Ericsson* and up to 15 in *Amazon v Nokia*. As I have said already, I think comparing cases is fraught with difficulty in this field, even if it is the best one can do. However, I do think a pattern emerges, and I think it is an important matter to bear in mind that the degree of expedition that MediaTek seeks to a trial in October this year would be much, much quicker than anything that has been undertaken by this court so far in dealing with SEP/FRAND cases. I by no means reject doing a SEP/FRAND determination in that sort of time frame if the urgency was acute, specific and narrow, and if the court had confidence about the FRAND determination being of narrow scope. There is an increasing willingness, on the part of all the judges who deal with SEP/FRAND, to tailor the proceedings to

the resources and time available. However, nonetheless, I think it is an important part of the situation confronting me that MediaTek is seeking a much greater degree of expedition than has been awarded before.

23. I identify two other important factors. One is that MediaTek is starting the FRAND voyage more or less from a standing start, as matters have developed. I understand that some work has begun on the development of its FRAND statement of case, but from what I understand that is at an early stage, and is inhibited, in any event, by not having the relevant licence agreements that are the comparables for the Huawei portfolio. I do not put it in terms of blameworthiness in any way, but I think it has probably been foreseeable for some time that it was possible that MediaTek would prevail before Leech J and then want to press on expeditiously with the FRAND determination. I go no further than to say that I think it would have been perfectly possible to advance matters more than they have been already, including by pressing Huawei for information and disclosure, as appropriate, earlier than now.

24. Mr. Lykiardopoulos quite rightly points out to me that expedition has been awarded in a number of these SEP/FRAND cases when there is not a FRAND pleading in existence. That is true, but the circumstances of those cases have often been different. For example, a lot of them have involved parties who already have a licence and are renegotiating, or when they have already set out their stall in quite a lot of detail in their negotiations, or through offers or otherwise. Whatever the precise reasons, MediaTek's preparations for the FRAND trial itself have not gone very far at all at the moment.

25. Secondly, there are a number of features of this case which make it unusual and of more uncertain scope. First of all, MediaTek contends that it ought not to have to pay any money for a licence to the Huawei portfolio, because it says, of an industry practice that royalties should be taken at the device level and not at the chipset level. Secondly, the parties are in very different commercial businesses. MediaTek is in the chip business and the products ultimately carrying its chips, and which are involved in the licensing and licences are handsets, whereas although Huawei previously had a handset business, fundamentally it is now in the infrastructure business, and that complicates very considerably arriving at a cross-licence and undertaking the various elements of unpacking that will be necessary.

26. Furthermore, MediaTek does not have any bilateral licences of its portfolio, because it monetises its portfolio through pools. It says that it is not going to rely on its pool arrangements for arriving at a FRAND rate and is only going to deploy a top-down analysis, or at least it puts at the forefront of its potential FRAND position a top-down analysis. However, that, of course, is not to say that Huawei cannot rely on MediaTek's pool agreements, and it seems to me quite likely that it will, and it seems to me certain that it will want to give consideration to that.

27. One is looking at a top-down only analysis, with this complication that Huawei's business is infrastructure, rather than handsets, which is what has mostly been looked at in the previous cases involving top-down analysis and the overall value of the stack. Then, additionally, if Huawei does rely on them, looking at

MediaTek's pool agreements to see the overall value there and MediaTek's share and to consider, as is likely to be disputed ultimately, whether the pool agreements are FRAND, and to what extent, and, if not, why not.

28. These are just examples, and I could go on. For example, there will be a question of scaling, and it is possible that MediaTek will, when it works it out in more detail, want to rely on back-ups to the top-down analysis, for example by taking Huawei's rates and trying to scale them to its portfolio, or using what was called the grant-back analysis in *Ericsson v Lenovo*, which, as it happens, I refused to let into the case shortly before trial.

29. All of these considerations fortify what was my original impression, which is that having a trial in October – although I can understand its strategic desirability to MediaTek -- is impractical and would present a severe risk of an injustice being done by the parties not being ready in time. I think that can be seen by quite a number of the steps in the outline trial timetable to October that I was given by MediaTek, starting with its own FRAND statement of case, which it says can be ready by this time next month, followed by four weeks for Huawei to do its response. It is a matter for MediaTek if it makes a rod for its own back and seeks to do a FRAND statement of case that fast. I am very confident from SEP FRAND cases, both when I was in practice at the Bar and from my exposure as a judge since, that doing any sort of job on Huawei's responsive pleading requires substantially more than just four weeks. There are similar very acute pinch points around disclosure, and the proximity of disclosure to fact evidence (although I must say I think the capacity for fact evidence is quite limited) and so on.

30. I have no hesitation in concluding that whilst in another different case it might be possible to do a FRAND determination in five months or so, this litigation is miles from being in that camp. On the other hand, I think that February next year is perfectly doable. That is four additional months, and those are four additional months which do not straddle the summer. They only require taking two months out of the timetable proposed by Huawei, which provides for a trial from April 2026 onwards.

31. I therefore am going to direct expedition of the FRAND trial to February next year. I am going to direct 15 days in court. That is, at the moment, educated guesswork. The crucial next steps are for MediaTek to produce its FRAND statement of case as soon as it is able, and then there can be a procedural hearing which I will endeavour to hear myself, with a better grasp of what MediaTek is actually going to argue for, to set other procedural steps. Huawei can start on its responsive FRAND statement of case, and I would expect it to come to that further hearing with the best idea it can have of the position it is going to take, but I think there can be a useful procedural hearing to set further steps soon, after MediaTek has set the pattern for the case in its FRAND statement of case.

32. I have mentioned already the court tailoring the procedure to the resources available. That applies very much to MediaTek in the current situation, and of course to Huawei, but especially to MediaTek as the party seeking expedition. I think MediaTek must understand that this trial is not to be allowed to blossom into something very complex. Multiple lines of fall-back or alternative

argument are to be discouraged, and it needs to keep things proportionate and simple to maintain the February trial date, and that include a realistic and reasonable approach to all the ensuing steps, including disclosure.

33. I do not think I need give any other procedural directions apart from a date for MediaTek's FRAND statement of case and Huawei's response, other than to deal with the date for disclosure of some early documents which I will come to in a moment.

34. I note briefly, so as to dismiss it, Huawei's express desire to have technical trials on the MediaTek patents before the FRAND trial. Mr. Hinchliffe said that that is because MediaTek's portfolio is of unknown strength and it may be that there are no patents that are valid and infringed. Huawei's preference was to have at least two and possibly three technical trials spreading out into next year and for the FRAND case to take place only after that, and I think at the very earliest, on that view, towards the end of 2026, and possibly into 2027. Mr. Hinchliffe accepts that this is a case management decision for me to make and that my jurisdiction to put FRAND first is real and may be exercised, and that is what I am going to do. I appreciate that MediaTek's portfolio maybe relatively untested, but the reality of the litigation around the world, and especially in China, is the usual expectation that there will ultimately be a cross-licence or that the court needs to set a cross-licence. I think I can regard it as sufficiently unlikely that there are no valid and essential and infringed patents that I can discount it. I really have to say that I think that the technical trials first argument was nothing more than an attempt by Huawei to push off the FRAND trial as far as possible. So I reject the argument for having technical trials first. In due course, I will have a case management hearing to decide when they should be, but they certainly are not to be allowed to interfere with the FRAND trial.

35. I mentioned a moment ago some disclosure that is to be given. The parties have agreed the parameters of this very largely, but there is a timing point, which is that these are Huawei out-licences, where the counterparties have the right to be notified of disclosure, and potentially to object. The dispute actually is now a very narrow one, which is whether, effectively, the disclosure ought to be given in seven days, in the absence of an objection, or 14. This is an odd decision for me to be making, because the licences, I am told, are in terms of reasonable notice being contractually required. So in a sense I would be construing those terms. I am not in a position to do that in a formal sense but I recognise that these counterparties are already aware of the provision of these documents, sometimes in redacted form, to MediaTek in the context of the Chinese proceedings.

36. Notification can take place immediately. That is not in issue. However, my own observation and experience of these situations has been that counterparties do sometimes have real questions to raise. I expect Huawei to notify the counterparties in a constructive way. It has been confirmed to me that Huawei will make clear that it does not oppose the disclosure sought, but that does not mean that there could not be some questions. I think seven days is rather short. If it were not for the notional time pressure imposed by trying to truncate the proceedings as much as possible, I do not think anybody would have said that 14 days was not reasonable. So I opt for 14 days from the date of notification

after which disclosure, on the basis agreed, will be given in the absence of objection from the counterparties. I have a good degree of confidence that that is reasonable notice whatever the strict meaning of the contractual provisions. I have to say that I would regard it as pretty unfortunate, given the disclosure already that has taken place in China, if there is an objection, but if there is, then it will have to be dealt with on its merits.

37. Those are my conclusions.

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