Neutral Citation Number: [2025] EWHC 2600 (Pat)
Case No: HP-2025-000043

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

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

Date: Thursday, 9th October 2025

Before:

MR. JUSTICE MEADE

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Between:

(1) AMAZON.COM INC **(a company incorporated in the state of Delaware, USA)** **(2) AMAZON DIGITAL UK LIMITED** **(3) AMAZON EUROPE CORE SARL** **(a company incorporated in Luxembourg)** **(4) AMAZON EU SARL** **(5) AMAZON TECHNOLOGIES, INC.** **(a company incorporated in the state of Nevada, USA)**	**Claimants**

- and –

(1) INTERDIGITAL VC HOLDINGS, INC **(a company incorporated in the state of Delaware, USA)** **(2) INTERDIGITAL, INC.** **(a company incorporated in the state of Pennsylvania, USA)** **(3) INTERDIGITAL MADISON PATENT HOLDINGS SAS** **(a company incorporated in France)** **(4) INTERDIGITAL PATENT HOLDINGS, INC.** **(a company incorporated in the state of Delaware, USA)**	**Defendants**

(5) INTERDIGITAL CE PATENT HOLDINGS SAS
(a company incorporated in France)
(6) THOMSON LICENSING SAS
(a company incorporated in France)
(7) VANTIVA SA
(a company incorporated in France)

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MR. ANDREW LYKIARDOPOULOS KC (instructed by **Hogan Lovells International LLP**) appeared for the **Claimants**.

DR. MICHAEL BLOCH KC and **MS. JENNIFER DIXON** (instructed by **Bird & Bird LLP**) appeared for the **Defendants**.

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APPROVED JUDGMENT

(Hybrid hearing via Microsoft Teams)

MR. JUSTICE MEADE:

1. I am giving this judgment following a case management hearing today. I gave my decision on the aspects which remained in issue (some procedural steps had already been completed or were agreed) immediately before starting on these reasons, and in short I have directed another case management hearing in a window from 22 October 2025, with directions for evidence and other associated matters. That hearing will be for up to 2 days because it will concern major decisions for the future management of these complex and high value proceedings. For reasons which will appear, I need, to explain my decision, to say a fair amount about the background and events down to now.

2. These are RAND proceedings - as opposed to FRAND proceedings - because they concern digital streaming, and the ITU-T regime, rather than the ETSI regime, as was touched on in a number of hearings in the *Nokia v Amazon* litigation (which has since settled, and see further below). The parties need no introduction.

3. I have been addressed on one particular confidential matter today, which does enter into my reasoning, but not to such a significant degree that I need to explain it or give a confidential section to this judgment. I note that although this was a public hearing I sat briefly in private to consider that confidential matter, on the basis that the confidentiality would be lost if I did not, and the parties agreed to that course, and that the matter was indeed confidential.

4. The nature of the proceedings is extremely complex, but it is somewhat similar to the *Nokia v Amazon* litigation, to which the reader of this judgment can refer if they want to know further details (e.g. [2025] EWCA Civ 43, under the name

Alcatel v Amazon). The difficulties and complexities compared with the ETSI-based telecoms cases of recent years are that there is a dispute over whether the RAND obligation under the ITU-T regime extends to both encoding and decoding patents or only to decoding, and the fact that it is said by Amazon in these proceedings, and in general in its dispute with InterDigital, that there is the possibility of specific performance of the ITU-T RAND obligation (which is subject to Swiss law), i.e. that InterDigital could be required actually to grant a licence on RAND terms. That was disputed by Nokia in *Nokia v Amazon* and is disputed by InterDigital in the same way: it says that there is no possibility of specific performance.

5. There has been negotiation between the parties. It is controversial what has happened in the course of those negotiations and who if any one is at fault over various aspects of it, which I will not go into, partly because it is not important to my decision, and partly because of a risk of trespassing on to the confidential matter. However, for whatever reason, and without any comment or otherwise on the appropriateness of it, which is hotly debated, Amazon began proceedings in the UK and elsewhere (in particular Brazil), with the UK proceedings beginning by a Claim Form on 29th August of this year and with Particulars of Claim of the same date. There are seven intended defendants; five InterDigital companies who are defendants 1 to 5; defendants 6 and 7 are Thomson and a Vantiva entity, who are, as I understand I (and I do not have all the details), the predecessor in title to InterDigital for at least some of the patents in suit. They, that is to say defendants 6 and 7, have not been represented today, and it may well be that their importance diminishes as the proceedings go on, but in any event there is no need to say anything more about them today.

6. The proceedings are extensive. They include challenges to the validity of InterDigital streaming patents, challenges to their essentiality, a claim for declarations that they are not infringed, an allegation that InterDigital has abused a dominant position, and, pertinently, for certain declarations about InterDigital's obligations under the ITU-T RAND commitment. There is also the above-mentioned major issue over whether such RAND obligations as InterDigital has extend to encoding as well as decoding patents, and their interaction with video devices on the one hand and streaming services on the other, a key part of the commercial picture being Amazon Prime.

7. The proceedings as initially formulated included a declaration that Amazon was entitled to be offered a licence to the challenged patents on RAND terms, and a declaration of licence terms to the challenged patents, including, and this is critical to understanding the litigation landscape, terms that are adjustable pending full court determination, if granted before such a determination. That is the sort of relief that touches on the UK court's jurisdiction to make declarations about patentee's obligations to grant interim licences under RAND or FRAND obligations.

8. There is a complicated picture about the precise relief claimed in the prayer for relief, which I do not think I need to pick through, for reasons that will become apparent. However, importantly, the declaration of RAND terms includes what might be called substantive long-term permanent RAND terms and interim RAND terms adjustable pending a full court determination.

9. There are also complicated sequences of events surrounding service of the proceedings on InterDigital. Discussions between the parties about how to

progress that and how to deal with the unsurprising challenge that InterDigital propose to make to this court's jurisdiction began soon after the issue of the claim form and continued. That led to two orders of Master McQuail.

10. The first order, of 18th September, was made on Amazon's application for permission to serve out. The Master permitted it. I do not need to go into the details.

11. The parties continued discussions about the timing of the Part 11 jurisdiction challenge application that InterDigital intended and intends to bring, and that led to the second order, a consent order, sealed on 30th September and dated by the Master on 29th September, setting some outline directions for the jurisdiction hearing, and providing that a timetable should be agreed, which, subject to the court's availability, would allow the hearing to take place no later than 30th January next year, 2026.

12. In the meantime, InterDigital prepared and made applications in the Munich 1 regional court of Germany and in the UPC, seeking anti-suit relief of significant scope -- I will have to come back to that in a moment -- to restrain Amazon from carrying on at least aspects of the UK proceedings. The applications came on for determination on paper (primarily – see below). The German court made an order on 26th September, which was clarified by a further order on 1st October. The clarification I find somewhat complex, but accept that it was well-motivated and seen as necessary. I do not know whether it was instigated by InterDigital or by the Munich court, and it does not matter. However, in any event, two orders were made by the German court on 26th September and 1st October, but the substantive one on the former date.

13. The UPC made its order on 30th October. Both the German and UPC Orders were served at the same time on 2nd October (I should probably say purported to be served since I think Amazon may be questioning the precise dates or details).

14. It is said by InterDigital, in a supplemental skeleton served on its behalf by Mr. Bloch KC, who appears for them today, that InterDigital felt it was appropriate to serve them together. Mr Bloch declined to elaborate on what that meant (I am also unclear why two antisuit injunctions were necessary in practically identical terms from different courts, but that was not a matter ventilated at the hearing before me).

15. As I have said already both orders were in substance determined on the papers in view of what InterDigital said was very significant urgency. It will be relevant background to what I have to say that the German court asked InterDigital's representative for further input, because the German court said (I understand in a telephone call) that it might not be willing to grant the order sought *ex parte*. InterDigital's German representative said that, because of the perceived risk of countermeasures (that is a reference, as I will come on to, to an *ex parte* application for an anti-anti-anti-suit injunction by Amazon if alerted to InterDigital's application), InterDigital would prefer to withdraw its application than proceed *inter partes* in the first instance. I am informed, in Mr. Bloch's skeleton, that this happens sometimes and is common practice. After further deliberation by the German court's panel, the order was granted *ex parte*. I inquired as to whether there is a note of the call with the German court. Mr Bloch said that any note made by the German court would not be available

to InterDigital, which makes sense, and that it would be explored whether InterDigital had a note and/or if it did, whether it might be privileged.

16. The UPC Order was made entirely on the papers *ex parte*.

17. So, to summarise, both courts accepted that they should make the orders sought, both courts decided to proceed *ex parte,* and both courts, I think it is fair to say, accepted InterDigital's submissions that there was real urgency because the UK court might act swiftly to make an interim licence declaration, and that there was a risk of an anti-anti-anti-suit order if the applications were not dealt with *ex parte*.

18. The orders made prohibit Amazon from advancing certain claims in these proceedings, which, as I have said, I will explain in more detail in a moment. InterDigital accepts, indeed asserts, that the claims which are restrained are contractual claims. InterDigital does not currently have any patent infringement or RAND proceedings on foot in Germany or the UPC (and hence there are not current proceedings in which Amazon could bring the anti-suited claims if not in the UK)but rather the anti-suit orders are expressed in the courts' reasons to be made to protect InterDigital's ability to bring such claims in due course if it decides to. InterDigital felt inhibited at this hearing from outlining its future intentions in relation to infringement or other claims. This was partly to do with the confidential matter and I accept that its reticence was genuine and justifiable.

19. Against that background, I make what I think is a crucially important statement about this situation. There is a significant difference, as both sides have pointed out, and indeed as the German and UPC decisions point out, between the current approach of the UK courts and the German and UPC courts to interim licence

declarations in SEP/(F)RAND cases. Two of the key differences of opinion, and I am summarising and simplifying greatly, are whether and to what extent (F)RAND obligations are purely a matter of competition law, and, secondly, whether the interim licence declarations which the UK court has now made following Court of Appeal decisions in a number of cases starting with *Panasonic v Xiaomi* [2024] EWCA Civ 1143, unduly hinder the freedom of patentees in other countries' courts (Arnold LJ in *Panasonic* sought to make clear at [94]-[97] why he regarded the declarations as appropriate having regard to comity, and that other courts are free to enforce patents entirely as they see fit, but, as the UPC anti-suit decision in this case in particular makes clear, they do not agree).

20. These are genuinely-held differences between the different courts, which will no doubt be explored and perhaps bridged by discussion, by further decisions, possibly by appeals to higher courts in all of the jurisdictions, or by references to the CJEU, and by various other means. There is no lack of comity in courts differing, and, even, as it happens, in disagreeing about what comity means and requires. It is absolutely not my function at this hearing to go into those important issues or in any way to criticise or scrutinise what the UPC or the German courts do. Nor is it my function to second-guess their decisions about the grant of anti-suit relief.

21. However, for reasons I will come on to in a moment, the way that InterDigital conducted the UPC and German litigation is said by Amazon to be relevant to what I have to decide, and I agree that it is at least potentially so. I also have concerns of my own. Not, I can only stress again, with how the German court

or the UPC have proceeded, which is completely a matter for them, but with InterDigital's approach and the way it has depicted the UK courts' practice.

22. I have striven, in the course of this hearing, to emphasise continuously that my role is not to scrutinise those others courts. As I said to the advocates during the course of the hearing, if I omitted to mention that every now and then in what I said, that is not because I had forgotten it. I have borne it in mind at all times and it is the bedrock of my proper approach to the current, very unusual, situation.

23. I became aware of the UPC and German orders (I think it is fair that I say this), as I suspect many other litigators and members of the judiciary across Europe did, from a blog on the internet last week, on 2 October, the day the orders were served, and I noted the short timescale which appeared to be set for Amazon's compliance with the orders. As I have made clear already, it is by no means my function to get involved in those orders or the decisions leading to them at all, but it immediately occurred to me that the orders made were likely to have an impact on the immediate case management tasks facing this court, in particular because of the jurisdiction challenge scheduled by Master McQuail which I was aware of, simply because I keep an eye on what matters are going to come before the Patents Court in the near future. So with the objective of case managing this litigation, I directed this hearing along with associated orders for its conduct (an Order of 6 October 2025), and following some discussion between the parties it came on today.

24. It sometimes happens that another court issues an anti-suit injunction to restrain the continuance by a litigant of English proceedings, and since the English court

has and sometimes uses the power to grant anti-suit injunctions, it can hardly be objected as such if anti-suit injunctions are granted in the reverse direction. The complication that arises in this case is that for very genuine reasons, which I respect, the German and UPC courts have only directed anti-suit relief to Amazon's conduct of part(s) of the UK claims. One thing that I was particularly concerned to work out, and invited the parties to agree, was which parts of the UK proceedings might go ahead without breach by Amazon of the orders of the German court and the UPC, and which might not.

25. InterDigital has made the important submission, which I accept, that it is not for me to construe, interpret or enforce the UPC or German orders; that is completely a matter within the jurisdiction of those courts and if there is a dispute about them then those courts will need to consider it. But to the extent it would be possible to at least understand what the parties' positions were, I think it was appropriate to, and I did, invite them to try to agree. After some interchanges, agreement was at least reached, which I think is critical for the case management of this litigation, and I may say I think justifies this hearing in itself, that the UPC and German orders *do* bite on Amazon's conduct of any *interim* licence declarations or other similar relief, but do *not* bite on what might be called the substantive or long-term decisions about *final* RAND terms for the future (InterDigital briefly took the position that the anti-suit orders also bit on final RAND terms but retreated from that position just before this hearing. Mr Bloch said that InterDigital had not taken that position and that what it said had been misinterpreted, but I reject that).

26. The agreement about the interim/final distinction has enabled high-level identification of that which can go forwards and that which cannot, at least for present purposes. There are surrounding discussions about details of the UPC and German orders, which do not have any impact, in my view, on my case management of these proceedings, and which it would be wrong for me to try to resolve.

27. The position is further complicated by the fact that Amazon has a right, whose exercise it is still considering, to seek an inter partes review of both the UPC and the German orders (I suppose it would need to succeed on both in order to achieve a practical victory, since the orders are in effectively identical terms, but that was not discussed at the hearing). However, in the event, as I say, substantive, final RAND, it has been clarified, is agreed and accepted not to be affected by the anti-suit relief granted in Germany and in the UPC.

28. I have made various other procedural directions about bundles, translations and so on, and those have all been complied with, and I am very grateful for the parties' rapid work on that. I also made clear, in the 6 October Order that I made calling for this hearing, that nothing that I do today has the effect that InterDigital submits to the jurisdiction of this court. InterDigital is contesting that. The Order also made explicit that nothing in it in any way affected Amazon or InterDigital as to their conduct of the UPC proceedings or the German proceedings.

29. I said, in the same Order, that Amazon and InterDigital ought to indicate prior to this hearing what their proposals were for the management and timing of the

jurisdiction challenge, that I might give further directions, which I propose to do.

30. Amazon, for its part, invites me to bring forward the jurisdiction challenge hearing which Master McQuail ordered. It will be recalled that that was no later than 30th January next year. The basis for that request is that Amazon criticises InterDigital for, on the one hand, saying in the UK party and party correspondence that there was no urgency about these proceedings or the jurisdiction challenge (which InterDigital, I am satisfied, did indeed say, right from the beginning) and successfully getting a relatively slow path to a hearing of that challenge, whilst at the same time taking a different position – saying there was extreme urgency - in the UPC and Germany, and changing the situation on the ground by obtaining anti-suit relief without telling Amazon. The negotiations over the second Order made by Master McQuail went on after InterDigital had the first German order (26th September) but was holding back from serving it (done on 2nd October). Amazon also says that the overall global dispute is now a lot more urgent.

31. This will have to be debated in due course but in any event it explains why there has been argument about events in the UPC and in Germany.

32. I should make it clear that Amazon has not indicated any intention in the course of this hearing not to respect the anti-suit injunctions, without prejudice to its right to seek a review of each, and nor has it intimated any interest or intention to seek any anti-anti-anti-suit order, or anything like that. At the moment, subject to the review(s), Amazon is working on the premise that the interim RAND relief, interim declaration, is, indeed, blocked by the anti-suit

injunctions. No doubt Amazon may disagree with what happened. I simply indicate that it is proceeding in this hearing and for procedural purposes on the basis that they are a reality and must be respected.

33. Amazon's same argument about timing of the jurisdiction challenge hearing also focuses on the way that the anti-suit applications were made by InterDigital, and supported, in the UPC and in Germany. I emphasise once more that the criticisms are directed at InterDigital as a litigant and not the courts. The UPC and German courts can only act on the basis of the evidence and arguments that the parties put before them.

34. There are two closely related aspects to this, which is what InterDigital said about the likely future timing of any UK interim licence declaration proceedings, and hence the urgency in Germany, and, secondly, what it said about the risk that Amazon, if notified of the German proceedings, might seek an ex parte anti-anti-anti-suit injunction in the UK. These were matters supported by a witness statement of a partner at Bird & Bird, InterDigital's Uk solicitors. When I gave these reasons orally in court I used the solicitor's name; on reflection, and while I think it was not at all unfair or wrong for me to do that, the name having been put in oral and written submissions quite extensively, and no objection having been made, I omit it from these written reasons on my own initiative because for, reasons given below, I accede to InterDigital's request to put in evidence seeking to explain and justify what was said and done. So my views are and must be provisional and I feel it better not to name the person in a judgment which might be quite widely read, against the possibility that their conduct is put in a different light by later evidence. I can of course

always review this decision. The version of the statement I have seen, I think, is headed in the UPC proceedings, because it refers to the Rules of Procedure, but, as I understand it, the same witness statement was put in in both sets of proceedings.

35. Paragraph 2 says this:

> "To the best of my knowledge, Amazon have not made any interim applications yet, but they have set themselves up to do so (see prayer for relief (15)) [*I interject that that is the prayer to the Particulars of Claim*]. This relief requested in the particulars of claim (i.e. prayers for relief (4) to (6)) is granted only after trial, so in order to seek interim relief (i.e. seek an order from the court before trial) Amazon, i.e. the applicants in the rate-setting proceedings, have to file an 'application notice'. The court will then list a hearing. It is likely that Amazon will ask for this application to be expedited, so that the hearing happens soon. The Court may issue a decision in the hearing or shortly afterwards."

36. Paragraph 5 said this:

> "If Amazon found out about InterDigital's AASI request before the German court takes a decision, it might seek an interim injunction in the UK ordering InterDigital to withdraw the AASI before the Unified Patent Court can decide. The English High Court could issue such an order within a few days *ex parte*. This order would be enforceable by means of severe coercive measures. InterDigital would therefore have to comply with such an order."

37. As I have said already, Amazon says that it was unfair to proceed in this way, arguing for a high degree of urgency, while trying to negotiate a slower timetable in the UK.

38. Similar statements are made in a number of other documents that I have been shown. In particular, I have been shown statements made in one of the German filings, where it was said that there was objective urgency, because the UK court might act very quickly. And in particular, my attention was drawn, by

Mr. Lykiardopoulos KC, who appears for Amazon, to what was said in submissions of September 24, 2025 to the Munich Regional Court in the German proceedings, at paragraph 90:

> "Due to the announcement of an interim license in the statement of claim and Amazon's failure to clearly refrain from infringement after being requested to do so ... it can be assumed that the respondents will infringe the applicants' patent rights in the near future."

39. I should explain that that is not talking about infringing the substantive patent, it means interfering with the rights of InterDigital to assert its patents in due course. That is really by way of explanation. It does not bear on the substance of what I have to say.

40. Then it says:

> "Assumed that the respondents will promptly file the ASIL application described in **C.II.1**."

That is an application for an interim licence declaration.

> "The court is expected to schedule a hearing on the ASIL application very soon. The UK High Court would announce its decision on the ASIL application immediately after this hearing."

41. That is said to be supported by the Bird & Bird statement and can only be a reference, I think, to its paragraph 2.

42. Then at paragraphs 93 to 95, InterDigital came on to deal with the request for an *ex parte* hearing, to which they said as follows:

> "93. The requested injunction must be issued exceptionally without prior hearing of the respondents -- *ex parte* -- in order not to jeopardize the purpose of the requested order. Otherwise, there is a risk of irreparable damage to the applicants.

> 94. If the respondents become aware of this application for an injunction in advance, there is a risk that they will apply for interim measures that could pre-empt a decision on the present application and undermine its basis:
>
> 95. In the meantime, there is a risk that the respondents will apply to the UK High Court for interim measures against the present AASI application. In particular, it is to be expected that, with knowledge of the present AASI application, the respondents would apply to the UK High Court for an order to withdraw the present application ('AAASI'). The UK High Court could issue such an order *ex parte* within a few days. This order would be enforceable with severe coercive measures. The applicants would therefore be unable to oppose such an order."

43. As I say, this is a pattern of conduct criticised by Amazon, and contrasted with the attitude being taken in relation to the discussions leading to Master McQuail's second order, and is part of the basis for Amazon's request to bring forward the jurisdiction hearing from January.

44. In addition to its direct relevance to the arguments to be pursued by Amazon, I have a real degree of concern about the evidence that was given by InterDigital and the arguments that were made. I emphasise yet again, but with particular stress in this context, that it is not my role to look into what the standard for these applications is in other courts in Europe or anywhere else; that is for them. Moreover, as I have indicated already, it is entirely a matter for foreign courts whether to make anti-suit orders. But I think it is fair for the UK court at least to look and see whether its procedure is reasonably accurately described, not least because I expect that it may be useful to continental courts in deciding what to do. Of course, they have no obligation to consider the UK view.

45. Mr. Bloch listened patiently to Amazon’s arguments and the expression of my concerns, and has indicated that InterDigital would want to meet them with evidence, both about whether what was said was correct, and potentially (and

there is no obligation on InterDigital to do this, they can make their own decision) to explain how it came to be said. Because I am going to accede to Mr. Bloch's request to cover these matters in evidence, I will only very briefly indicate my concerns, but I need to do that much, because they feed into the reasons for my decision. Also, I think it is fair to InterDigital to understand my concerns so as to direct their explanatory evidence. I make it clear that although Mr Bloch has asked for time for InterDigital to put in evidence, it was not ambushed at the hearing by the points, their having been identified by Amazon in its skeleton argument and by me in an email the day before this hearing.

46. Turning to the first matter, I do not believe that there was any real possibility that the UK court would schedule a hearing on the ASIL application "very soon". Considering the various actions where that sort of application has been made, starting with *Panasonic v Xiaomi*, continuing through *Lenovo v Ericsson*, *Nokia v Amazon*, *ZTE v Samsung*, and the various recent cases involving Nokia brought by Acer, Hisense and Asus, in none of them has a timetable anything like that pertained. The applications have taken weeks and months to be scheduled and then to come on, and it is also, I think, with all due respect to the submissions made to me, wildly unlikely almost to the point of inconceivable that the High Court in that sort of case would announce its decision on the interim licence immediately after the hearing. It just has not happened; the hearings are very complicated; although Mr. Bloch submits that in theory the UK High Court has the power to announce its decision with reasons to follow, and occasionally does so (in situations very different from this), I do not think there is any prospect that that would have happened in these situations.

47. The situation in the other UK interim licence cases will all have been known to Bird & Bird, a very experienced firm in this field which acted for Nokia in *Nokia v Amazon*. All the main firms follow all the main other litigations.

48. For reasons that I discussed in more detail with Mr Bloch in the course of the hearing (and which InterDigital wish to meet in evidence), I am sorry to say, and I say this so that InterDigital have a fair opportunity to respond, that I think that the statement made about timing was, objectively speaking, obviously incorrect and unmaintainable. The German and UPC courts are, as I have said, masters of their own courts and cases and procedures and may wish to assess this themselves, which is a right I absolutely respect. It is also exclusively a matter for them what significance they attach to it, if any.

49. In relation to the assertion that the UK court might grant an anti-anti-anti-suit injunction, the position is fractionally more nuanced. I accept the point that Mr. Bloch made, that, in principle, that jurisdiction exists. However, there are many reasons to think that it would have been really very difficult for Amazon to deploy it (not that they did so or have tried to do so, although that can only be said with the wisdom of hindsight). The case law indicates that all anti-suit injunctions (particularly those not based on contract under a jurisdiction clause), have to be approached with care, and that the more "antis" there are in front of the "suit", if I can put it that crude way - the greater the degree of retaliatory escalation - the more caution has to be exercised. I also think it is a further hurdle, and unlikely, that the UK court would act *ex parte* in the way that InterDigital suggested.

50. Bird & Bird could quite fairly have said, and InterDigital could fairly have said, that the jurisdiction exists in theory, but was unlikely to be successfully used and even then was unlikely to be exercised *ex parte*, but that would be a very different matter from what was actually said. There is, as I said, quite a bit of UK case law on this, but there is no indication that it was considered for the purposes of the Bird & Bird evidence. It may be that in the evidence they want to put in, InterDigital will explain that it was, but as at present it seems unlikely. Although Mr. Bloch indicated in his skeleton a US case where an anti-anti-anti-suit injunction was, it is said, granted, that is a rather different matter from what the UK court would do. Had the Bird & Bird evidence been prepared after consideration of the UK case law, it could at least have been mentioned at this hearing, but it was not.

51. Amazon say all this will be a relevant part of the decision on timing and I do think it is only fair for this court, since I have been shown it anyway, to have a degree of interest in whether what is said about its procedure is correct. I reiterate: the UPC and the German courts can only act on what is put before them. They have to rely on what they are told, and that is why what I have said now is in no way directed at them; it is a concern, subject to later evidence still to be submitted, relevant to these proceedings, about what InterDigital has done.

52. Mr. Bloch very fairly says that InterDigital will want to respond to these concerns, and I think it is only right that that should happen, and indeed it has to happen in response to Amazon's argument about the timing of the jurisdiction challenge. That cannot happen in haste, and I now have to turn to consider what to do with regard to two timing matters. One is about deciding when to hold

the jurisdiction challenge and the other is about when to consider an application which Amazon have made in the last 24 hours, to expedite the main RAND issues (not the interim issues, obviously) to a time in the first half of next year, specifically May. Amazon says that since they have been deprived of the ability to protect their interim position by an interim declaration, their business is at risk until final RAND is determined.

53. Amazon asked me to deal with the RAND main trial expedition application today. I think that would be a folly, and I accept InterDigital's submission that it must have time, properly, to respond to that application. I would additionally observe that the experience that I gained in the course of *Amazon v Nokia*, which I case managed at some stages, is that there could be quite a good deal in that trial to determine, and that to decide expedition in a vacuum would be unfair to InterDigital and could lead to a procedural series of problems downstream. So I do not intend to deal with expedition of the RAND trial today.

54. As I said just before giving these reasons, I think a hearing of the expedition application can come on and still do justice to both sides in the last week or so of October. I have made enquiries, and to the extent that it is appropriate to expedite the main trial, which I emphasise remains to be decided, the opportunity to do that will not be lost by the intervening couple of weeks or so. In other words, if there is space in the list that in justice should be given to this RAND trial, it will not be filled up in the meantime.

55. Similarly, I accede to Mr. Bloch's submission that there ought to be time to put in evidence about the timing of the jurisdiction hearing, because there will be important matters to cover there, both in relation to the confidential matter,

which I will not go into, and in relation to an undertaking, which is offered by InterDigital, to try to head off a determination of the RAND issues in the UK by offering, that in some situations and for some period it will not allege infringement of its Codec SEPs against Amazon for its UK-designated Codec SEPs.

56. I was only told about this undertaking today, because it was only offered in a letter from Bird & Bird today, but I accept the submission that that is a matter that has to be considered. It is, I think, a novel point in this context, and will require careful consideration. Mr. Bloch put it this way in paragraph 14 of his supplemental skeleton:

> "Amazon's claim is contractual, and the proposed undertaking removes any substantial connection with English property rights. Amazon's claim relates to a Swiss law contract that has been entered into by two US companies, and there is insufficient connection with the UK and to render the courts of England and Wales the appropriate or most convenient forum."

57. By way of clarification (and as I think I have already mentioned), Mr. Bloch accepted, in response to my question, that Amazon's claim is contractual, both as to the substantive final long-term RAND issues and as to the anti-suited interim licence application.

58. I also take seriously Mr. Bloch's concern that InterDigital, and those involved, ought to have a proper opportunity to address the concerns I have expressed about what was said about the speed with which the interim licence in the UK might be covered, and in relation to the AAASI. It is only right that that should be addressed, and, as I have indicated, it is pretty much inextricably bound up with the position that Amazon is taking on the timing of the jurisdiction challenge hearing. If Amazon is successful in its arguments about when the

jurisdiction challenge should be heard, I do not think the earlier date which it wants will have become impractical by reason of the time which elapses between now and late October.

59. My conclusion is that there will be a hearing in a window starting on 22nd October, and stretching on until about 29th or 30th, depending on judge availability, to cover the matters I have just indicated. I have a preference that that should be heard by myself or Mellor J, and we can return very briefly to talk about the timetable.
