

## InterDigital Beats Antitrust Suit Over Patent Licenses, For Now

By **Henrik Nilsson**

*Law360 (August 8, 2023, 8:12 PM EDT)* -- A California federal judge on Tuesday dismissed with leave to amend a suit brought by a Swiss chipmaker alleging that InterDigital Inc. is breaking antitrust laws by demanding unfairly high royalty rates to license patents considered essential to 3G and 4G cellular tech standards.

In a minute order following a hearing on Wilmington, Delaware-based licensing company InterDigital's motion to dismiss, U.S. District Judge Cathy Ann Bencivengo tossed Zurich-based U-blox AG's antitrust suit with leave to amend.

The judge's ruling comes after InterDigital accused U-blox, which makes microchips for wireless mobile devices, of manufacturing a dispute to impose litigation costs and secure a favorable patent licensing deal.

U-blox filed the underlying complaint on Jan. 1, alleging that InterDigital violated commitments to the European Telecommunications Standards Institute, a standards-setting organization, by failing to license its patents to U-blox on "fair, reasonable and nondiscriminatory" conditions.

InterDigital has collected "approximately 2,400 U.S. patents and 11,500 non-U.S. patents" and is now demanding "royalties that are discriminatory and far higher than FRAND rates," according to the suit.

U-blox urged Judge Bencivengo to set a fair licensing rate and stop InterDigital "from wrongfully interfering with U-blox's customers and downstream manufacturers."

But in April, InterDigital argued that it never accused U-blox of actually infringing on any patents, saying U-blox is seeking to force InterDigital to grant a patent license.

"U-blox has no contractual right to such a license, and InterDigital has not sued (or even threatened to sue) U-blox for patent infringement. There is thus no cognizable dispute between the parties," InterDigital argued in its motion to dismiss.

Additionally, InterDigital said that the patents it was trying to license to U-blox were not "essential" to manufacturing any products U-blox sells, meaning there isn't any legal way to apply antitrust laws that let courts jump in and set rates.

Much of the language in that lawsuit over InterDigital's licensing practices had been largely identical to

language in an earlier lawsuit that U-blox filed in 2019. That case was settled and according to InterDigital, the terms of the settlement also prevent U-blox from filing the kind of lawsuit that it filed ever again.

Counsel for U-blox declined to comment on Tuesday. Lawyers for InterDigital did not immediately return a request for comment.

U-blox is represented by Martin Bader, Ryan Patrick Cunningham, Stephen S. Korniczky, Ericka Jacobs Schulz and Mona Solouki of Sheppard Mullin Richter & Hampton LLP.

InterDigital is represented by Richard A. Kamprath, Nicholas Mathews, Blake Bailey, James H. Smith and Eliza Beeney of McKool Smith and James J. Yukevich and Nina J. Kim of Yukevich Cavanaugh LLP.

The case is U-blox AG et al. v. InterDigital Inc. et al., case number 3:23-cv-00002, in the U.S. District Court for the Southern District of California.

--Additional reporting by Andrew Karpan. Editing by Jay Jackson Jr.