

UK High Court dashes Lenovo's hopes to secure an interim license to Ericsson's standard essential patents

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By [Abhishek Kumar](#)

Lenovo's request to the UK High Court to declare that Lenovo and Ericsson should agree to an interim license on fair, reasonable and non-discriminatory, or FRAND terms until the court decides a final FRAND rate for Ericsson's standard essential patents, or SEPs was turned down by the court today. Judge Jonathan Richards held that the declaration sought would interfere with the principle of comity. Additionally, Richards said he could not conclude to a high degree of assurance that Ericsson acted in bad faith.

Lenovo's hopes to secure an interim license to Ericsson's portfolio of cellular Standard Essential Patents, or SEPs were dashed after the UK High Court dismissed its application for the interim license.

Judge Jonathan Richards sided with Ericsson's arguments that ordering Lenovo and Ericsson to enter into a short-term license agreement would interfere with the principle of comity as the case is being decided by courts in other jurisdictions, such as the US and Europe. The principle of comity calls for a court in one jurisdiction to respect the decisions and proceedings of courts in another jurisdiction.

Lenovo was seeking a High Court declaration that would have compelled Ericsson to grant it a short-term license on fair, reasonable and non-discriminatory, or FRAND terms until courts in the UK determined the final licensing terms. The ruling comes amid a broader context of global technology patent disputes as courts worldwide grapple with balancing patent holders' rights against the need for widespread access to standard-essential technologies.

A decision in Lenovo's favor could have eliminated the need for injunctive relief entered against Lenovo in other jurisdictions including Brazil and Colombia.

Richards rejected Lenovo's argument that there would be "nothing special about the short-term license" and that it was wrong to describe it as an "interim" license.

The judge held that a short-term license significantly differed from a "normal" FRAND license as a normal license would determine the price payable for exploitation of intellectual property for a particular period. Lenovo's argument that Ericsson's pursuit of injunctive relief is necessarily un-FRAND was also rejected by the court.

"I am not satisfied to a high degree of assurance, (...) that Lenovo's desired outcome truly is FRAND. I note that industry practice is significant (...) in the determination of FRAND terms but there is no evidence that short-term licenses of the kind that Lenovo seeks are typical or prevalent," Richards wrote.

Richards agreed with Ericsson's argument that the only short-term license similar to what Lenovo was seeking was an interim license signed between Panasonic and Xiaomi following a UK High Court judgment last month. Richards also ruled there was insufficient evidence to prove that Ericsson's act of seeking injunctions against Lenovo despite Lenovo's offer to accept whatever FRAND terms the UK court sets in multiple jurisdictions constituted an act of bad faith.

The dispute between Lenovo and Ericsson over 5G cellular SEPs dates back to 2023 when Ericsson filed first patent lawsuits with the Eastern District Court of North Carolina. The companies own SEPs essential for developing cellular technology declared essential to standards promulgated by the European Technical Standards Institute. While Lenovo needs Ericsson's patents for its smartphones, tablets, and notebooks, Ericsson requires Lenovo's patents for its infrastructure business.

Lenovo told MLex it disagreed with the UK Court's decision not to declare an interim FRAND license and it plans to appeal the judge's ruling.

Ericsson declined MLex's request for a comment.

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Areas of Interest: Antitrust, Intellectual Property

Industries: Media & Telecommunications

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Topics:

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