

# EXHIBIT 2.R



Date: July 15, 2021

To whom it may concern:

This is to certify that the attached translation from Dutch and into English is an accurate representation of the documents received by this office.

The document is designated as:

- Sisvel-Acer

Alexander Danesis, Project Manager in this company, attests to the following:

“To the best of my knowledge, the aforementioned documents are a true, full and accurate translation of the specified documents.”

*Alexander Danesis*  
Signature of Alexander Danesis

# judgment

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## COURT OF THE HAGUE

Civil law section

Case number / docket number: 286636 / HA ZA 07-1385

### Judgment in the incidental proceedings of 16 April 2008

In the matter of

the legal entity under foreign law

**SOCIETA ITALIANA PER LO SVILUPPO DELL'ELETTRONICA S.I.S.V.E.L.  
S.P.A.**,

with registered offices in None, Italy,

Plaintiff in the original complaint in the main action,

Defendant in the counterclaim proceedings in the main action,

Defendant in the incidental proceedings,

attorney of record H.J.A. Knijff, LLM,

attorney F.W.E. Eijsvogels, LLM, of Amsterdam,

versus

1. the limited liability company

**ACER COMPUTER B.V.**,

with registered offices in 's-Hertogenbosch,

2. the limited liability company

**AERO GROUNDSERVICES B.V.**,

with registered offices in Schiphol,

Defendants in the original complaint in the main action,

Plaintiffs in the counterclaim proceedings in the main action,

Plaintiffs in the incidental proceedings,

attorney of record C.J.J.C. van Nispen, LLM,

attorney G. Kuipers, LLM, of Amsterdam and S.C. Dack, barrister.

The parties will be called SISVEL and Acer hereinafter.

#### 1. The proceedings

1.1. The course of the proceedings is evidenced by:

- the summons of 2 April 2007, with Exhibits 1-13,
- the statement of defense, also incidental claim (Art. 843a of the Dutch Code of Civil Procedure) also statement of claim in the counterclaim, with Exhibits 1-11.
- the statement of defense in incidental proceedings, with Exhibit 1,
- the closing arguments in the incidental proceedings and the written summaries of arguments submitted on that occasion.

1.2. Subsequently, a judgment was determined in the incidental proceedings.

1.3. After the closing arguments, Acer petitioned the Court to place the main action on the docket prior to the judgment in the incidental proceedings. The Court denied that petition in consideration of the points of view taken by the parties by letter.

1.4. After the closing arguments, moreover, Acer notified the Court by letter dated 7 April 2008 that the parties had agreed to postpone the handling of the costs of the incidental proceedings until their handling in the main action.

## 2. The dispute

2.1. Acer demands that the Court order SISVEL to grant inspection by means of submission of copies of a licensing agreement relating to the patents EP 0 402 973, EP 0 660 540 and EP 0 599 824 (hereinafter the patents) that SISVEL concluded with Microsoft Corp. (hereinafter Microsoft), as well as of licensing agreements or *non-assert* agreements relating to the patents that SISVEL concluded with other manufacturers and suppliers of electronic devices or software (including the manufacturers and suppliers that are named on the list on the website [sisvel.com/list.asp](http://sisvel.com/list.asp)).

2.2. SISVEL defends itself. The positions of the parties are discussed in more detail below insofar as they are relevant.

## 3. Evaluation

*the requirements of Article 843a of the Dutch Code of Civil Procedure (Rv)*

3.1. Acer bases its claim on Article 843a of the Dutch Code of Civil Procedure (hereinafter Rv). Based on this article, Acer can under certain conditions demand a copy of documents relating to a legal relationship in which it is a party if it has a legitimate interest in doing so.

3.2. Acer has in theory correctly stated that substantiation of its defense against SISVEL's claims in the main action, as well as substantiation of its claim in the counterclaim proceedings is a legitimate interest within the meaning of Article 843a Rv. In addition, it is correct that an obligation arising from tort also falls under the term "legal relationship" stated in the provision. This last item is adequately apparent from the parliamentary treatment of the draft legislation where the provision was expanded (*Kamerstukken II 1999-2000*, No. 5, p. 78-79) and, with respect to violations of intellectual property rights, from Article 1019a section 1 Rv.

3.3. The foregoing leaves the fact undisturbed that whoever appeals to Article 843a Rv must adequately substantiate the position that the matter involves a tort. This does not mean that the claimant must provide complete proof of the alleged tort; otherwise, the appeal to Article 843a – that precisely can be used to obtain supplemental evidence – would be meaningless. However, it also does not mean that it is sufficient to merely assert that a tort has occurred. Otherwise, based on an arbitrary accusation of tortious action, someone could go fishing for possible substantiation of the accusation in the administration of another. The legislature expressly wished to prevent such "*fishing expeditions*" (*Kamerstukken II 1999-2000*, 26 855 No. 3, p. 188 and *Kamerstukken II 2005-2006*, 30 392, No. 3, p. 20). It is thus necessary for the claimant to adequately substantiate his allegation, underpinned with reasonably available evidence, by providing adequately specific facts and circumstances for

a reasonable suspicion of tortious action. Acer did not satisfy this requirement, as will be explained hereinafter for each partial claim.

*the licensing agreement with Microsoft*

3.4. Acer bases the claim to inspection of the licensing agreement with Microsoft on the allegation that SISVEL unlawfully acted vis-à-vis Acer by requesting compensation for the use of MP3 patents in software from Microsoft (including the patents to which SISVEL appeals in the main action) for which SISVEL has already granted a license to Microsoft. Against this, SISVEL argued – without being disputed as such – that both it and Microsoft had notified Acer that SISVEL would not take action against specific use of the patents in specific versions of software from Microsoft, whereby it was specifically indicated which use was royalty-free and which use was not. Moreover, it has been determined that, in accordance with this, SISVEL requested that customs cancel the seizure of products by Acer insofar as that seizure related to products on which only the royalty-free software from Microsoft was installed. In light of this – without further explanation, which is lacking – it cannot be understood that SISVEL's actions vis-à-vis Acer are unlawful.

3.5. Insofar as Acer intended to argue that the communication by SISVEL about the Microsoft products for which no compensation is owed is inconsistent with the license that SISVEL granted to Microsoft, that argument must be rejected as insufficiently substantiated. It is established as not contested that the communication by SISVEL corresponds with the communication that Microsoft sent to Acer on this matter. Acer has not adduced anything indicating that these identical communications about the agreement by both parties to the relevant agreement are incorrect.

*the other (licensing) agreements*

3.6. Acer bases the claim to inspection of the other (licensing) agreements that SISVEL has concluded with third parties on the argument that SISVEL refuses to grant Acer a license at the same conditions as other licensees. This refusal, according to Acer, would be in conflict with the obligation imposed on SISVEL – as a party involved in establishing the MP3 standard – to grant a license using RAND conditions (that is to say, conditions that are “Reasonable And Non-Discriminatory” and would also include a violation of the prohibition of abuse of a dominant position under competition law.

3.7. In order to substantiate the alleged discrimination, Acer pointed out that SISVEL has exclusively offered Acer a license for *all* patents in its portfolio and with regard to *all* Acer products, and that SISVEL refuses to grant a license that provides only for the use of patents that are essential for the MP3 standard in PDAs according to SISVEL. Conversely, according to Acer, other licensees would receive licenses in which a differentiation is made between various products.

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