



Central Division
Paris Seat

ORDER

of the Court of First Instance of the Unified Patent Court

Central division (Paris seat)

issued on 6 March 2024

concerning the Application RoP262.1(b) No. App_6758/2024

lodged in the proceedings UPC_CFI_263/2023

HEADNOTES: request for public access to register

KEYWORDS: documents issued the Registry

REFERENCE CODE ECLI:

APPLICANT:

Martin Lionel - 7 rue de Téhéran, 75008 Paris, France

RESPONDENTS:

BITZER Electronics A/S - Kærvej 77 - 6400 - Sønderborg - DK
represented by Tilman Pfrang, Meissner Bolte

Carrier Corporation - 13995 Pasteur Blvd. - FL 33418 - Palm Beach Gardens - US
represented by Gregory Lees

PATENT AT ISSUE:

European patent n° EP 3 414 708

PANEL:

Presiding judge	François Thomas
Judge-rapporteur	Paolo Catalozzi
Technically qualified judge	Ulrike Keltsch

DECIDING JUDGE:

This order has been issued by the judge-rapporteur Paolo Catalozzi

SUMMARY OF FACTS AND PARTIES' REQUESTS:

1. On 29 June 2023 BITZER Electronics A/S brought an action against Carrier Corporation before this Seat of the Unified Patent Court, registered firstly as PR_ACT_536477/2023 UPC_CFI_188/2023 and then as No. ACT_555899/2023 UPC_CFI_263/2023, asking for the revocation of the patent at issue to the extent of claim 1.
2. On 6 February 2024 the applicant lodged an application, pursuant to Rule 262 (1) (b) of the Rules of Procedures ('RoP'), registered as No. App_6758/2024, seeking access to the following documents related to the revocation action proceedings: notification under Rule 16 (3) (a) of the Rules of Procedures ('RoP') by the Registrar; subsequent communication under Rule 17 (1) (c) by the Registrar; three "Acknowledgment-of-lodging" in ACT_555899/2023 UPC_CFI_263/2023; the "Formal-checks_Notification-of-positive-outcome" in ACT_555899/2023 UPC_CFI_263/2023; the decision ORD_591040/2023 of January 8, 2024, in App_590707/2023 UPC_CFI_263/2023.
3. The respondents, consulted by the Court, did not lodge any comment on the application.

GROUNDINGS FOR THE ORDER

4. The applicant has based its request on the fact that in the current proceedings the Registrar has issued a notification under Rule 16 (3) (a) 'RoP' for correction of deficiencies of the statement for revocation and then has informed the claimant of the date of receipt of the correction pursuant to Rule 18 (1) (c) 'RoP'.
5. He has argued that it is of peculiar importance to know whether the intermediate opt-out, filed on 13 July 2023, has been effective or not.
6. The judge-rapporteur notes that, pursuant to the referred to Rule 262 (1) (b) 'RoP', 'written pleadings and evidence, lodged at the Court and recorded by the Registry shall be available to the public upon reasoned request to the Registry; ...'.
7. The Rule has to be interpreted, according to the literal wording of the provision, meaning that it refers to only written pleadings and evidence lodged by the parties and that it does not include

other documents which are uploaded in the CMS (see UPC_CFI_75/2023 CD Munich, order of 21 September 2023).

8. It follows that Rule 262 (1) (b) 'RoP' does not apply to the request to access to communication occurred between the Registry and the parties and to evidence of activities carried out by the Registry.
9. Therefore, the applicant's request to access to documents, uploaded in the CMS, concerning the examination of the formal requirement of the statement for revocation executed by the Registry and the relative communications, does not fall under the scope of this Rule.
10. The same can be said with regard to the request to access to order ORD_591040/2023 of 8 January 2024, issued by the Court regarding a request of stay of the proceedings, because it cannot be deemed as written pleadings or evidence lodged by one of the parties.
11. It may be added that the interest of members of the public to know the status of a patent and, in particular, whether it is subject to an opt-out or not can be satisfied by accessing to the Register pursuant to Art. 37 of the Rules governing the Registry of the Unified Patent Court.
12. The applicant has affirmed that he has interest in knowing the filing date of the statement for revocation lodged in the current proceedings, so that he can determine if the opt-out of the patent that occurred between the date of the lodging of the statement of claim and the date of the lodging of its corrected version is effective or not.
13. At this regard, it is not clear which is the specific interest that the applicant, as a member of the public, has in understanding the legal implication of the opt-out in the proceedings at hand and, anyway, the determination of the opt-out's effectiveness ultimately rests with the Court's decision on the revocation action.
14. Lastly, it may be observed that according to Rule 262 (1) (a) 'RoP' all decisions and orders made by the Court are published, fulfilling the applicant's need to access order ORD_591040/2023 of 8 January 2024.

ORDER

For these grounds, having heard the parties, the judge-rapporteur:

- rejects the application.

Issued on 6 March 2024.

Judge-rapporteur

Paolo Catallozzi