



UPC_CFI_16/2025
Procedural Order
of the Court of First Instance of the Unified Patent Court
delivered on 19/02/2025

APPLICANT

Mammoet Holding B.V. Represented by Ricardo
(Applicant) - Karel Doormanweg 47 - 3115 JD - Dijkstra
Schiedam - NL

RELEVANT PROCEEDING PARTIES

P.T.S. Machinery B.V. **Not represented**
(Main proceeding party - Defendant) -
Australiëweg 2 - 4561PD - Hulst - NL

PATENT AT ISSUE

<i>Patent no.</i>	<i>Proprietor/s</i>
EP4171996	Mammoet Holding B.V.

DECIDING JUDGE

Judge-rapporteur **Margot Kokke**

LANGUAGE OF PROCEEDINGS: English

POINTS AT ISSUE

1. On 14 January 2025, the claimant (“**Mammoet**”) submitted an *ex parte* application to preserve evidence and inspect premises (ACT_1474/2025, UPC_CFI_16/2025) pursuant to R.192 RoP based on reasonably available evidence to support that the defendant (“**Defendant**”) and another unknown party, infringe European patent EP 4 171 996.
2. By order of 22 January 2025, the Court, Local Division The Hague, partly granted the application (ORD_3693/2025, the “**Order**”). The Order was carried out by the bailiff with the help of an expert (“the expert”), as ordered, on 28 January 2025 at the premises of the Defendant.
3. The expert submitted a written report (the “**Written Report**”) on 5 February 2025 in workflow App_3701/2025, together with Attachments 1 to 5.2:
 1. Purchase order 4500301678 Euros removed
 2. Planning PTS-2300117-PLN-01 Rev.01
 - 3.1 Drawing [REDACTED]
 - 3.2 Drawing [REDACTED]
 4. Inspection report PTS-2300117-VT-001 Signed KVDB
 - 5.1 Delivery Note 24-00090
 - 5.2 Delivery Note 24-00104
4. The Attachments concern seized documents and an inspection report of the allegedly indirectly infringing device. No other evidence was seized.
5. In the Order, the Court determined that the Written Report shall only be accessible to the representatives (first of the Defendants only, from the fifth working day after its uploading also to the representatives of the Applicant until established/requested otherwise) as set out in paragraphs 41 and 42 of the Order, wherein the following is provided:

41. The expert shall upload the Written Report in the separate workflow concerning his appointment. This allows confidentiality of the report to be uploaded as access to this workflow is restricted. (..) In accordance with Art. 58 UPCA and R. 196.1 RoP, the Court orders that the access to the Written Report is, as requested by Applicant, initially limited to the representatives of the Defendant only. Thus the expert shall, simultaneously with uploading, communicate the Written report to the representatives of the Defendant only. The representatives of the Applicant shall be given access to the unredacted Written Report on the fifth working day after its uploading, unless Defendant makes use of the opportunity to file a request for confidentiality before that date, in which case the Court shall decide by specific order on access and on the terms of a “confidentiality club”.

42. After submission and review of the Written Report, a (wider) confidentiality club can or is to be established, at the request of the parties, in order to determine which information is relevant for the case and to identify whether and to what extent such information is considered to be a “trade secret” (as defined by EU Directive n. 943/2016 on the protection of trade secrets) or otherwise needs to be kept confidential, whereby access will be restricted to specific persons.
6. As the Defendant did not engage a representative, the expert delivered the Written Report to (the directors of) Defendant on the same day of uploading the report in the CMS (in workflow 3701/2025). On the fifth working date after the uploading of the Written Report, the representatives of Mammoet were granted access, pursuant to paragraph 41 of the Order cited above.

7. With the present application pursuant to R. 9 Rop (App_7833/2025, the "Application"), Mammoet is requesting the Court to grant four individually named employees of Mammoet access to the Written Report and its Attachments, pursuant to paragraph 42 of the Order.

GROUNDS

8. In the present circumstances, the JR considers it appropriate to grant the requested access to the Written Report for the four natural persons of Mammoet specified in the Application, as requested. The reasons therefore are the following.
9. The directors of the Defendant cooperated with the bailiff and the expert to facilitate the seizure and did not object thereto. Defendant has chosen not to appoint a representative in these proceedings. It has not requested confidentiality of the Written Report nor of any of the Attachments.
10. The seized documentation is limited in scope to several specific deliveries to one customer, all documented in the Written Report and the Attachments. The identity of the alleged direct infringer is revealed, as well as the dates on which the machinery was ordered, manufactured and delivered as provided in the purchase order, a planning document, an inspection report and delivery notes. Apart from what is documented therein, there is no further seized documentation, digital or hard copy.
11. In the Written Report and the Annexes confidential (financial) information has been redacted by the expert (also in the uploaded 'unredacted' version; no separate 'redacted version' exists). T
12. In view of the above, there is apparently no or very little risk that trade secrets or other confidential information of the Defendant is revealed, or, in any case, no objection to the disclosure thereof.
13. Furthermore, the natural persons granted access shall be bound by the limitations for use of the Written Report and confidentiality obligations, as mentioned for the representatives in VII and VIII of the Order.
14. The representatives of Mammoet argued that they need to share the Written Report with Mammoet, so that they can discuss the available evidence with Mammoet in order to assess infringement and to disclose the identity of the customer in order to be able to decide which further steps should be taken, for instance to prevent possible further infringement. Mammoet substantiated why all four natural persons mentioned in the Application need to have access to properly evaluate its position. This does not disproportionately impede Defendant's position because of the nature of the information contained in the (redacted) Written Report.

ORDER

In view of the above, the court orders that the four natural persons of Mammoet mentioned in the Application are granted access to the Written Report and its Attachments submitted on 5 February 2025 in workflow 3701/2025.

Margot
Elsa KOKKE

Digitally signed by
Margot Elsa KOKKE
Date: 2025.02.19
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ORDER DETAILS

Order no. ORD_7979/2025 in

ACT_1474/2025, UPC case number UPC_CFI_16/2025

Application Type: Application for preserving evidence pursuant to RoP192

Related application: App_3701/2025