



UPC_CFI_181/2024
Procedural Order
of the Court of First Instance of the Unified Patent Court
Central Division (Paris Seat)
issued on 30 June 2025
concerning public access to the register (R. 262.2(b) RoP)

HEADNOTE:

Public access to the register. No confidentiality after access.

KEYWORDS: public access to the register; leave to appeal

APPLICANT

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Represented by Evelyn Höfer, TALIENS Partnerschaft von Rechtsanwälten mbB

RESPONDENTS

1) HP Printing and Computing Solutions, S.L.U.

(Main proceeding party - Claimant)

Calle José Echegaray 18 - 28232 - Las Rozas - ES

Represented by Christoph Schröder, Maikowski & Ninnemann Patentanwälte Partnerschaft mbB

2) Nokia Technologies Oy

(Main proceeding party - Defendant)

Karakaari 7 - 02610 - Espoo - FI

Represented by Dr. Christoph Walke, COHAUSZ & FLORACK Patent- und Rechtsanwälte Partnerschaft mbB

PATENT AT ISSUE

Patent no.

Proprietor

EP2661892

Nokia Technologies Oy

COMPOSITION OF PANEL – FULL PANEL

Presiding judge and judge-rapporteur	Marjolein Visser
Legally qualified judge	Maximilian Haedicke
Technically qualified judge	Eric Augarde

DECIDING JUDGE

This order is issued by presiding judge and judge-rapporteur Marjolein Visser.

LANGUAGE OF PROCEEDINGS:

English

POINT AT ISSUE

Public access to written pleadings and evidence (R.262.1(b) Rules of Procedure (RoP))

SUMMARY OF FACTS AND REQUESTS

1. On 25 April 2025, applicant filed an application pursuant to R.262.1 (b) RoP. Applicant wishes to obtain access to the written pleadings and evidence submitted by Claimant and Defendant in application to amend a patent proceedings No. App_40293/2024 UPC_CFI_181/2024:
 - Application incl. Exhibits, submitted on 08/07/24
 - Defence to Application to amend, submitted on 09/09/24
 - Reply to the Defence, submitted on 09/10/24.
2. Applicant further states that:
 - Access to these documents is necessary because they reveal the attack on the validity of patent EP 2 661 892 B1 and the defence of the patent proprietor. Access will therefore enable Applicant to assess the validity of the patent.
 - Applicant has a specific interest in the subject-matter of the revocation proceedings, since Claimant has filed an infringement action against Applicant based on EP 2 661 892 with the Local Division Munich (ACT_15096/2025 UPC_CFI_293/2025);
 - As the proceedings UPC_CFI_181/2024 ACT_21101/2024 were declared terminated on 27 March 2025, Applicant's interest to access the files outweighs

any interest of the parties. If the written pleadings and evidence contain personal data and confidential information, these should be redacted.

3. Applicant has made a similar request for access in the related proceedings ACT_21101/2024 UPC_CFI_181/2024 (revocation action).
4. The parties in the main proceedings have been invited to submit comments on the request.
5. Claimant in the main proceedings did not submit any comments.
6. Defendant in the main proceedings does not oppose the Applicant's request for file inspection. Defendant however argues as follows.
 - Applicant must ensure that third parties do not receive access to any written pleadings and evidence made available following this file inspection request. Pursuant to R. 262.1 (b) RoP, file inspection requires a general or specific (personal) interest, which must be demonstrated by means of a reasoned request and which the court must weigh against the interests of the parties (see Local Division Düsseldorf, order dated 9 April 2025, UPC_CFI_135/2024, p. 7 et seq.). This requirement would be undermined if the Applicant were allowed to make the contents of the file available to third parties without further ado. Even after the proceedings have been concluded, the parties have a legitimate interest in ensuring that the contents of the file are not randomly distributed. The general information interest of the broad public is satisfied by the publication of the final decision. No such decision has been issued in the present case, so that making the file available to the general public is not required to enable a better understanding of a final decision (see Court of Appeal, order dated 9 January 2025, UPC-CFI_480/2024, para. 12).

GROUND FOR THE ORDER

Legal framework

7. R.262.1(b) RoP provides that - without prejudice to several articles and rules that provide for the protection of confidential information mentioned in R.262.1 RoP, the redaction of personal data pursuant to Regulation (EU) 2016/679 and redaction of confidential information according to R.262.2 RoP - written pleadings and evidence, lodged at the Court and recorded in the Registry, shall be available to the public upon reasoned request to the Registry.
8. The Court of Appeal has ruled in Ocado v Autostore (CoA, 10 April 2024, UPC_CoA_404/2023, APL_584498/2023, para 42-54) that, insofar as relevant here, the following principles apply.
 - As is clear from Art. 10 and Art. 45 UPCA, the general principle laid down in the UPCA is that the register is public and the proceedings are open to the public, unless the balance of interests involved is such that they are to be kept confidential, which means that in such case access to the public is to be denied.

- The interests of a member of the public of getting access to the written pleadings and evidence must be weighed against the interests mentioned in Art. 45 UPCA. These interests include the protection of confidential information and personal data ('the interest of one of the parties or other affected persons') but are not limited thereto. The general interest of justice and public order also have to be taken into account. The general interest of justice includes the protection of the integrity of proceedings. Public order is at stake e.g. when a request is abusive or security interests are at stake.
- The applicant must set out the reasons why he has an interest to obtain access to the written pleadings and evidence, specify the purpose of the request and explain why access to the specified documents is necessary for that purpose, thus providing all the information that is necessary for the judge-rapporteur to make the required balance of interests.
- A member of the public generally has an interest that written pleadings and evidence are made available. This allows for a better understanding of the decision rendered, in view of the arguments brought forward by the parties and the evidence relied on. It also allows scrutiny of the Court, which is important for trust in the Court by the public at large. This general interest of a member of the public usually arises after a decision was rendered. At this point, there is a decision that needs to be understood and the handling of the dispute by the Court can be scrutinised.
- The protection of the integrity of proceedings ensures that the parties are able to bring forward their arguments and evidence and that this is decided upon by the Court in an impartial and independent manner, without influence and interference from external parties in the public domain. The interest of integrity of proceedings usually only plays a role during the course of the proceedings.
- This means that these interests – the general interest referred to above and the protection of integrity of proceedings – are usually properly balanced and duly weighed against each other, if access to written pleadings and evidence is given to a member of the public after the proceedings have come to an end by a decision of the Court.
- Proceedings may also come to an end before a decision is rendered, for instance by a settlement between the parties, or when an action is withdrawn. Given the general principle that the register and proceedings are open to the public, once the integrity of proceedings no longer plays a role and thus no longer counterbalances the general interest of a member of the public by access to the written pleadings and evidence, the balance is usually in favour of allowing access (subject to the protection of personal data and confidential information), even if there is no decision to be understood. The case file may still give an insight in the handling of the dispute by the Court and / or serve another legitimate interest of such member of the public, such as scientific and / or educational interests, which is no longer counterbalanced by the integrity of proceedings once the proceedings have come to an end.

- A member of the public may also have a more specific interest in the written pleadings and evidence of a particular case, than the general interest mentioned above. This is in particular so where he has a direct interest in the subject-matter of the proceedings, such as the validity of a patent that he is also concerned with as a competitor or licensee, or where a party in that case is accused of infringing a patent by a product which is the same or similar to a product (to be) brought on the market by such member of the public. When a member of the public has such a direct legitimate interest in the subject-matter of certain proceedings, this interest does not only arise after the proceedings have come to an end but may very well be immediately present.
 - In weighing such a direct interest against the general interest of integrity of proceedings, the balance will generally be in favour of granting access to the written pleadings and evidence of such proceedings. The Court may, however, for the purpose of appropriate protection of the integrity of proceedings, impose certain conditions on granting access, such as the obligation for that member of the public to keep the written pleadings and evidence he was given access to confidential as long as the proceedings have not come to an end.
9. In *Nicoventures v NJOY* (CoA, 25 April 2025, UPC_CoA_7/2025 APL_322/2025 App_13352/2025, para. 14) the Court of Appeal has ruled that the Court may, for the purpose of appropriate protection of the integrity of proceedings, impose certain conditions on granting access. Since this is a matter of the general interest, it can be done on the Court's own motion.

Access

10. Applicant has a specific interest in access to the written pleadings and evidence because of the infringement action that Defendant has started based on the patent at issue. Furthermore, as the Court of Appeal has ruled in *Ocado v Autostore*, a general interest in access also exists when the case has ended due to a settlement or withdrawal. Access will therefore be granted.

No limitation to access

11. In certain cases the Court of Appeal has, for the purpose of appropriate protection of the integrity of pending proceedings, imposed conditions on granting access. In *Nicoventures v NJOY*, the Court of Appeal has ruled that the granting of immediate access to written pleadings or evidence was to be accompanied by the condition that the member of the public is not allowed to file the written pleadings in question with other courts or judicial instances such as the EPO Boards of Appeal, or distribute them elsewhere, until the appeal has been adjudicated or otherwise closed.
12. Similarly, in *Ocado v Autostore* (para 54) the Court of Appeal considered the imposition of the condition to keep the written pleadings and evidence an applicant was given access to confidential "as long as the proceedings have not come to an end". See also Paris Central Division, *SWAT Medical v Meril Italy* (14 October 2024 UPC_CFI_255/2023 Nos. App_33486/2024, 33487/2024 and 33489/2024 para 30).

13. In the present case, this restriction does not apply. The Court of Appeal has merely imposed this restriction on access to documents and evidence submitted in pending (appeal) proceedings and has not extended this restriction to proceedings which already have been terminated.
14. Defendant has also argued that a specific (personal) interest in the technology-related file content exists solely in favour of the Applicant and can therefore only justify access to the file by the Applicant and that making the file available to the general public is not required to enable a better understanding of a final decision, since no such decision has been issued the present case. However, according to Art. 10 and Art. 45 UPCA, the general principle laid down in the UPCA is that the register is public and the proceedings are open to the public, unless the balance of interests involved is such that they are to be kept confidential. As said, the integrity of the proceedings is no longer a reason to limit access after the proceedings are terminated. Furthermore, as mentioned before, the Court of Appeal has ruled that a general interest in access also exists when the proceedings have ended without a decision by the Court. Defendant has not put forward any other interest that outbalances the general interest of access.

Redaction of personal data and confidential information

15. The documents shall be redacted of personal data in the meaning of EU Regulation 2016/679 prior to making them available to the Applicant. The Registry will see to this. The parties did not put forward that the documents for which access will be granted contain confidential information. No R. 262.2 RoP request has been made by either of the parties.

Appeal and suspensive effect

16. It is considered appropriate to grant leave to appeal of this order, having regard to the need to establish a consistent jurisprudence with reference to access to register. Although the Court of Appeal has already set forth clear criteria for the application of R. 262.1 (b) RoP, the question whether an Applicant that has been granted access according to this Rule should keep the content of the file confidential, even when the proceedings have ended, has not yet been answered.
17. For the same reasons and considering the practical irreversibility of the effects of an order granting access, it is deemed appropriate to suspend the effects of the present order until the expiration of the deadline for filing an appeal or, if an appeal is filed, until the end of such proceedings.

ORDER

The judge-rapporteur,

- grants Applicant access to the following documents, redacted in accordance with EU Regulation 2016/679:
 - Application including Exhibits, submitted on 08/07/24;

- Defence to Application to amend, submitted on 09/09/24;
- Reply to the Defence, submitted on 09/10/24;
- grants Defendant leave to appeal,
- suspends the effects of the present order until the expiration of the deadline for filing an appeal or, if an appeal is filed, until the end of such proceedings,
- rejects all remaining requests.

Issued on 30 June 2025

Marjolein Visser, presiding judge and judge-rapporteur

Information About Appeal

The present Order may be appealed before the Court of Appeal by any party which has been unsuccessful, in whole or in part, in its submissions within 15 days of service of this Order (Art. 73(2)(b) UPCA, Rule 220.2, 224.1(b) RoP).

ORDER DETAILS

Order no. ORD_22022/2025 in ACTION NUMBER: ACT_21101/2024

UPC number: UPC_CFI_181/2024

Action type: Revocation Action

Related proceeding no. Application No.: 19988/2025

Application Type: APPLICATION_ROP262_1_b