

UPC_CFI_362/2025
Procedural Order
of the Court of First Instance of the Unified Patent Court
delivered on 31/07/2025

Concerning the protection of confidential information

APPLICANT

- 1) Sun Patent Trust
437 Madison Avenue, 35th Floor
10022 - New York – US

Represented by Caroline Levesque

RESPONDENTS

- 1) Vivo Mobile Communication Iberia SL
Calle Orense 58, Planta 12 C
28020 - Madrid – ES
- 2) Vivo Tech GmbH
Speditionstrasse 21
40221 - Düsseldorf – DE
- 3) Vivo Mobile Communication Co., Ltd.
No. 1, Vivo Road, Chang'an Town
523866 - Dongguan City, Guangdong - CN

Represented by
Dr Georg Andreas Rauh

PATENT AT ISSUE

| <i>Patent no.</i> | <i>Proprietor</i> |
|-------------------|-------------------|
| EP3407524 | SUN PATENT TRUST |

DECIDING JUDGE: full panel

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| Presiding judge & Judge-rapporteur | Camille Lignières |
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| Legally qualified judge | Carine Gillet |
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| Legally qualified judge | Andras Kupecz |
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LANGUAGE OF PROCEEDINGS: English

ORDER

Summary of facts:

The Claimant filed an infringement action against the Defendants before the present Court.

Concurrently, the Claimant lodged an application under R.262.2 and an application under R.262A RoP concerning certain parts of the Statement of Claim (SoC) and certain Exhibits supporting the SoC. (Request 1 on 18 April 2025)

Furthermore, the Claimant amended its confidentiality application under R. 262A (Request 2 on 13 June 2025).

The Defendants were served with a redacted version of the SoC.

The Defendants requested that the starting point of the time limit to lodge a preliminary objection and the Statement of defence be postponed until the representatives had been given access to the unredacted version.

A case management meeting was organised on 30 June 2025 by the judge rapporteur to discuss this issue. By order of 3 July 2025, the judge rapporteur ordered that “With the agreement of all parties:- the Defendants’ representatives (only) have access to the Highly Confidential Information contained in the redacted Statement of claims and related Exhibits that they cannot disclose to Vivo or third parties; the Defendants’ representatives are only allowed to disclose the names of the Claimant’s licensees/counterparties to only one Defendants’ employees, namely [REDACTED] (the parties agreed on this Defendants’ employee).

On 10 July 2025, the Defendants provided their comments on the 262A application from the Claimant, and the latter replied to such comments by written observations on 12 July 2025.

Requests:

The Claimant, in its last application of 13 June 2025, requests the judge rapporteur:

A. As a principal claim:

I. To classify the information listed in more detail in the following table (and which are highlighted in grey and blue in the Statement of Claim) as confidential within the meaning of Art.58 UPCA, R. 262A.2 RoP:

| Information | Mentioned in |
|---|---|
| I.1. Information on confidential FRAND negotiations between the parties, offered license terms and conditions, related confidential correspondence and other related confidential documents, hereafter “Confidential Information” | <ul style="list-style-type: none"> ▶ Paragraphs 9, 70 to 74, 270 to 303, 320 to 326, 334 to 341, 367 of the Statement of Claim ▶ HRM Exhibit No. 6.3 ▶ HRM Exhibit No. 6.11 ▶ HRM Exhibits No. 9.1.1. to 9.1.26 ▶ HRM Exhibit No. 9.2 ▶ HRM Exhibit No. 9.4 ▶ Designation of the exhibits in the list of documents p. 110 to 117 of the Statement of Claim |
| I.2. Information on confidential license agreements and other confidential agreements with third parties including related confidential documents, the confidential written witness statement of [REDACTED] confidential expert report of [REDACTED] and the exchanges between the Claimants and its counterparties hereafter “Highly Confidential Information” | <ul style="list-style-type: none"> ▶ Paragraphs 304 to 317 of the Statement of Claim ▶ HRM Exhibit No. 9.1 ▶ HRM Exhibits No. 9.3, 9.3.1, 9.3.2.2, 9.3.2.21, 9.3.2.22, 9.3.2.23, 9.3.2.24, 9.3.2.25, 9.3.2.34, 9.3.2.35, 9.3.2.36, 9.3.2.41, 9.3.2.43, 9.3.2.48, 9.3.2.58, 9.3.2.66, 9.3.2.91, 9.3.2.94, 9.3.2.100, 9.3.2.104, 9.3.2.113, 10.1 to 10.7 |
| | <ul style="list-style-type: none"> ▶ Designation of the exhibits in the list of documents p. 110 to 117 of the Statement of Claim |

In particular,

II. To order that the unredacted version of the statement of claim and relevant exhibits, containing the Confidential Information marked in grey under I.1. shall

be restricted exclusively to:

- a. the Defendants' authorized representative in the proceedings and members of the legal team, as well as their internal support staff.
- b. the Defendants' external experts (excluding lawyers instructed in a legal capacity but including any lawyers advising on matters of foreign law specifically arising in the proceedings) who (i) are not employees of the Defendants or any entity that is a licensee or licensor of cellular standard essential patents, and (ii) have a legitimate need to receive the Confidential Information.
- c. the employees of the Defendants, to be named by the Defendants.

III. To order that the unredacted version of the statement of claim and relevant exhibits, containing the Highly Confidential Information marked in blue under I.2. shall be restricted exclusively to:

- a. the Defendants' authorized representative in the proceedings and members of the legal team, as well as their internal support staff.
- b. the Defendants' external experts (excluding lawyers instructed in a legal capacity but including any lawyers advising on matters of foreign law specifically arising in the proceedings) who (i) are not employees of the Defendants or any entity that is a licensee or licensor of cellular standard essential patents, and (ii) have a legitimate need to receive the Highly Confidential Information;

IV. To order that information classified as Confidential and/or Highly Confidential under I. must be treated as strictly confidential in accordance with these terms by anyone who becomes aware of it as a result of their involvement in the present legal dispute (as a party, intervener, lawyer, witness, expert, court employee or in any other way). Information classified as Confidential and/or Highly Confidential under I. may not be used or disclosed outside these court proceedings, except to the extent if and insofar as the recipient has demonstrably gained knowledge the confidential information outside the present legal dispute on a non-confidential basis from a source other than the Claimant, provided that such source is not bound by a confidentiality agreement or other obligation of secrecy

with the Claimant or relevant third party. Furthermore, confidentiality is generally no longer required if and as soon as a legally binding final decision is made in the future that the information classified as confidential under I. is not confidential.

V. To rule that the order shall remain in effect after termination of the proceedings whether by settlement or the issuance of a final judgement and that, no later than three months after the termination of the proceedings, all persons having received information classified as Confidential and/or Highly Confidential under I. shall destroy all materials containing such Confidential and/or Highly Confidential Information (for materials held electronically, the obligation is to use reasonable endeavours to destroy or delete those copies that are readily available, but there shall be no requirement to destroy such materials contained on archival media which should be treated in accordance with standard retention policies).

VI. To order that, in the event that any individual who has access to the information classified as Confidential and/or Highly Confidential under I. breaches the terms of this order, the court may impose a penalty payment upon each of the Defendants for each violation, which will be determined having regard to the circumstances of the individual breach. And that if the Defendants, their representative external experts and employees under II. and/or III. become aware of any breach or suspected breach of the order or any confidentiality undertaking given pursuant to this order, including any unintentional or inadvertent disclosure, the Defendants' representative shall notify in writing the Claimant's representative as soon as practically possible after becoming so aware, giving details of any such breach or suspected breach.

To order that only the authorized representative, members of the authorized representative's legal team and external experts under II. and III. are permitted to attend the oral hearings taking place in the present proceedings at which Confidential Information and/or Highly Confidential Information may be disclosed. Only they may be provided with the recordings and minutes of the aforementioned hearings insofar as information classified as Confidential Information and/or Highly Confidential Information under I. is concerned.

B. As an alternative claim:

I. To classify the information listed in more detail in the following table (and which are highlighted in grey and blue in the Statement of Claim) as confidential within the meaning of Art. 58 UPCA, R.262A.2 RoP:

| Information | Mentioned in |
|---|---|
| I.1. Information on confidential FRAND negotiations between the parties, offered license terms and conditions, related confidential correspondence and other related confidential documents, hereafter "Confidential Information" | <ul style="list-style-type: none"> ▶ Paragraphs 9, 70 to 74, 270 to 303, 320 to 326, 334 to 341, 367 of the Statement of Claim ▶ HRM Exhibit No. 6.3 ▶ HRM Exhibit No. 6.11 ▶ HRM Exhibits No. 9.1.1. to 9.1.26 ▶ HRM Exhibit No. 9.2 ▶ HRM Exhibit No. 9.4 ▶ Designation of the exhibits in the list of documents p. 110 to 117 of the Statement of Claim |
| I.2. Information on confidential license agreements and other confidential agreements with third parties including related confidential documents, the confidential written witness statement of [REDACTED] confidential expert report of [REDACTED] and the exchanges between the Claimants and its counterparties hereafter "Highly Confidential Information" | <ul style="list-style-type: none"> ▶ Paragraphs 304 to 317 of the Statement of Claim ▶ HRM Exhibit No. 9.1 ▶ HRM Exhibits No. 9.3, 9.3.1, 9.3.2.2, 9.3.2.21, 9.3.2.22, 9.3.2.23, 9.3.2.24, 9.3.2.25, 9.3.2.34, 9.3.2.35, 9.3.2.36, 9.3.2.41, 9.3.2.43, 9.3.2.48, 9.3.2.58, 9.3.2.66, 9.3.2.91, 9.3.2.94, 9.3.2.100, 9.3.2.104, 9.3.2.113, 10.1 to 10.7 ▶ Designation of the exhibits in the list of documents p. 110 to 117 of the Statement of Claim |

In particular

II. To order that the unredacted version of the statement of claim and relevant exhibits, containing the Confidential Information marked in grey under I.1. shall be restricted exclusively to:

- a. the Defendants' authorized representative in the proceedings and members of the legal team, as well as their internal support staff.
- b. the Defendants' external experts (excluding lawyers instructed in a legal capacity but including any lawyers advising on matters of foreign law specifically arising in the proceedings) who (i) are not employees of the Defendants or any entity that is a licensee or licensor of cellular standard essential patents, and (ii) have a legitimate need to receive the Confidential Information.
- c. the employees of the Defendants, to be named by the Defendants.

III. To order that the unredacted version of the statement of claim and relevant

exhibits, containing the Highly Confidential Information marked in blue under I.2.

shall be restricted exclusively to:

- a. the Defendants' authorized representative in the proceedings and members of the legal team, as well as their internal support staff.
- b. the Defendants' external experts (excluding lawyers instructed in a legal capacity but including any lawyers advising on matters of foreign law specifically arising in the proceedings) who (i) are not employees of the Defendants or any entity that is a licensee or licensor of cellular standard essential patents, and (ii) have a legitimate need to receive the Highly Confidential Information;
- c. no more than three employees of the Defendants, two at least being in-house legal counsel or patent attorneys, to be named by the Defendants, each of whom (i) has a legitimate need to access the information and (ii) will not participate in or advise upon any licensing negotiations with the counterparties to the disclosed license agreements or related agreements for a period of two years after ceasing to be in possession and/or have access to such agreements (or any related material submitted in the proceedings), save with the relevant counterparty's consent.

IV. To order that information classified as Confidential and/or Highly Confidential under I. must be treated as strictly confidential in accordance with these terms by anyone who becomes aware of it as a result of their involvement in the present legal dispute (as a party, intervener, lawyer, witness, expert, court employee or in any other way). Information classified as Confidential and/or Highly Confidential under I. may not be used or disclosed outside these court proceedings, except to the extent if and insofar as the recipient has demonstrably gained knowledge of the confidential information outside the present legal dispute on a non-confidential basis from a source other than the Claimant, provided that such source is not bound by a confidentiality agreement or other obligation of secrecy with the Claimant or relevant third party. Furthermore, confidentiality is generally no longer required if and as soon as a legally binding final decision is made in the future that the information classified as confidential under I. is not confidential.

V. To rule that the order shall remain in effect after termination of the proceedings whether by settlement or the issuance of a final judgement and that, no later than three months after the termination of the proceedings, all persons having received information classified as Confidential and/or Highly Confidential under I. shall destroy all materials containing such Confidential and/or Highly Confidential Information (for materials held electronically, the obligation is to use reasonable endeavours to destroy or delete those copies that are readily available, but there shall be no requirement to destroy such materials contained on archival media which should be treated in accordance with standard retention policies).

VI. To order that, in the event that any individual who has access to the information classified as Confidential and/or Highly Confidential under I. breaches the terms of this order, the court may impose a penalty payment upon each of the Defendants for each violation, which will be determined having regard to the circumstances of the individual breach. And that if the Defendants, their representative, external experts and employees under II. and/or III. become aware of any breach or suspected breach of the order or any confidentiality undertaking given pursuant to this order, including any unintentional or inadvertent disclosure, the Defendants' representative shall notify in writing the Claimant's representative as soon as practically possible after becoming so aware, giving details of any such breach or suspected breach.

To order that only the authorized representative, members of the authorized representative's legal team, external experts and employees of the Defendants under II. and III. are permitted to attend the oral hearings taking place in the present proceedings at which Confidential Information and/or Highly Confidential Information may be disclosed. Only they may be provided with the recordings and minutes of the aforementioned hearings insofar as information classified as Confidential Information and/or Highly Confidential Information under I. is concerned.

In their written comments dated 10 July 2025, Defendants raised some objections, arguing that certain requests are inadmissible and others not founded.

GROUND

On public access (R. 262.2 request)

In the absence of any requests to date from a third party for access to the file, the Court does not need to rule on this issue at this stage of the proceedings; the Court will decide on this request when it is seized by such a request from a third party under R.262.1(b) RoP.

On the protection of confidential information under Rule 262A RoP

SUN PATENT TRUST has requested the protection of information that the claimant considers to be confidential according to two levels of protection, 'confidential' and 'highly confidential', with access to said sensitive information being with access to said sensitive information being restricted accordingly.

Legal grounds

EU Directive 2016/943 on Trade Secret provides in its Article 9.3: "When deciding on the measures referred to in paragraph 2 and assessing their proportionality, the competent judicial authorities shall take into account the need to ensure the right to an effective remedy and to a fair trial, the legitimate interests of the parties and, where appropriate, of third parties, and any potential harm for either of the parties, and, where appropriate, for third parties, resulting from the granting or rejection of such measures."

Article 58 UPCA provides that: "To protect the trade secrets, personal data or other confidential information of a party to the proceedings or of a third party, or to prevent an abuse of evidence, the Court may order that the collection and use of evidence in proceedings before it be restricted or prohibited or that access to such evidence be restricted to specific persons."

Rule 262A.5 RoP on Protection of Confidential Information states that: "The Court may allow the Application considering in particular whether the grounds relied upon by the applicant for the order significantly outweigh the interest of the other party to have full access to the information and evidence in question."

Rule 262A.6 RoP further provides that: "The number of persons referred to in paragraph 1 shall be no greater than necessary in order to ensure compliance with the right of the parties to the legal proceedings to an effective remedy and to a fair trial, and shall include, at least, one natural person from each party and the respective lawyers or other representatives of those parties to the legal proceedings."

Order of the UPC Court of Appeal of 12 February 2025 (CoA_621/2024) ruled: "Pursuant to R. 262A.6 RoP the number of persons to whom access is restricted shall be no greater than necessary in order to ensure compliance with the rights of the parties to the legal proceedings to an effective remedy and to a fair trial, and shall include, at least, one natural person from each party and the respective lawyers or other representatives of those parties to the legal proceedings. Whether a particular person may be granted full access under this provision must be determined on the basis of the relevant circumstances of the case, including the role of that person in the proceedings before this Court, the relevance of the confidential information to the performance of that role and the trustworthiness of the person in keeping the information confidential."

Admissibility of the confidentiality application of June 2025

The confidentiality claims were made by SUN PATENT TRUST in two successive requests, a first motion at the time their infringement action was filed (motion of 18 April 2025) as provided for in

the RoP, and then in a second motion of 13 June 2025, after the defendants had been served with the redacted statement of claim and the defendants' representatives (VIVO entities) had had access to the file via CMS. The Claimant explains that it filed a further application after obtaining the opinion of its licensees on whether to give the defendants notice of their names.

VIVO contests the admissibility of the second request dated 13 June 2025, stating that it is at too advanced a stage of the proceedings and that if it were to be considered as a change of request subject to the conditions set out in R. 263 RoP, justification would have to be provided as to why it is being made at such a late stage. SUN PATENT TRUST explained that it had to ask its licensees whether they agreed to their names being disclosed to the defendants in the context of this dispute. VIVO responded that this should have been requested prior to the infringement action being filed in this division.

However, the request of 13 June 2025 cannot be considered late since it is justified that the claimant received this information from its licensees after the date on which it filed its action before this Division. In addition, the second confidentiality request of 13 June 2025 does not constitute a change in procedural strategy that would be too burdensome for the defendants, since the latter had not yet provided their comments on the confidentiality application at the time of the second request. Indeed, following a case management meeting on 30 June 2025, organised by the judge-rapporteur in response to VIVO's request of 19 June 2025 entitled "clarification on runtime of terms for filing PO and SoD", the judge-rapporteur set up a case management meeting on 30 June 2025. All the representatives in the case agreed that the confidential information should be made available to the representatives and to a natural person designated by VIVO (order of 3 July 2025) so that the defendants could give their views on the confidentiality claims made by the claimant.

For these reasons, the application of 13 June 2025 is admissible.

Admissibility of the request of 18 April 2025

VIVO objects to the inadmissibility of SUN PATENT TRUST's application based on R. 262A RoP, on the grounds that this information has already been the subject of a non-disclosure agreement signed between the parties ("the NDA"), and that it would therefore not be necessary for the judge to classify this information as "confidential" and organise a confidentiality regime for the present dispute. VIVO further argues that information that was not part of the NDA does not, as such, need to be protected under rule R. 262A RoP.

However, while the existence and terms of the NDA already concluded between the parties may be taken into account in defining the relevant and appropriate limits of a confidentiality regime under R. 262A RoP, the NDA is nevertheless only an agreement concluded between the parties in the context of contractual negotiations before the filing of the action, whereas R. 262A RoP concerns a protection regime established by the Court for the present judicial proceedings.

For this reason, an application for protection under R. 262A RoP cannot be declared inadmissible for the sole reason that this information is already the subject of an NDA between the parties. The merits of SUN PATENT TRUST's application must therefore be examined.

On the merits of the confidentiality requests

First, the panel shall examine whether the applicant fulfilled its burden to prove the confidential nature of the documents; secondly, the panel will assess the proportionality of the measures requested to protect the confidentiality by weighing the rights at stake.

-Classification of information as “confidential”:

It is clear from the explanations provided by the parties that this is essentially information that has already been the subject of an NDA, that it has already been agreed between the parties that this is confidential information within the meaning of the law on trade secrets, and that such information must be protected under R.262A RoP.

Therefore, the parties have already accepted that these documents are confidential and must be protected as trade secrets.

According to VIVO, the information contained in HRK 9.1.16 (which was produced after the conclusion of the NDA) and HRK 7.10 (relating to VIVO products known to third parties) is not protected by the NDA and would not justify protection under R.262A RoP.

Concerning the information not included in the NDA, the following arguments raised by SUN PATENT TRUST in their last comments are relevant: Exhibits HRM 6.3 and 6.11 contain trade secrets within the meaning of Art. 2 (1) of Directive (EU) 2016/943 since they have a commercial value, are not generally available to third parties and have been treated as confidential by the Claimant. In particular, Exhibit HRM 6.3, which is an exhaustive list of patents owned by the Claimant, is a compilation which is not as such in the public domain and has intrinsic commercial value. Exhibit HRM 6.11 is a presentation on Panasonic's portfolio prepared by the Claimant. These documents were provided to the Defendants under terms of confidentiality or are communicated for the first time in the proceedings and, for this reason, need to be protected under R. 262A RoP.

-Classification of information as ‘confidential’ regarding the information designated as “highly confidential” by the claimant:

The Defendants object to the redaction of exhibits HRM 9.1 and HRM 9.3 and contend that certain parts could be considered as Confidential Information or are not confidential, rather than Highly Confidential Information. However, as the Claimant rightly argued, a partially redacted version of these documents would be of no use, as even the more general developments are meant to introduce the specific assessment of the licensing terms offered by the Claimant in this particular case. The panel considers that the protection regarding HRM 9.1 and HRM 9.3 is required for the entire relevant document.

-Restriction of access:

It is undisputed by the parties that the UPC representatives and their legal team should be part of the confidentiality club.

-the meaning of the “legal team” of the UPC representatives:

The meaning of "legal team" must be interpreted as follows: the UPC team representatives (lawyers and patent attorneys) chosen to work in the present case, for which they are responsible. The UPC representatives are free to decide whom to involve in handling a case (LD Düsseldorf UPC_CFI_181/2025, procedural order 15 July 2025).

-Regarding the access to the “highly confidential” information,

In its main request, SUN PATENT TRUST requests that a confidentiality club be limited to representatives only (excluding any natural person employed by VIVO), considering the level of protection needed for information designated as “highly confidential”.

However, as VIVO points out, the Court notes that Rule 262A RoP provides regarding the level of that at least one natural person from each party must be part of the confidentiality club, and the UPC has only admitted different solutions thereto in cases where there was an agreement between all parties on this point, which is not the case here.

Thus, in accordance with Rule 262A RoP, at least one natural person from each of the VIVO Defendants should be included in the confidentiality club. It has already been accepted by all parties in the order of 3 July 2025 that [REDACTED] [REDACTED] [REDACTED] [REDACTED] has access to all confidential information. This person, at least, will be part of the confidentiality club and shall have access to all so-called "highly confidential" information.

Moreover, in its latest written comments, SUN PATENT refers to a UPC LD Milan decision dated 20 June 2025 (UPC_CFI_319/2024 and 728/2024) stating that while Rule 262A RoP did not authorise a confidentiality club reserved for representatives only (unless the parties agreed otherwise), it was also possible to take account of antitrust laws if these required a confidentiality club to be limited on an exceptional basis.

As VIVO points out in §59 and 60 of its "comments", in the context of FRAND discussions, the party offering the licence should provide the party receiving the offer with information on other licences in order to be able to determine whether the offer is FRAND or not, by comparison with licences already granted.

Against this background, the Court considers it proportionate that three natural persons from VIVO's side have access to the "highly confidential information", notably provided that there are three defendants in the present case.

Regarding the capacity of the natural persons identified and the constraints requested by the Claimant

The Defendants have (undisputedly) argued that the individuals named by the Defendants have the necessary expertise to assist in their defence in these proceedings.

Defendants oppose the further restrictions regarding the position of the confidentiality club's members in the VIVO companies. According to VIVO, the three persons designated by the Defendants are responsible for negotiating worldwide licenses; thus, the limitations imposed by the Claimant are not feasible and unfounded.

The Court considers that preventing these three highly qualified VIVO employees from participating in any future licensing negotiations with the counterparties to the disclosed agreements is disproportionate in view of the rights at stake. The Claimant has moreover not sufficiently substantiated that there exists a concrete risk that these individuals would violate the terms of this Court Order and would (mis)use the Highly Confidential information and/or disclose the Highly Confidential information outside these Court proceedings. The fact that other people within the Defendants' organisation might also be suitable to assist in the Defendant's defence is, without further substantiation, also not a ground to refuse access to the named individuals, the ability of whom is not in debate.

The constraints requested by the Claimant shall therefore not be accepted in the present case.

Regarding external experts, who are not employed by the parties:

The external experts who should have access to the confidential information must be named. As already stated in another UPC LD: “This follows from the fact that effective protection of confidential information also requires clear accountability” (LD Düsseldorf, 15 July 2025, UPC_CFI_181/2025). This should be requested via a further specific application. At this stage of the proceedings, the panel rejects a general request admitting “external experts” from the parties to be part of the confidentiality club.

Regarding the destruction of all materials containing confidential/highly confidential information

The parties are responsible for the effectiveness of the protection of the confidential information in accordance with the present order; to order the destruction injunction of all materials containing such Confidential/highly confidential information is not necessary at this stage of the proceedings.

Regarding the attendees of the oral hearings:

The exclusion of the public from the oral proceedings is governed by Rules 105.2 and 115 RoP. This issue could be discussed during the interim procedure for the organisation of the oral hearing or at the time of the oral hearing.

The panel orders that:

I- Confidential information

1-The following information is classified as “confidential” within the meaning of Art. 58 UPCA and R. 262A RoP, as mentioned below:

| Information | Mentioned in |
|---|---|
| I.1. Information on confidential FRAND negotiations between the parties, offered license terms and conditions, related confidential correspondence and other related confidential documents, hereafter “Confidential Information” | <ul style="list-style-type: none"> ▶ Paragraphs 9, 70 to 74, 270 to 303, 320 to 326, 334 to 341, 367 of the Statement of Claim ▶ HRM Exhibit No. 6.3 ▶ HRM Exhibit No. 6.11 ▶ HRM Exhibits No. 9.1.1. to 9.1.26 ▶ HRM Exhibit No. 9.2 ▶ HRM Exhibit No. 9.4 ▶ Designation of the exhibits in the list of documents p. 110 to 117 of the Statement of Claim |

2-Access to the “confidential information” shall be restricted to the following persons only on the VIVO side:

- Representative of the Defendants mentioned in the CMS: Dr. Georg Rauh (attorney-at-law),
- and his legal team involved in the present proceedings
- The employees of the Defendants (who have signed the NDA) to be named by the Defendants.

II- Highly confidential information

1-The following information is classified as “confidential” within the meaning of Art. 58 UPCA and R. 262A RoP, as mentioned below:

| | |
|---|--|
| I.2. Information on confidential license agreements and other confidential agreements with third parties including related confidential documents, the confidential written witness statement of [REDACTED] confidential expert report of [REDACTED] and the exchanges between the Claimants and its counterparties hereafter "Highly Confidential Information" | <p>► Paragraphs 304 to 317 of the Statement of Claim</p> <p>► HRM Exhibit No. 9.1</p> <p>► HRM Exhibits No. 9.3, 9.3.1, 9.3.2.2, 9.3.2.21, 9.3.2.22, 9.3.2.23, 9.3.2.24, 9.3.2.25, 9.3.2.34, 9.3.2.35, 9.3.2.36, 9.3.2.41, 9.3.2.43, 9.3.2.48, 9.3.2.58, 9.3.2.66, 9.3.2.91, 9.3.2.94, 9.3.2.100, 9.3.2.104, 9.3.2.113, 10.1 to 10.7</p> <p>► Designation of the exhibits in the list of documents p. 110 to 117 of the Statement of Claim</p> |
|---|--|

2-Access to the highly confidential information shall be restricted to the following persons only on the VIVO side:

- Representative of the Defendants mentioned in the CMS: Dr. Georg Rauh (attorney-at-law),
- and his legal team involved in the present proceedings,
- Three natural persons (employees of VIVO):
- [REDACTED]
- [REDACTED]
- [REDACTED]

III. The information classified as confidential in paragraphs I and II shall not be used or disclosed outside of these court proceedings, except to the extent that it has verifiably come to the knowledge of the receiving party outside of these proceedings, provided that the receiving party has obtained it on a non-confidential basis from a source other than the Claimants, and provided that such source is not bound by a confidentiality agreement or other obligation of secrecy *vis-à-vis* the Claimants.


IV. In the event of a culpable breach of this Order, the Court may impose a penalty payment for each breach, to be determined in light of the circumstances of each case.

V. Should the Defendants' representatives named in paragraph II. 1. and 2. (attorneys-at-law and patent attorneys) make use of the possibility of giving access to confidential information to other members of their team, it is their responsibility to ensure that their team maintains the confidentiality of the information. In the event of a culpable breach, Dr. Georg Rauh (attorney-at-law) would therefore be liable. This also applies to any breach of the duty of confidentiality by any member of their team to whom they have granted access.

This order may be appealed in accordance with Rule 220.2 RoP.

Issued in Paris, on 31 July 2025.

C.Lignieres, Judge rapporteur

Date :
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C. Gillet, Legally qualified judge

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A. Kupecz, Legally qualified judge

András Ferenc
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ORDER DETAILS

Order no. ORD_33183/2025 in ACTION NUMBER: ACT_18934/2025

UPC number: UPC_CFI_362/2025

Action type: Infringement Action

Related proceeding no. Application No.: 18982/2025

Application Type: APPLICATION_ROP262A