

Procedural Order
of the Court of First Instance of the Unified Patent Court
issued on 6 August 2025
concerning EP 2 028 981
(Application for a cost decision with regard to UPC_CFI_159/2024)
concerning App_20207/2025 (R. 262A RoP)

CLAIMANT/APPLICANT

Hurom Co., Ltd.

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Represented by Klaus Haft

DEFENDANTS/RESPONDENTS

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Represented by Christian
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PATENT AT ISSUE:

European Patent No. EP 2 028 981

PANEL/DEVISION:

Panel of the Local Division in Mannheim

DECIDING JUDGES:

This order was issued by the legally qualified judge Böttcher acting as judge-rapporteur

LANGUAGE OF PROCEEDINGS: English

SUBJECT-MATTER OF THE PROCEEDINGS: Application for a cost decision – request pursuant to R. 262A RoP

BRIEF SUMMARY OF THE FACTS

The Applicant requests an order pursuant to R. 262A RoP to protect information about the costs of legal representation which it submitted in the proceedings concerning its application for a cost decision pursuant to R. 150 et seqq. RoP. The information to be protected relates to a breakdown of the hours worked.

The Applicant argues that the information relates to the client-attorney relationship that is privileged by nature. Both Applicant and its representatives had a legitimate interest in keeping this information confidential which is neither generally known nor available to third parties. Applicant opines that restricting access to the Respondents' attorneys is justified because it is to be expected that it will be them who assess the breakdown of hours worked because they are best placed to make such an assessment. Since the restriction does not relate to the total number of hours (an information already provided), but only to the breakdown, there were no reasons why the Respondents themselves need to take note of this detailed information.

The Respondents oppose the request. They argue that there is no legitimate interest in confidentiality vis-à-vis the Respondents. The information concerned did not relate to any business secret of the Applicant but, if at all, to business information of Applicant's representatives which are not protected in the context of cost proceedings.

The Applicant requests:

- 1) To classify the information contained in the Submission of 28 April 2025 (workflow ORD_18010/2025, ACT_17336/2024) and listed in more detail in the following table (and which are highlighted in grey in the Submission) as confidential within the meaning of Art. 58 UPCA, R. 262A RoP;

Para.	Description
Paras. 11,12	Attorneys' hours worked

In particular

- 2) The aforementioned information must be treated as strictly confidential by anyone who becomes aware of it as a result of their involvement in the present dispute. They may not be used or disclosed outside the court proceedings, except to the extent if and insofar as the obligor has demonstrably gained knowledge of the confidential information outside the present legal dispute (e.g. from parallel proceedings abroad) on a non-confidential basis from a source other than Applicant or its affiliates, provided that such source is not bound by a confidentiality agreement with or other obligation of secrecy with Applicant or its affiliates.

Furthermore, confidentiality is generally no longer required if and as soon as a legally binding decision is made in the future that the information classified as confidential (see point 1)) is not confidential or if and as soon as the information classified as confidential becomes known in the relevant circles or is readily accessible to them.

This also applies after the conclusion of these proceedings.

If the duty of confidentiality is culpably breached, the court may impose an appropriate fine on the obligated party for each breach, the amount of which shall be determined by the court.

- 3) The sections with confidential content referred to under point 1) may only be disclosed to representatives (lawyers) of Respondents before this court;

3a) In the alternative: The sections with confidential content referred to under point 1) may only be disclosed to a number of people not greater than necessary and shall include the respective lawyers of the Respondents;

Should this information be the subject of an oral hearing, Applicant will request that only the persons listed in point 3) be allowed to attend the oral hearing at which confidential information may be disclosed. Only they may be provided with the recording and minutes of the aforementioned hearing insofar as information to be classified as confidential under point 1) is concerned.

The Respondents request:

- 1) The Applicant's request for confidentiality pursuant to Rule 262A RoP be dismissed;
- 2) As an auxiliary request:

The Applicant's request for confidentiality pursuant to Rule 262A RoP be dismissed insofar as it concerns the Respondents, their Representatives and Legal Teams.

- 3) As a further auxiliary request:

The Applicant's request for confidentiality pursuant to Rule 262A RoP is granted only within the scope of the Applicant's alternative request 3a), whereby, in addition to the Respondents' Representatives and Legal Teams, at least two natural persons from each Respondent are granted access to the information.

For further details, reference is made to the parties' briefs.

REASONS FOR THE ORDER:

The Applicant's request is founded in part only.

1. The information concerned is information to which R. 262A RoP applies in principle.

The breakdown of hours worked between the lawyers involved is confidential information belonging to both the lawyers and their client and is also subject to the attorney-client-privilege. The distribution of hours could allow conclusions to be drawn about the working methods and, in some circumstances, the importance attached to the case. Confidential information of the UPC representatives of a party to the proceedings is not excluded from protection under R. 262A RoP

(cf. LD Dusseldorf, order of 22 April 2025, UPC_CFI_16/2024, 121/2025, 124/2025; different opinion CD Milan Seat, order of 5 June 2025, UPC_CFI_477/2025, p. 5). There is no indication for the *a priori* exclusion of such information. Rather, R. 262A RoP allows for the protection of confidential information belonging to third parties in accordance with Art. 58 UPCA, and the UPC representatives of the parties to the proceedings qualify as third party within the meaning of Art. 58 UPCA (cf. LD Dusseldorf, order of 22 April 2025, UPC_CFI_16/2024, 121/2025, 124/2025, para. 8; CD Paris Seat, order of 16 July 2025, UPC_CFI_484/2025, p. 5 (in the context of R. 262.2 RoP); different opinion CD Milan Seat, order of 5 June 2025, UPC_CFI_477/2025, p. 5). Again, there is no sufficient indication that confidential information belonging to UPC representatives is excluded from protection from the outset.

2. Taking the circumstances of the individual case and the interests of the parties involved into account, it is justified to protect said information by measures pursuant to R. 262A RoP as ordered.

The Applicant and its UPC representatives have a legitimate interest in ensuring that the information is not used for other purposes than the cost proceedings and is not disclosed to third parties. Since the information is being provided solely for the purpose of the cost proceedings at hand, the Respondents and their representatives are anyway obliged to maintain the confidentiality of the information and not to use it for any other purpose. They will not be unduly burdened by the fact that a breach may be sanctioned by a penalty payment if the obligations are additionally imposed on them by an order pursuant to R. 262A RoP.

Since the rounded total number of hours worked and their distribution between the two parallel cases UPC_CFI_159/2024 and UPC_CFI_162/2024 were already included in the original application pursuant to R. 150 RoP without a request pursuant to R. 262A RoP but only pursuant to R. 262.2 RoP, there is no reason to issue an order pursuant to R. 262A RoP in this regard.

3. However, the requested access restrictions cannot be granted.

a) Restricting access to lawyers alone is not permitted under R. 262A.6 RoP without the consent of the party concerned.

R. 262A.6 RoP protects the right to be heard. Contrary to Applicant, in this context, it is not decisive that the requested access restriction relates to the breakdown of the hours worked only. The right to be heard also encompasses the access to the facts submitted by the other party. Without knowledge of the underlying facts, the party cannot understand and review the assessment made by its lawyer. The right to be heard is no longer guaranteed if a party has to rely on the assessment of its lawyer without having the opportunity to verify it itself.

b) Taking the circumstances of the individual case and the interests of the parties involved into account once again, restricting access to specific natural persons of Respondents named in advance is not justified either.

The Applicant only vaguely states that the information is not generally known and is not available to third parties and that it has also taken appropriate confidentiality measures with regard to this information. However, Applicant does not assert that it and its representatives entered into an agreement that restricts access to the information to specific, designated natural persons on both Applicant's side and its representatives' side.

In addition, there is no indication that, taking the character and importance of the information into account, the information is not sufficiently protected by an order pursuant to R. 262A RoP which

does not restricts the access to specific persons named in advance. Given the restricted purpose for which the information is to be used, the Respondents are obliged anyway not to disclose the information to persons within their organization who do not need it for the purpose of the cost proceedings. Similarly, the Respondents are obliged to make sure that their employees maintain the confidentiality and observe the restricted purpose for which the information is to be used.

4. It is not decisive whether the Respondents' representatives had access to the unredacted version of the Applicant's brief of 28 April 2025 that contains the unredacted breakdown of the hours worked. In order to comment on the request pursuant to R. 262A RoP they only needed to know that the redactions relate to the breakdown of hours worked.

ORDER:

I. The following information contained in the unredacted version of Applicant's brief of 28 April 2025 (workflow ORD_18010/2025, ACT_17336/2024) is classified as confidential pursuant to R. 262A RoP:

Para.	Description
Para. 11	Attorneys' hours worked

II. The information referred to in paragraph I. shall be treated as confidential by the Respondents, their legal representatives and their teams. Such information shall not be used or disclosed outside of these court proceedings, except to the extent that it has come to the knowledge of the receiving party outside of these proceedings, provided that it has been obtained by the receiving party on a non-confidential basis from a source other than the Applicant or its affiliates, provided that such source is not bound by a confidentiality agreement with or other obligation of secrecy with the Applicant or its affiliates.

This obligation of confidentiality shall continue to apply after the termination of these proceedings.

III. In the event of a culpable breach of this order, the court may impose a periodic penalty payment for each violation which will be determined having regard to the circumstances of the individual breach.

IV. For avoidance of doubt, this order supersedes the preliminary order dated 29 April 2025 for the period from its issuance.

ORDER DETAILS

Order no. ORD_20457/2025 in ACTION NUMBER: ACT_17336/2024

UPC number: UPC_CFI_336/2025

Action type: Infringement Action

Related proceeding no. Application No.: 20207/2025

Application Type: APPLICATION_ROP262A

Issued in Mannheim on 6 August 2025

NAME AND SIGNATURE

Böttcher
Legally qualified judge