



Milan Local Division

**UPC CFI No. 342/2025**  
**Order**  
**filed on 23 September 2025**

APPELLANT

3V Sigma s.p.a.

RESPONDENTS

ACEF s.r.l.

AGA s.r.l. (formerly ACEF s.p.a.)

DECIDING BODY

Presiding judge and judge rapporteur Pierluigi Perrotti

LANGUAGE OF THE PROCEEDINGS

Italian

SUMMARY OF THE FACTS OF THE CASE

On 26-27 June 2025, AGA and ACEF filed a request for protection of confidential information pursuant to Rule 262A RoP, with reference to part of the documents acquired (hereinafter referred to as *Confidential Documentation*) following the execution of evidence protection order No. 21737/2025, filed on 19 May 2025 in UPC CFI proceedings No. 342/2025 - Act. No. 18051/2025.

The defendants requested: a) to prohibit 3V Sigma (including its lawyers and consultants) from accessing the unredacted version of *the Confidential Documentation*; b1) in the alternative, to prohibit persons other than two lawyers and one consultant of 3V Sigma from accessing the unredacted version of the *Confidential Documentation*; b2) in the further alternative, to allow access, in addition to the aforementioned lawyers and consultant, to only one director of 3V Sigma.

In support of their request, AGA and ACEF pointed out that:

- (i) the *Confidential Documentation* consisted largely of various technical documents received from MFCI Co. Ltd., the manufacturer of the *MFSorb 513* filter, under contractual confidentiality restrictions;
- (ii) The remaining part of the *Confidential Documentation* contained (a) technical data on the solubility of products other than *MFSorb 513*, also referring to manufacturers/suppliers other than MFCI Co. Ltd., or (b) commercial information and information relating to ACEF's customers, which was expressly excluded from the order for the protection of evidence dated 19 May 2025.

AGA and ACEF were nevertheless willing to allow 3V Sigma access to all remaining technical documentation relating to the *MFSorb 513* product, which had also been found and collected during the execution of the evidence protection measure.

By preliminary order no. 31297/2025 of 30 June 2025, the Court:

- (i) considered that there were no grounds for prohibiting access to the *Confidential Documentation* even to the representatives of the applicant, it being understood that access was granted to them, at that stage, for the sole purpose of taking a position on the application submitted by the respondents pursuant to rule 262A RoP;
- (ii) invited 3V Sigma to file observations on the application filed by ACEF and AGA by 10 July 2025;
- (iii) ordered that all documents, information and evidence, including the Court Expert's report, acquired in the execution of the order for the protection of evidence no. 21737/2025, filed on 19 May 2025, remain confidential and not accessible to anyone, neither to the parties nor to the public, until further order of the Court;
- (iv) ordered that all documents attached to the application filed by ACEF and AGA on 26-28 June 2025 be made accessible to the representatives of 3V Sigma in the present proceedings, for the purpose of taking a position on the content of the request for protection of confidential information.

On 10 July 2025, 3V Sigma filed a defence brief in response to the counterparties' request for confidentiality.

Firstly, it pointed out that the representatives had not had actual access to the *Confidential Documentation*, as ordered by the Court.

It acknowledged the lack of objections to free access to some of the documents collected during the enforcement of the measure and did not oppose the establishment of a confidentiality regime for the information contained in the *Confidential Documentation*.

Where it had been verified that certain documents were completely unrelated to the scope of the order to protect evidence, it did not oppose AGA and ACEF's request to prevent access to these documents.

He *insisted* that at least one representative of the party, named in

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By preliminary order of 14 July 2025, having noted the inability of 3V Sigma's representatives to effectively access the *Confidential Documentation*, the Court granted the defendants until 21 July 2025 to file defence briefs containing (i) a reply to the observations made by 3V Sigma in its brief of 10 July 2025, and (ii) the unredacted version of *the Confidential Documentation*.

In a brief dated 18 July 2025, AGA and ACEF refiled as requested by the Court and reiterated all their defences and requests.

In its reply dated 26 August 2025, 3V Sigma reiterated its defence arguments. It did not oppose the adoption of a confidentiality regime, provided that adequate protection of its right of defence was ensured. Finally, it acknowledged that some of the documents included in *the Confidential Documentation* were indeed outside the scope of the evidence protection order, with the consequent waiver of access to their content.

#### REASONS FOR THE DECISION

In order no. 21737/2025 (see point 9 of the operative part), the Court ruled that "*access to the expert's written report and its annexes shall be granted to the applicant from 30 June 2025, at the Sub Registry of the Milan Local Division, under the supervision of the judge rapporteur, with the assistance of a registrar, unless the respondent exercises its right to file a request for protection of confidential information by 30 June 2025; if such a request for confidentiality is actually submitted, the Court will decide whether and which persons will have access and to what information.*"

The respondents filed the request *pursuant to* Rule 262A RoP on 26-27 June 2025 and thus exercised the aforementioned right in a timely manner.

Following the exchange of written pleadings, the Court notes that the parties agree on the following points:

- absolute prohibition of access by 3V Sigma to the documents attached as exhibits 1, 2, 19 and 20, as they contain commercial information - not covered by the order for the protection of evidence - or because they refer to products other than *MFSorb 513*;
- the need to adopt a confidentiality regime for the information contained in the documents attached under doc. nos. 3 to 18;
- recognition of the right of access, without further restrictions, to all remaining documents (other than those numbered 1 to 20 in the defendants' request) attached to the expert's report and acquired during the execution of the order for the protection of evidence.

The only remaining issue of dispute between the parties is therefore that relating to the identification of the persons entitled to be part of the confidentiality club in relation to documents nos. 3 to 18, in accordance with the general provision of Article 58 UPCA, according to which the court may restrict access to evidence to specific persons.

Pursuant to Rule 262A.6 RoP, *'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'*.

The procedural rule in question incorporates the general provision contained in Article 9 of EU Directive No. 943/2016 and aims to strike a fair balance between the conflicting requirements of ensuring adequate protection of confidential information and guaranteeing the effectiveness of the right of defence.

In this perspective, there is no valid reason to prevent access to the applicant's representatives. On this point, it suffices to note that the defendants have not made any allegations in support of such a radical restriction, which is contrary to the ordinary regime defined in Article 9 of EU Directive No. 943/2016 and Rule 262A RoP.

In accordance with the most recent interpretative guidance (see UPC CFI No. 181/2024, order 15.7.2025 - LD Düsseldorf, as well as further case law referred to therein), the Court considers that representatives have the right to share confidential information with other members of their team, if and to the extent that they are actively involved in defence activities closely related to the proceedings. If representatives make use of this option in practice, it is nevertheless their responsibility to ensure that the team maintains the confidentiality of the information.

For these reasons, access to the confidential information contained in documents nos. 3 - 18 is granted to the representatives and other members of the defence team, including, in particular, the associates of the law firm Trevisan & Cuonzo, to the extent that they are involved in the defence activities relating to these proceedings and always under the direct responsibility of the representatives.

With regard to the right of access to the party-appointed technical consultant, the Court first notes that, as clarified by the case law already cited (see again UPC CFI No. 181/2024, order 15.7.2025 - LD Düsseldorf) - the role of the party-appointed expert is more limited than that of the representatives, as they are only required to provide input on potentially relevant technical issues. However, this input is essential for the full exercise of the right of defence, as it allows for qualified dialogue on technical issues.

The applicant requests that access be granted to its technical consultants, without quantitative limits and without specifying one or more names of professionals appointed.

At this stage of the proceedings, the complexity of the technical issues does not appear to justify extending access to a number of technical consultants, or even to an indefinite number of them.

For the purposes of the effective exercise of the right of defence, the Court therefore considers that access to confidential information may be authorised to a single consultant of 3V Sigma, provided that he or she is a person outside the party's corporate organisation and belongs to a professional association, and is therefore bound by rules of professional conduct that include compliance with confidentiality obligations.

On the basis of these findings, the Court authorises a consultant trusted by the applicant to access the confidential information contained in documents nos. 3 - 18, with the obligation to promptly communicate the name, for obvious reasons of identifying a centre of responsibility in relation to any breaches of confidentiality obligations.

Finally, with regard to access by a natural person on behalf of the applicant, reference must be made to the general interpretative principle that the granting of full access to a specific person, pursuant to Rule 262A.6 RoP, must be assessed on the basis of all the specific circumstances of the case, taking into account that person's role in the proceedings before the Court, the sensitivity of the confidential information and the reliability of the authorised person in order to ensure that the confidentiality of the information is effectively maintained (see UPC CoA No. 621/2024, order of 12 February 2025; UPC CoA No. 221/2025, order 3.7.2025).

The Court notes that the defendants did not provide specific information in support of their request for the total exclusion of a representative of 3V Sigma, basing their request primarily on the prospect of future acceptance of the request for review of the order to protect evidence, filed on 27 June 2025.

The definition of the confidential information protection regime cannot be based on a preliminary assessment of the grounds on which the request for review is based. The considerations made by ACEF and AGA regarding the lack of grounds for granting the order for the protection of evidence will be fully examined at the hearing on 11 November 2025, set for the discussion of the request for review filed by the defendants pursuant to Article 60.6 UPCA and Rule 197.3 RoP.

In the present case, there is therefore no reason to derogate from the provision of Rule 262A.6 RoP which, as already clarified above, expressly provides for access to at least ('at least') *'one natural person from each party'*.

Since the respondents have not raised any objection to the designation of the person indicated by the applicant - [REDACTED] - the latter is granted access to the confidential information.

The parties may submit an application for review of this order within fifteen days of its notification, in accordance with rule 333 RoP.

Effective access to confidential documents, as identified above and to the extent authorised, will therefore only be granted after the expiry of the aforementioned deadline, by means of access at the offices of the Sub Registry of the Local Division of Milan, as specified in more detail in the operative part.

In the event that an application *under* Rule 333 RoP is actually proposed, any further determination shall be referred to the Panel.

### ORDER

- 1) 3V Sigma s.p.a. is prohibited from accessing the information contained in the documents attached under nos. 1, 2, 19 and 20 by ACEF s.r.l. and AGA s.r.l. to *the request for a confidentiality order pursuant to rule 262a rop* of 26.6.2025;
- 2) the information contained in the documents attached under nos. 3 to 18 by ACEF s.r.l. and AGA s.r.l. upon *request for a confidentiality order pursuant to rule 262a rop* of 26.6.2025, are classified as confidential information pursuant to and for the purposes of Art. 58 UPCA and rule 262A RoP;
- 3) access to the confidential information contained in the documents referred to in point 2) is permitted only to the following persons, in the manner and within the time limits set out in point 10) below:
  - a) representatives of 3V Sigma s.p.a.:
    - Luca Pellicciari, solicitor;
    - Lorenzo Battarino, solicitor;
    - in addition to other members of the team and associates of the law firm Trevisan & Cuonzo, insofar as they are involved in the defence activities relating to these proceedings and always under the direct responsibility of the representatives;
  - b) a technical consultant for the appellant, belonging to a professional association, who is not also a representative and is not part of the 3V Sigma company organisation:
    - to be named by the appellant, with a note to be filed within 3 (three) days of notification of this order;
  - c) a natural person from 3V Sigma s.p.a.:
    - Dr. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
- 4) the information referred to in point 2) shall be treated as confidential by all the persons indicated in points 3a), 3b) and 3c) and may not be used or disclosed outside the present legal proceedings;
- 5) all of the above persons are required to maintain the confidentiality of the information contained in the unredacted versions of the documents referred to in point 2);

- 6) this confidentiality obligation shall continue to apply even after the conclusion of these proceedings;
- 7) in the event of a breach of this order, the Court may impose a financial penalty for each breach, which will be determined taking into account the circumstances of the individual breach;
- 8) taking into account the agreement of the parties, all other evidence and information gathered in the course of the execution of the evidence preservation order and other than that referred to in points 1) and 2) above shall be accessible to the parties without restriction;
- 9) this order may be subject to an application for review to be filed within 15 days of notification of the order, in accordance with Rule 333 RoP;
- 10) The applicant's effective access to the expert's written report and to the documents referred to in points 2 and 8) will be implemented on 21 October 2025, at 11.30 a.m., at the Sub Registry of the Milan Local Division, under the supervision of the judge rapporteur, with the assistance of a registrar, unless an application for review is filed pursuant to Rule 333 RoP;
- 11) in the event that an application for review of this order is filed pursuant to pursuant to rule 333 RoP, any further decision will be referred to the Panel.

Milan, 23 September 2025.

*Pierluigi Perrotti*  
presiding judge and judge rapporteur

**Pierluigi**  
**Perrotti**

Signed  
digitally signed by  
Pierluigi Perrotti

Date: [REDACTED]  
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