



Order
of the Court of First Instance of the Unified Patent Court
issued on 18 November 2025
concerning EP 2 593 025 B1

Applicant:

LiNA Medical AG, represented by its CEO Lars Peter Melbye, Platz 3, 6039 Root D4, Switzerland

Authorised representative: Attorney-at-law Alexander Dinges, Bonabry Partnerschaft von Rechtsanwälten mbB, Jakob-Klar-Straße 14, 80796 Munich, Germany

Further representative: Attorney-at-law Daniel Hoppe, Bonabry Partnerschaft von Rechtsanwälten mbB, Neuer Wall 72, 20354 Hamburg, Germany

Electronic address for service: dinges@bonabry.de

Defendant:

Schultz Medical (UK) Ltd., Unit 6 Commerce Park, Crowland Street, Southport PR9 7RL, United Kingdom

Address for service: MEDICA Düsseldorf Hall 16 / H13-1 Stockumer Kirchstraße 61, 40474 Düsseldorf, Germany

Patent in suit:

European patent n° EP 2 593 025 B1

PANEL/DIVISION:

Panel of the Local Division in Düsseldorf

DECIDING JUDGES:

This order was issued by Presiding Judge Thomas acting as judge-rapporteur, the legally qualified judge Dr Thom and the legally qualified judge Gillet.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT OF THE PROCEEDINGS: Art. 60 UPCA, R. 194 (d), 196, 197, 199 RoP – Application to preserve evidence and for inspection

SUMMARY OF THE FACTS:

1. On 17 November 2025, the Applicant filed an application for preservation of evidence and inspection prior to the proceedings on the merits. The measures in question are to be executed at the Defendant's exhibition booth at the MEDICA trade fair (hereafter referred to as "MEDICA"), which is taking place from 17 November 2025 to 20 November 2025 in Düsseldorf, Germany.
2. The Applicant is the registered proprietor of the national parts of European Patent EP 2 593 025 B1 (hereafter referred to as "patent in suit"). The name displayed in the national registers is LINA Medical International Operations AG, which is the former name of the Applicant (see Exhibit BBY 7).
3. The application for the patent in suit was filed in English language on 6 July 2011, claiming priority from US 836 957 (15 July 2010). Mention of the grant of the patent in suit was published on 10 December 2014. The patent in suit is currently in force in Germany, France and in the United Kingdom (see Exhibit BBY 8).
4. The patent in suit is titled „Laparoscopic morcellator“. Its claims 1 to 6 read as follows:

Claim 1:

„A disposable laparoscopic morcellator for removing tissue from within a living organism through a small incision comprising in combination:

an elongated cylinder (101) having a first end sharpened to form a cutting edge;

a trocar (122) whereby the morcellator in companion with an obturator (123) can be introduced through an incision, the trocar mounted coaxially with said cylinder and movable longitudinally to selectively expose said cutting edge for selective engagement with tissue to be cut;

a housing adapted to be held in one hand of a surgeon supporting said elongated cylinder for rotation about the longitudinal axis of said cylinder and supporting said trocar for selective linear movement along said cylinder, said housing providing access to the interior of said cylinder for removal of tissue there through; **characterized by**

a motor (113) mounted in said housing for selectively rotating said cylinder; and,

a battery (112) mounted within said housing and operably connected to supply power to said motor;

wherein the apparatus is a fully integrated one piece device for surgical gynaecological and urological field, and intended for a single use;

wherein the morcellator further comprises a switch mounted on said housing and electrically connected between said motor and said battery so as to connect opposing wiring in said motor to prevent rotation of said motor when said motor is not energized through said switch.”

Claim 2:

“An apparatus as described in claim 1 wherein said trocar (122) can be selectively fixed in at least one position exposing at least a portion of said cutting edge and in a position exposing none of said cutting edge.”

Claim 3:

“Apparatus as described in claim 2 further comprising a cam surface formed on said housing proximal and cooperative with said trocar such that rotation of said trocar about said cylindrical tube cams said trocar between said positions.”

Claim 4:

“Apparatus as described in claim 3 further comprising a plurality of annularly spaced recesses formed on said trocar proximal said housing and a locking member formed on said housing for selectively engaging one of said recesses to selectively fix said trocar in relation to said cam surface.”

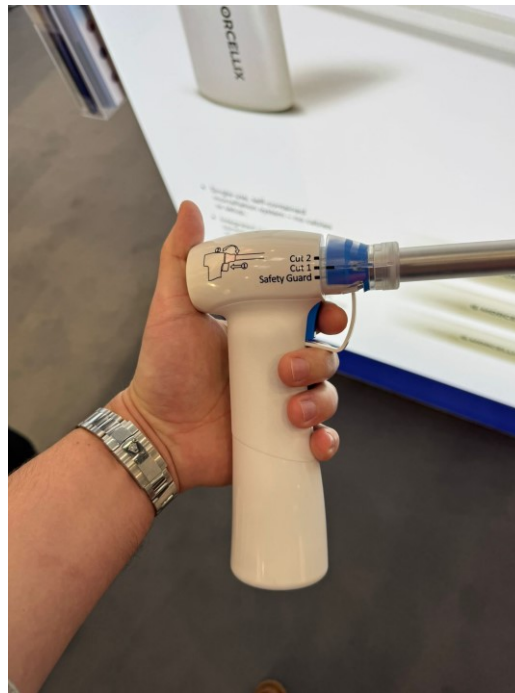
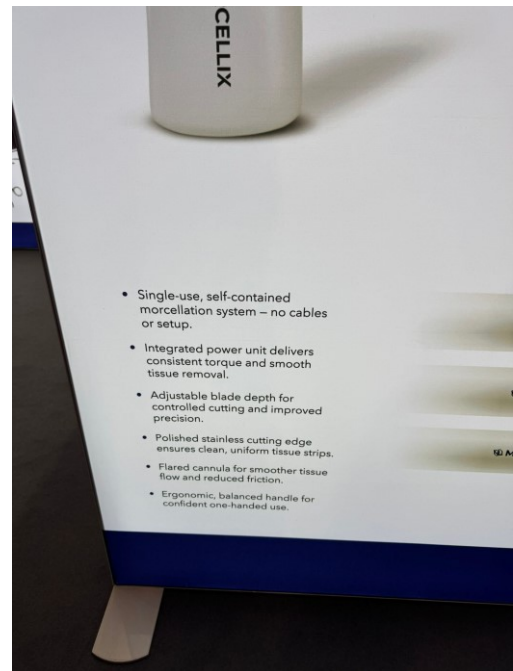
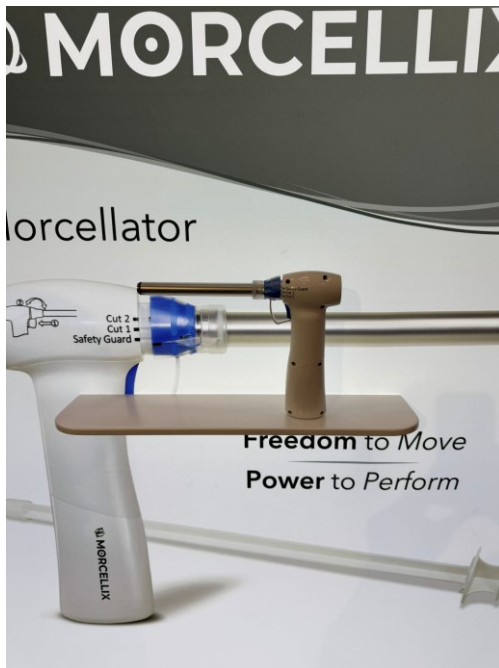
Claim 5:

“Apparatus as described in claim 4 wherein said locking member is a guard for a human actuable switch for controlling said morcellator, wherein said guard is selectively movable into engagement with one of said plurality of recesses.”

Claim 6:

“Apparatus as described in claim 1, wherein said cylindrical tube is captured within a drive sleeve said drive sleeve mounted for rotation in a bearing surface in said housing and restrained from axial motion within said housing by internal gussets formed in said grip.”

4. The Applicant is a developer and manufacturer of medical devices specialised in devices for minimally invasive gynaecology. One of the Applicant's products is LiNA Xcise™, which is a ready-to-use cordless laparoscopic morcellator.
5. According to its own statements, the Defendant is a UK based distributor of self-manufactured medical products. It is currently an exhibitor at the MEDICA in Düsseldorf.
6. The Applicant noted that the Defendant is exhibiting morcellators, which are marketed under the brand name “MORCELLIX”, at the MEDICA. The following pictures were taken from pages 37 to 39 of the application for the preservation of evidence and inspection. According to the Applicant, these pictures were taken at Defendant's exhibition booth on 17 November 2025:



7. The Applicant argues that the product presented at the MEDICA looks identical to a product obtained by the Applicant from outside of the UPC territory through a distributor in America (hereafter referred to as "American product"). This product was manufactured by a Chinese company (Tonglu Qianyan Medtech Co., Ltd.). The Applicant asserts that this product is a slavish copy of the LiNA Xcise™, including the design of the internal components. For details, reference is made to paragraphs 37 to 71 of the application.
8. According to the Applicant, the product exhibited at the MEDICA does not name the manufacturer. However, as it looks identical to the American product, the Applicant suspects that the product exhibited by the Defendant is identical to the American product and contains similar components. Whether or not the product infringes the patent in suit can only be determined with certainty if the product is disassembled and analysed. The Applicant states that this is in particular relevant with regard to feature 1.7. of Applicant's feature analysis, which

states that the morcellator comprises a switch mounted on said housing and electrically connected between said motor and said battery so as to connect opposing wiring in said motor to prevent rotation of said motor when said motor is not energized through said switch.

9. Against this background, the Applicant is seeking an order for the preservation of evidence and inspection, to be carried out at the Defendant's exhibition booth at the MEDICA in Düsseldorf.

INDICATION OF THE APPLICANT'S REQUESTS:

10. The Applicant requests the Court to order prompt and effective provisional measures against the Defendant to preserve relevant evidence in respect of the likely infringement of EP 2 593 025 B1 by presenting and offering a disposable morcellator "MORCELLIX" at the MEDICA in Düsseldorf, which may be – at the discretion of the Court – subject to confidentiality measures.

11. In detail, the Applicant requests the following:

- I. It is ordered – without prior hearing of the Defendant – that an inspection and preservation of evidence procedure is carried out by an independent expert based on the Applicant's patent EP 2 593 025 B1 ("the patent") in relation to the exhibition of the Defendant's product "MORCELLIX" at the MEDICA trade fair (hereinafter "trade fair") in Düsseldorf to identify whether the product is compliant with the following features claimed in claims 1-6 of the patent:

A disposable laparoscopic morcellator for removing tissue from within a living organism through a small incision

- an elongated cylinder (101) having a first end sharpened to form a cutting edge;
- a trocar (122) whereby the morcellator in companion with an obturator (123) can be introduced through an incision, the trocar mounted coaxially with said cylinder and movable longitudinally to selectively expose said cutting edge for selective engagement with tissue to be cut;
- a housing adapted to be held in one hand of a surgeon supporting said elongated cylinder for rotation about the longitudinal axis of said cylinder and supporting said trocar for selective linear movement along said cylinder, said housing providing access to the interior of said cylinder for removal of tissue there through;

characterized by

- a motor (113) mounted in said housing for selectively rotating said cylinder; and,
- a battery (112) mounted within said housing and operably connected to supply power to said motor;
- wherein the apparatus is a fully integrated one piece device for surgical gynaecological and urological field, and intended for a single use; wherein the morcellator further comprises

- a switch mounted on said housing and electrically connected between said motor and said battery so as to connect opposing wiring in said motor to prevent rotation of said motor when said motor is not energized through said switch;

(claim 1)

and/or

An apparatus as described in claim 1 wherein said trocar can be selectively fixed in at least one position exposing at least a portion of said cutting edge and in a position exposing none of said cutting edge;

(claim 2)

and/or

Apparatus as described in claim 2 wherein the morcellator further comprises a cam surface formed on said housing proximal and cooperative with said trocar such that rotation of said trocar about said cylindrical tube cams said trocar between said positions;

(claim 3)

and/or

Apparatus as described in claim 3 wherein the morcellator further comprises a plurality of annularly spaced recesses formed on said trocar proximal said housing and a locking member formed on said housing for selectively engaging one of said recesses to selectively fix said trocar in relation to said cam surface;

(claim 4)

and/or

Apparatus as described in claim 4 wherein said locking member is a guard for a human actuable switch for controlling said morcellator, wherein said guard, is selectively movable into engagement with one of said plurality of recesses;

(claim 5)

and/or

Apparatus as described in claim 1, wherein said cylindrical tube is captured within a drive sleeve said drive sleeve mounted for rotation in a bearing surface in said housing and restrained from axial motion within said housing by internal gussets formed in said grip.

(claim 6)

II. The Applicant is permitted through an independent expert, assisted – to the extent necessary – by a bailiff, to

- (i) inspect the Defendant's booth (Hall 16 / H13-1) at the trade fair for the purpose of (ii) to (iv), whereby the expert may gain access to all areas, both public and nonpublic, and access all containers, cabinets, doors, or electronic systems and

computers, whereby the Defendant is obliged to grant access to the expert including to enter passwords into electronic systems and computers and whereby the Applicant is entitled to call in a locksmith in the event of refusal of access;

- (ii) obtain, gather and preserve all technical, promotional and commercial documentation concerning or relating to the “MORCELLIX” presented by the Defendant at the trade fair, by making photos, videos or copies (including electronic copies) thereof;
- (iii) obtain and preserve one sample product of the “MORCELLIX” presented by the Defendant at the trade fair for the purpose of disassembly and detailed description of all components including description of electronic components in order to establish whether the “MORCELLIX” implements the teachings as claimed in claims 1-6 of EP 2 593 025 B1,
- (iv) preserve evidence by detailed description of the sample product of the disposable morcellator under (iii) and perform all necessary activities, including testing, opening, removing covers, removing screws and other components, disassembling components, or whatsoever, accompanied by photos and videos of the product and its components in order to establish whether the “MORCELLIX” implements the teachings as claimed in claims 1-6 of EP 2 593 025 B1, whereby the description may be carried out – at the experts discretion – at trade fair premises or at another suitable location outside the trade fair and any evidence preserved for that purpose may be removed from the trade fair and taken to that location.

III. The Defendant is ordered

- (i) to tolerate the persons appointed in this order
 - (a) to carry out this order to enter the aforementioned premises at MEDICA, to inspect the premises as previously described and to preserve evidence;
 - (b) to take photographs or films for documentary purposes relevant to the ordered preservation of evidence and to the inspection ordered;
 - (c) to have full access to all the documents, in whatever format, regarding the “MORCELLIX”;
- (ii) to hand over a sample of the “MORCELLIX” located at the MEDICA trade fair taking place from November 17 to November 20, 2025, in Düsseldorf, Stockumer Kirchenstraße 61, 40474 Düsseldorf, Hall 16 / H13-1, to an expert for the purposes of the order under II;
- (iii) and to tolerate that the expert is permitted to perform any and all necessary activities to establish whether the “MORCELLIX” implements the teachings as claimed in claims 1-6 of EP 2 593 025 B1, in particular a. remove covers, screws and electrical connections and disassemble the product such that all components can be described in detail necessary to establish, whether the “MORCELLIX” implements the teachings as claimed in claims 1-6 of EP 2 593 025 B1, b. visually analyse the product and its disassembled components, c. put the product into operation for testing, d. take photos and videos of each of the steps a.-c.

IV. In case the Defendant does not comply with the order under III.(ii), allow the Applicant to physically seize a sample product of the “MORCELLIX” through a bailiff and to perform the analysis described under II and III.(ii).a.-d. by the expert at the trade fair or – at the

experts discretion – at a location other than the exhibition booth to be determined by the expert.

- V. The expert shall, within a period of 4 weeks after completion of the measures specified in sections I. to III. submit to the Local Division a detailed description of the features of the morcellators relevant for assessing an infringement of claims 1 to 6 of the patent, whereby the description shall be accompanied by the evidence on which the assessment is based, such as, in particular, photographs, film recordings, documents, and other data as attachments.
- VI. The description prepared in accordance with Section V. and all other results of the inspection and preservation of evidence shall only be used in main proceedings before the Unified Patent Court (UPC) only against (1) the Defendant, its legal representative and any affiliated companies thereto, (2) the Defendant's EU representative as shown in the CE MDR certificate (unknown, possibly the Eunitor GmbH, Kennedydamm 5, 40476 Düsseldorf, Deutschland, represented by its CEO Shujun Yin, HRB: 92928) and its legal representative and (3) the manufacturer of the device as well as its legal representatives (unknown, possibly Tonglu Qianyan Medtech Co., Ltd.).
- VII. The order shall be carried out by Mr. Dipl.-Ing Theodor Kierdorf, Lippert Stachow Patentanwälte, Am Teppershof 7, 46117 Oberhausen with a competent bailiff for the service and enforcement of court orders in Germany.
- VIII. In the interests of protecting the Defendant's business secrets, which could come to light during the inspection and preservation of evidence, the expert and the bailiff are instructed to maintain confidentiality both towards the Applicant personally and towards third parties.
- IX. The Applicant's representatives represented by Rechtsanwalt Dr Christian Kube are allowed to be present during the execution of this order.
- X. The persons involved in carrying out the inspection and securing evidence, in particular the bailiff, the expert, and the representatives of the Applicant, are obliged to keep confidential any facts that come to their knowledge in the course of executing the entire order, both vis-à-vis third parties and vis-à-vis the Applicant. In addition, the aforementioned persons may not, until a release order has been issued by the Unified Patent Court, give the Applicant or third parties any opportunity to inspect the disposable morcellators, any seized documents and products, or the detailed description to be prepared by the expert.
- XI. The Defendant is permitted to comment on any confidentiality interests it may have within two weeks after the expert appointed to carry out this order has submitted the detailed description to be prepared in accordance with Section V. The abovementioned representatives of the Applicant shall be heard. Only then shall the court decide whether and to what extent the detailed description shall be brought to the personal attention of the Applicant and whether the duty of confidentiality shall be lifted for the representatives of the Applicant.
- XII. The Applicant is obliged to bear the costs of the inspection and preservation of evidence, including the preparation of the detailed description. The Applicant is ordered to pay the expert a reasonable advance on costs, to be determined by the expert, before the inspection begins, unless the expert waives such an advance payment.
- XIII. In the event of a culpable violation of this order, the court may impose a penalty payment on each party for each violation, the amount of which may be determined by the

court taking into account the circumstances of the individual case.

- XIV. The measures for inspection and preservation of evidence shall be revoked at the request of the Defendant or shall otherwise cease to have effect if the Applicant does not, within a period of no more than 31 calendar days or 20 working days, whichever is longer, after the written description to be prepared in accordance with Section V has been disclosed to the Applicant or the court has decided by a final decision not to grant access to this description, has brought the main proceedings in the matter against the Defendant before the Unified Patent Court.
- XV. This order shall be delivered in person by the representative of the Applicant named in section IX together with a copy of the application for the order, including the exhibits and other documents on which the application is based prior to or upon the execution of the order, as well as the notice of preliminary measures and instructions for access to the proceedings (provided by the CMS).
- XVI. This order shall be delivered in person by the representative of the Applicant named in section IX together with a copy of the application for the order, including the exhibits and other documents on which the application is based prior to or upon the execution of the order, as well as the notice of preliminary measures and instructions for access to the proceedings (provided by the CMS).

GROUNDS FOR THE ORDER:

- 12. The application for the preservation of evidence and inspection (R. 192, 199 RoP) is successful to the extent set out in the operative part of this order.

I.

- 13. The Düsseldorf Local Division has jurisdiction pursuant to Art. 32(1)(c), 33(1)(b), 60 UPCA. The application has also been submitted in an admissible manner in accordance with R. 192, 199 RoP. In particular, the Applicant has stated that it intends to bring an action for infringement, requesting a declaration of infringement, a final injunction, damages, recall and removal of goods from the chain of commerce and costs if the description of the product presented at the MEDICA confirms that the product is identical to the American product.

II.

- 14. Furthermore, the Applicant has credibly demonstrated that the patent in suit may be infringed by the Defendant (Art. 60(1) UPCA).
- 15. In view of the overall circumstances described above, it is likely that the morcellator “MORCELLIX“, exhibited at the MEDICA in Düsseldorf, makes use of the teaching of the patent in suit.
- 16. The Applicant is the registered owner of the patent in suit. Therefore, it is entitled to bring actions to the Court. Furthermore, based on the examination of the American product, the Applicant has comprehensively explained why it considers the realisation of all features of claims 1 to 6 of the patent in suit to be likely. In doing so, the Applicant has demonstrated in a plausible manner why, in its view, the American product constitutes a slavish imitation of the Applicant’s product. Furthermore, with regard to the American product, the Applicant has conclusively demonstrated, through its investigations, that all features set out in claims 1 to 6 of the patent in suit are implemented. With the exception of the labelling, the product

which is presented by the Defendant at the MEDICA is identical in appearance to the American product examined by the Applicant. This is illustrated by the following pictures, taken from the application (left picture: American product; right picture: product, presented at the MEDICA):



17. Against this background, the Applicant has provided comprehensible grounds for its suspicion that the product exhibited at the MEDICA may constitute an infringement of the patent in suit. Therefore, the Applicant has an interest in investigating this suspicion through an inspection and preservation of evidence.
18. The validity of the patent in suit is not to be examined within the framework of the present proceedings. The only exception to this would be if there were clear indications that the validity of the patent in suit were in doubt, for example as a result of a negative decision on validity (see UPC_CoA_327/2025, Order of 15 July 2025, para. 42 et seq. – Maguin v Tiru). However, there are no such indications in the case at hand.

III.

19. The Applicant has also demonstrated why the proposed measures are needed to preserve evidence (R. 192.2(c) RoP). Furthermore, the Applicant has provided reasons for an order to preserve evidence without hearing the Defendant (R. 194.2 b), c), 197 VerfO).

1.

20. The inspection and preservation of evidence is necessary.
21. The Applicant has clearly demonstrated that the morcellator “MORCELLIX” exhibited at the MEDICA may make use of claims 1 to 6 of the patent in suit. However, to date, the Applicant’s findings are primarily based on an examination of the American product, which was acquired outside the territorial scope of the patent in suit. With regard to the product exhibited at the MEDICA, the Applicant may inspect the external design without an order for preservation of evidence and inspection. However, it cannot inspect the internal design, which is crucial for determining whether the patent in suit is infringed or not. Since the exhibited product is not yet available in Europe and therefore within the territorial scope of the patent in suit, the Applicant cannot purchase it through a test purchase. The exhibition of the morcellator

“MORCELLIX” at the MEDICA offers therefore the Applicant the opportunity to preserve evidence of the alleged infringement of the patent in suit.

22. There are no indications that the Applicant had any previous opportunity to inspect the product in question within the territorial scope of the patent in suit. Rather, the Applicant argued that the respective product was not yet on the market in Europe. The examination of the American product is insufficient. It cannot be ruled out that this product has a different configuration compared to the products which are going to be offered and distributed within the territorial scope of the patent in suit.

2.

23. The order needs to be issued ex-parte in accordance with R. 192.3, 197 RoP. Otherwise, there would be a demonstrable risk that evidence would be destroyed or would no longer be available for other reasons (R. 197.1 Alt. 2 RoP).
24. The Applicant has explained in a comprehensive manner that the products in question are small items that can easily be carried in one hand. Furthermore, the products are exhibited at a trade fair which only takes place for a short time (4 days). After this period, it will be considerably more difficult for the Applicant to obtain sample products or to serve documents on the Defendant.

IV.

25. In the context of the discretionary decision, the necessary weighing of interests is in favour of the Applicant.
26. Based on the information available so far, the Applicant has clearly demonstrated why it assumes that all features of claims 1 to 6 of the patent in suit are implemented in the mollusks at issue. The Applicant has also explained why it currently has no other means of gathering evidence of a possible infringement of the patent in suit. Examining the American product alone is insufficient for this purpose as it was purchased outside the territorial scope of the patent in suit. Whether the product, which is exhibited at the MEDICA and thus within the territorial scope of the patent in suit, is constructed identically can only be determined by examining it.
27. In light of this, it is necessary to issue the present order to protect the Applicant’s overriding interests in this regard. The measures ordered do not place an unreasonable burden on the Defendant. The confidentiality orders included in this order sufficiently take into account the Defendant’s interests in confidentiality.

V.

28. In accordance with Rules 196.4 RoP and R. 196.5 RoP, the order stipulates that an expert be appointed to carry out the measures. The Court does not object to the proposed expert. Should difficulties arise later when utilising the detailed description due to the expert named by the Applicant, this is the Applicant’s responsibility.
29. In order to assist the expert in preserving evidence, the Court makes use of the option provided for in R. 196.5 S. 2 RoP to order the assistance of a bailiff. The involvement of a bailiff

is necessary for the requested seizure, as this falls within the bailiff's competence under national law (UPC_CFI_539/2024 (LD Düsseldorf), order of 18 October 2024 – Bekaert Binjiang Steel v Siltronic).

30. According to R. 196.5 RoP, employees or directors of the Applicant itself were to be excluded from the inspection and preservation of evidence. In the interests of proportionality and the protection of confidential information, the number of representatives present during the inspection was also to be limited, as requested (Art 60(1) UPCA, R. 196.1 RoP). The confidentiality measures that are put in place for the representatives, the expert and the bailiff also take Defendant's interests in confidentiality into account. The same applies to the procedure described in the operative part of this order (see Section XII.) after receipt of the detailed description.
31. Furthermore, it was to be ordered that the detailed description to be provided by the expert may only be used in the main proceedings against the entities named in the operative part (R. 196.2 RoP).
32. The costs of the inspection and preservation of evidence to be carried out by the expert, including the detailed description to be prepared by the expert, shall in any case be paid by the Applicant until further notice, as the Applicant is requesting the inspection and preservation of evidence. If the expert does not waive payment of an advance for its costs, the Applicant shall pay the expert a reasonable advance, as determined by the expert, before the inspection and preservation of evidence starts.
33. This order, together with the documents referred in Section XI., shall be served by the bailiff in cooperation with the Applicant's representative present at the inspection and preservation of evidence in accordance with Section XII., pursuant to R. 197.2 RoP.

VII.

34. The general threat of penalty payments, which is included in the order, gives the Court the flexibility to consider the infringer's behaviour in the event of a breach of this order and to set an appropriate penalty payment.
35. In the case at hand, it was possible to refrain from ordering security to be provided. The special circumstances for an ex-parte order (R. 196.6 RoP) are met. Unlike in the case of a preliminary injunction, Defendant will only suffer minor damage at most as a result of the inspection and the preservation of evidence. The Defendant is entitled to offer and distribute the product under investigation (UPC_CFI_260/2025 (LD Düsseldorf), order of 26 March 2025, p. 9 seq – OTEC Präzisionsfinisch v STEROS; UPC_CFI_1325/2025 (LD Düsseldorf), order of 30 October 2025, para. 38 - Van Loon Beheer v. Inverquark). On this basis, and taking into account the short duration of the trade fair, ordering the provision of security would unreasonably delay the inspection and preservation of evidence, which justifies refraining from ordering the provision of security for costs.

ORDER:

- I. The following order for inspection and preservation of evidence is issued without a prior hearing of the Defendant, in order to preserve evidence in respect of the implementation of all features of claims 1 to 6 of EP 2 593 025 B1 in the morcellator "MORCELLIX" presented at Defendant's exhibition booth at the MEDICA trade fair, taking place from 17 November 2025 to 20 November 2025 in Düsseldorf (Stockumer Kirchstraße 61, 40474 Düsseldorf, Germany), whereby the aforementioned claims read as follows:

„A disposable laparoscopic morcellator for removing tissue from within a living organism through a small incision comprising in combination:

an elongated cylinder (101) having a first end sharpened to form a cutting edge;

a trocar (122) whereby the morcellator in companion with an obturator (123) can be introduced through an incision, the trocar mounted coaxially with said cylinder and movable longitudinally to selectively expose said cutting edge for selective engagement with tissue to be cut;

*a housing adapted to be held in one hand of a surgeon supporting said elongated cylinder for rotation about the longitudinal axis of said cylinder and supporting said trocar for selective linear movement along said cylinder, said housing providing access to the interior of said cylinder for removal of tissue there through; **characterized by***

a motor (113) mounted in said housing for selectively rotating said cylinder; and,

a battery (112) mounted within said housing and operably connected to supply power to said motor;

wherein the apparatus is a fully integrated one piece device for surgical gynaecological and urological field, and intended for a single use;

wherein the morcellator further comprises a switch mounted on said housing and electrically connected between said motor and said battery so as to connect opposing wiring in said motor to prevent rotation of said motor when said motor is not energized through said switch."

(Claim 1)

"An apparatus as described in claim 1 wherein said trocar (122) can be selectively fixed in at least one position exposing at least a portion of said cutting edge and in a position exposing none of said cutting edge."

(Claim 2)

"Apparatus as described in claim 2 further comprising a cam surface formed on said housing proximal and cooperative with said trocar such that rotation of said trocar about said cylindrical tube cams said trocar between said positions."

(Claim 3)

“Apparatus as described in claim 3 further comprising a plurality of annularly spaced recesses formed on said trocar proximal said housing and a locking member formed on said housing for selectively engaging one of said recesses to selectively fix said trocar in relation to said cam surface.”

(Claim 4)

“Apparatus as described in claim 4 wherein said locking member is a guard for a human actuable switch for controlling said morcellator, wherein said guard is selectively movable into engagement with one of said plurality of recesses.”

(Claim 5)

“Apparatus as described in claim 1, wherein said cylindrical tube is captured within a drive sleeve said drive sleeve mounted for rotation in a bearing surface in said housing and restrained from axial motion within said housing by internal gussets formed in said grip.”

(Claim 6)

II. The Defendant is ordered:

1. To hand out an example of a morcellator, marketed under the brand name “MORCELLIX”, which is presented at the Defendant’s exhibition booth at the MEDICA trade fair (Hall 16/H13-1), taking place from 17 November 2025 to 20 November 2025 in Düsseldorf (Stockumer Kirchstraße 61, 40474 Düsseldorf, Germany), to an expert, in order to provide the expert with the opportunity to inspect this morcellator at a location of the expert’s choice, outside of Defendant’s exhibition booth. The morcellator is to be returned to the Defendant as soon as the inspection has been finished. The expert is permitted to:

- a. disassemble the sample product of the disposable morcellator “MORCELLIX”;
- b. perform all necessary activities, including testing, opening, removing covers, removing screws and other components, disassemble components;
- c. take photos and videos of the product and its components

in order to establish whether the morcellator “MORCELLIX” implements the teachings as claimed in claims 1 to 6 of EP 2 593 025 B1;

2. Alternatively, if the Defendant refuses to provide a sample of the morcellator “MORCELLIX” for inspection outside of Defendant’s exhibition booth at the MEDICA trade fair:

The Applicant is permitted to inspect the morcellator “MORCELLIX”, which is presented at the Defendant’s exhibition booth at the MEDICA trade fair (Hall 16/H13-1), taking place 17 November 2025 until 20 November 2025

in Düsseldorf (Stockumer Kirchstraße 61, 40474 Düsseldorf, Germany), whereby the inspection is carried out at Defendant's exhibition booth at the trade fair by an expert and, if necessary, supported by a bailiff. The expert is permitted to:

- a. disassemble the sample product of the disposable morcellator MORCELLIX";
- b. perform all necessary activities, including testing, opening, removing covers, removing screws and other components, disassemble components;
- c. take photos and videos of the morcellator "MORCELLIX" and its components for documentary purposes relevant to the ordered preservation of evidence and the inspection ordered,

in order to establish whether the morcellator "MORCELLIX" implements the teachings as claimed in claims 1 to 6 of EP 2 593 025 B1;

3. Alternatively, if it is not possible to carry out an inspection at the Defendant's exhibition booth at the MEDICA trade fair as, described in Section II.2:

The Applicant is permitted to physically seize a sample product of the morcellator "MORCELLIX" through a bailiff and perform the analysis described in Sections II.1. and II.2. by an expert at the expert's discretion at an alternative location other than the exhibition booth to be determined by the expert.

- III. The Applicant is permitted to preserve evidence relating to the implementation of all features of claims 1 to 6 of EP 2 593 025 B1 in the morcellator "MORCELLIX", which is located at the trade fair and/or directly related to Defendant's participation at the MEDICA trade fair. This preservation is carried out by an expert by:

1. a detailed description of the features of the morcellator "MORCELLIX";
2. inspection of all technical, promotional and commercial documentation concerning or relating to the morcellator "MORCELLIX" presented by the Defendant at the trade fair, whereby the Applicant and the expert are permitted to take photos or videos, or make copies (including electronic copies), insofar as these measures are necessary for the detailed description (see Section IV.);
3. gaining access to all areas, both public and non-public, and to all containers, cabinets, doors, or electronic systems and computers.

- IV. The expert shall, within a period of 4 weeks after completion of the measures specified in Sections I. to III., submit to the Court a detailed description of the features of the morcellator "MORCELLIX" relevant for assessing an infringement of claims 1 to 6 of EP 2 593 025 B 1, whereby the description shall be accompanied by the evidence on which the assessment is based, such as, in particular, photographs, film recordings, documents, and other data as attachments.

- V. The description prepared in accordance with Section IV. and all other results of the inspection and preservation of evidence shall only be used in main proceedings before the Unified Patent Court (UPC) only against
1. the Defendant, its legal representative(s) and any affiliated companies thereto,
 2. the Defendant's EU representative as shown in the CE MDR certificate, Eunitor GmbH, Kennedydamm 5, 40476 Düsseldorf, Deutschland, represented by its CEO Shujun Yin, HRB: 92928, and its legal representative and
 3. the manufacturer of the device as well as its legal representatives (unknown, possibly Tonglu Qianyan Medtech Co., Ltd.).
- VI. The following person is appointed as an expert to carry out the aforementioned measures:
- Mr. Dipl.-Ing Theodor Kierdorf, Lippert Stachow Patentanwälte, Am Teppershof 7, 46117 Oberhausen, Germany.
- VII. The locally competent bailiff is appointed to assist the expert.
- VIII. To protect Defendant's confidential information, which may be disclosed during the inspection and preservation of evidence, the expert and the bailiff are instructed to maintain confidentiality towards both the Applicant personally and third parties.
- IX. During the execution of this order the following representative of the Applicant is permitted to be present, in addition to the expert and the bailiff:
- Attorney-at-law Dr Christian Kube.
- Representatives, employees or other staff of the Applicant shall not be present during the execution of this order.
- X. The Defendant is ordered:
1. To cooperate in carrying out the inspection and the preservation of evidence in accordance with this order, and to assist the expert and the bailiff when requested to do so;
 2. To tolerate the persons named and appointed in this order
 - a. to carry out this order to enter the aforementioned premises at MEDICA trade fair, to inspect the premises as previously described and to preserve evidence;
 - b. to take photos or films for documentary purposes relevant to the ordered preservation of evidence and the ordered inspection ordered;
 - c. to have full access to all the documents, in whatever format, regarding the morcellator "MORCELLIX";
 3. To hand over a sample of the morcellator "MORCELLIX" located at the MEDICA

trade fair taking place from 17 November 2025 to 20 November 2025 in Düsseldorf, Stockumer Kirchstraße 61, 40474 Düsseldorf, Hall 16 / H13-1, to an expert for the purposes of the order under Section II.;

4. To tolerate the expert performing any and all necessary activities to establish whether the morcellator “MORCELLIX” implements the teachings as claimed in claims 1 to 6 of EP 2 593 025 B1, in particular:
 - a. remove covers, screws and electrical connections, disassemble the product such that all components can be described in detail necessary, establish, whether the morcellator “MORCELLIX” implements the teachings as claimed in claims 1-6 of EP 2 593 025 B1;
 - b. visually analyse the product and its disassembled components;
 - c. put the product into operation for testing;
 - d. take photos and videos of each of the steps a.-c.
- XI. The persons involved in carrying out the inspection and preserving evidence, in particular the bailiff, the expert, and the representatives of the Applicant, are obliged to keep confidential any facts that come to their knowledge in the course of executing the entire order, both vis-à-vis third parties and vis-à-vis the Applicant. In addition, the aforementioned persons shall not, until a release order has been issued by the Unified Patent Court, give the Applicant or third parties any opportunity to inspect the disposable morcellators, any seized documents and products, or the detailed description to be prepared by the expert.
- XII. The Defendant shall be provided with the opportunity to comment on any confidentiality interests it may have after the expert appointed to carry out this order has submitted the detailed description to be prepared in accordance with Section IV. The abovementioned representatives of the Applicant shall be heard. Only then shall the Court decide whether and to what extent the detailed description shall be brought to the personal attention of the Applicant and whether the confidentiality order shall be lifted for the representatives of the Applicant.
- XIII. The Applicant is obliged to bear the costs of the inspection and preservation of evidence, including the preparation of the detailed description. The Applicant is ordered to pay the expert a reasonable advance on costs, to be determined by the expert, before the inspection begins, unless the expert waives such an advance payment.
- XIV. In the event of a culpable breach of this order, the Court may impose a penalty payment on each party for each breach, the amount of which may be determined by the Court taking into account the circumstances of the individual case.
- XV. The measures for inspection and preservation of evidence shall be revoked at the request of the Defendant or shall otherwise cease to have effect if the Applicant does not, within a period of no more than 31 calendar days or 20 working days, whichever is longer, after the written description to be prepared in accordance with Section IV. has been disclosed to the Applicant or the Court has decided by a final decision not to grant access to this description, bring the main proceedings in the matter against the

Defendant before the Unified Patent Court.

XVI. This order shall be delivered in person by the representative of the Applicant named in Section IX. together with a copy of the application for the order, including the exhibits and other documents on which the application is based prior to or upon the execution of the order, as well as the notice of preliminary measures and instructions for access to the proceedings (provided by the CMS).

XVII. This order shall be served by the bailiff in cooperation with the Applicant's legal representative present at the inspection and preservation of evidence in accordance with Section IX.

XVIII. In all other respects, the application for preservation of evidence is rejected.

Issued on 18 November 2025

NAMES AND SIGNATURES

Presiding Judge Thomas	
Legally qualified judge Dr Thom	
Legally qualified judge Gillet	
For the Sub-Registry	

INFORMATION ABOUT REVIEW AND APPEAL:

Defendant may request a review of the present order to preserve evidence within 30 days after the execution of the measures (Art. 60(6) UPCA, R. 197.3 RoP).

The adversely affected party may bring an appeal against the present order within 15 days of service of this order (Art. 73(2)a UPCA, R. 220.1(c) RoP).