Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Düsseldorf local division
UPC_CFI_1849/2025

Order
of the Court of First Instance of the Unified Patent Court
issued on 10 December 2025
concerning EP 3 802 413 B1

APPLICANT:

Topsoe A/S, represented by its Chief Executive Officer Roeland Baan, Haldor Topsøes Allé 1, DK-2800, Kgs. Lyngby, Denmark

represented by: Dr Kanz, solicitor, Mr Haft, solicitor, Dr Bothe, solicitor, Ms Wilhelm, solicitor, Mr Pfeffer-mann, solicitor, Steinstraße 20, 40212 Düsseldorf, Germany

Electronic delivery address: christine.kanz@hoyngrokh.com

RESPONDENTS:

1. **SYPOX GmbH**, represented by managing director Gianluca Pauletto, Am Waldrand 3, 85354 Freising, Germany

2. **Josef Kerner Energiewirtschafts-GmbH**, represented by managing director Josef Kerner, Papst-Viktor-Str. 27, 91795 Dollnstein, Germany

3. **HyGear B.V**, represented by its CEO Hank Kleef, Westervoortsedijk 73 HG, 6827 AV Arnhem, Netherlands

PATENT APPLICATION:

EUROPEAN PATENT NO. EP 3 802 413 B1

PANEL/CHAMBER:

Judicial panel of the local division Düsseldorf

PARTICIPATING JUDGES:

This order was issued by Presiding Judge Thomas, legally qualified Judge Dr Schumacher as rapporteur and legally qualified Judge Agergaard.

LANGUAGE OF THE PROCEEDINGS: German

SUBJECT: Art. 60 UPC Agreement, R. 194(d), 196, 197, 199 RoP – Application for inspection and preservation of evidence

SUMMARY OF THE FACTS:

1. On 4 December 2025, the applicant filed an application for an order for inspection and preservation of evidence on the premises of the second respondent in advance of a main action.

2. The applicant is the owner of European patent EP 3 802 413 B1 (Annex HRM 7; hereinafter referred to as the application patent), which was filed on 15 May 2019 in English as the language of the proceedings, claiming the priorities of DK PA201800249 and EP 18175366 of 31 May 2018 and DK PA201800636 of 25 September 2018. The grant of the patent application was published on 5 July 2023. The patent application is in force in Germany, Finland, France, Great Britain, Italy, Iceland, Lithuania, the Netherlands, Norway, Sweden, Switzerland and Spain. The applicant revoked its original declaration of opting out of the jurisdiction of the Unified Patent Court by declaration dated
21 November 2025.

3. No opposition was filed against the grant of the patent application.

4. The patent application is entitled "HYDROGEN PRODUCTION BY STEAM METHANE REFORMING". Its patent claim 1 is formulated as follows in the English language of the proceedings:

> "A hydrogen plant for producing hydrogen, said hydrogen plant comprising:
>
> - A reforming reactor system comprising a first catalyst bed comprising an electrically conductive material and a catalytically active material, said catalytically active material being arranged for catalysing steam reforming of a feed gas comprising hydrocarbons, a pressure shell housing said first catalyst bed, a heat insulation layer between said first catalyst bed and said pressure shell, and at least two conductors electrically connected to said electrically conductive material and to an electrical power supply placed outside said pressure shell, wherein said electrical power supply is dimensioned to heat at least part of said first catalyst bed to a temperature of at least 500°C by passing an electrical current through said electrically conductive material, wherein said pressure shell has a design pressure of between 5 and 200 bar, preferably between 30 and 200, more preferably between 80 and 180 bar,
>
> - a water gas shift unit downstream of the reforming reactor system, and
>
> - a gas separation unit downstream of the water gas shift unit."

5. The independent process claim 22 reads as follows in the English language of the proceedings:

> "A process for producing hydrogen from a feed gas comprising hydrocarbons in a hydrogen plant, said hydrogen plant comprising a reforming reactor system with a pressure shell housing a first catalyst bed, said first catalyst bed comprising an electrically conductive material and a catalytically active material, said catalytically active material being arranged to catalyse steam reforming of a feed gas comprising hydrocarbons, wherein said reforming reactor systemis provided with heat insulation between said first catalyst bed and said pressure shell; said process comprising the following steps:

- pressurising said feed gas to a pressure of between 5 and 200 bar,

- supplying said pressurised feed gas to the reforming reactor system,

- allowing said feed gas to undergo steam reforming reaction over the first catalyst bed and discharging a product gas from the reforming reactor system,

- heating said catalytically active material by supplying electrical power via electrical conductors connecting an electrical power supply placed outside said pressure shell to said electrically conductive material, allowing an electrical current to run through said electrically conductive material, thereby heating at least part of the first catalyst bed to a temperature of at least 500°C,

- letting the product gas into a water gas shift unit downstream of the reforming reactor system in order to generate a water gas shifted product gas,

- condensing water in the water gas shifted product gas and separating this water in a flash separation step, thereby providing a dry water gas shifted product gas, and

- Removing at least CO2 from the dry water gas shifted product gas in a gas separation unit downstream the water gas shift unit."

6. In the registered German translation, the claims read as follows: Claim 1:

"Hydrogen plant for producing hydrogen, wherein the hydrogen plant comprises:

- A reforming reactor system comprising a first catalyst bed comprising an electrically conductive material and a catalytically active material, wherein the catalytically active material is arranged to catalyse the steam reforming of a feed gas comprising hydrocarbons, a pressure jacket receiving the first catalyst bed, a heat insulation layer between the pressure jacket and the first catalyst bed, and a second catalyst bed comprising an electrically conductive material and a catalytically active material, wherein the catalytically active material is arranged to catalyse the steam reforming of a feed gas comprising hydrocarbons, a pressure jacket receiving the second catalyst bed, a heat insulation layer between the pressure jacket and the second catalyst bed, and a thirdmaterial is ordered to catalyse the steam reforming of a feed gas comprising hydrocarbons, a pressure jacket that accommodates the first catalyst bed, a heat insulation layer between the first catalyst bed and the pressure jacket, and at least two conductors electrically connected to the electrically conductive material and an electrical power supply located outside the pressure jacket, wherein the electrical power supply is dimensioned to heat at least a portion of the first catalyst bed to a temperature of at least 500°C by passing an electrical current through the electrically conductive material, wherein the pressure jacket has a nominal pressure between 5 and 200 bar, preferably between 30 and 200, particularly preferably
between 80 and 180 bar,

- a water gas shift unit downstream of the reforming reactor system, and

- a gas separation unit downstream of the water gas shift unit."

Claim 22:

"Method for producing hydrogen from a feed gas comprising hydrocarbons in a hydrogen plant, wherein the hydrogen plant comprises a reforming reactor system with a pressure vessel that accommodates a first catalyst bed, wherein the first catalyst bed comprises an electrically conductive material and a catalytically active material, wherein the catalytically active material is ordered to catalyse the steam reforming of a feed gas comprising hydrocarbons, wherein the reforming reactor system is equipped with thermal insulation between the first catalyst bed and the pressure vessel; wherein the process comprises the following steps:

- pressurising the feed gas to a pressure between 5 and 200 bar,

- feeding the pressurised feed gas to the reforming reactor system,

- Enabling the steam reforming reaction of the feed gas over the first catalyst bed and discharging a product gas from the reforming reactor system,

- Heating the catalytically active material by supplying electrical energy via electrical conductors connecting a power supply located outside the pressure vessel to the electrically conductive material, thereby allowing an electrical current to flow through the electrically conductive material, heating at least a portion of the first catalyst bed to a temperature of at least 500°C,

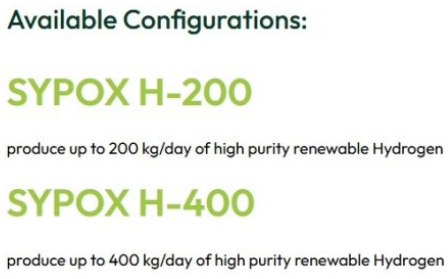
- introducing the product gas into a water gas shift unit downstream of the reforming reactor system to produce a water gas shift product gas,

- condensing water in the water gas shift product gas and separating this water in a flash separation step, thereby providing a dry water gas shift product gas, and

- removing at least CO2 from the dry water gas shift product gas in a gas separation unit downstream of the water gas shift unit.

7. The first respondent is a company specialising in the electrification of the chemical industry. The first respondent was founded in Freising, Germany, in 2021 as a spin-off from the Technical University of Munich.

8. On its website (screenshot submitted as Annex HRM 14), it offers electrically heated systems for converting biogas into hydrogen under the names SYPOX H-200 and SYPOX H-400. Two images showing the system and the reformer are displayed below:



Your Key Advantages:

- Up to 3x More Revenue per kWh vs. Electricity
- More Energy Utilized from Biogas
- Unlock Hydrogen Incentives and Carbon Credits
- Produce Renewable Hydrogen Directly On-Site
- Fast-Response Operation for Dynamic Energy Pricing
- Compact, Containerized, and Easy to Deploy
- Future-Proof Your Biogas Investment

9. The second respondent is a biogas producer based in Dollstein, Germany.

10. The third respondent develops technologies for hydrogen supply. It offers solutions for the transport and supply of hydrogen as well as for on-site production. Its range of services includes the planning and delivery of hydrogen production systems and complementary services.

11. On its website (screenshot submitted as Annex HRM 15), the third respondent offers hydrogen production plants as follows:

HY.GEN®: STEAM METHANE REFORMING

Produce on-site hydrogen through the Hy.GEN® with Steam Methane Reforming (SMR) technology.

12. The applicant assumes that, at least in future, these facilities will be technologically equivalent to a facility installed on the premises of the second respondent (see below).

13. The respondents are part of the EU-funded project consortium "ERe Tech", which is focused on the development of a hydrogen plant for commercial marketing. The applicant assumes that the plants will be marketed by the first respondent and the third respondent.

14. In an application dated 21 November 2025, the applicant had already filed an application with the Düsseldorf local division for an order to inspect and preserve evidence at the registered office and production facility of the first respondent and at the registered office and business premises of the second respondent. The Chamber then issued a corresponding order on 25 November 2025 (UPC_CFI_1696/2025, Annex HRM 1).

15. On the basis of this order, the applicant carried out an inspection on 26 November 2025, among other places, on the premises of the second respondent, at which Antonia Wilhelm, the applicant's legal representative, was present.

16. In addition to a pilot plant belonging to the first respondent, which was inspected on the basis of the aforementioned Order, Ms Wilhelm discovered another plant on the premises of the second respondent. This plant bears a label on its outer wall referring to the third respondent (www.hygear.com). An image of this plant taken from the application is shown below:

17. During the inspection, Gianluca Pauletto, the managing director of respondent 1, who was present, stated that the respondent 3's plant was a hydrogen plant. He reported on the cooperation between respondents 1 and 3 within the framework of the EU project consortium "ERe Tech". He also stated that the plant of the third respondent contained a reactor that had been constructed by the first respondent and financed by the Technical University of Munich as part of the EU project.

18. During the inspection on 26 November 2025, the managing director of respondent 1 granted access to the plant for a very short period of time. However, it was not possible to carry out a sufficient investigation.

19. The plant is not yet in operation, but according to the applicant's understanding, it could be put into operation at any time.

20. According to the applicant, the plant is likely to correspond to a plant that is expected to be marketed commercially.

21. According to the applicant, it is not possible to conduct an investigation other than in the context of an inspection. In particular, the system has not yet been exhibited at a trade fair or marketed via the website of the third respondent. Any patent infringement cannot therefore be proven by the inspection of the first respondent's system, as the systems are already visually distinguishable from one another.

THE APPLICANT'S APPLICATIONS:

22. The applicant requests (the Chamber has adjusted the numbering of the applications):

I. The applicant is permitted to have the electrically heated hydrogen production plant located on the premises of the second respondent (Beim Weiher 1, 91795 Dollnstein, Germany), , , , , , , "www.hygear.com" (Hydrogen production plant), by an expert, a bailiff and at least two employees of a specialist company, which includes taking photos and video recordings, and in particular:

1. inspecting the exterior of the aforementioned hydrogen production plant, in particular

- the control system for controlling the plant and the electronics;

- All physical components of the installed hydrogen production plant, including but not limited to the reactor, the water gas shift reactor (WGS) and the pressure swing adsorption unit(s) (PSA), as well as

- all connecting pipes and valves, instruments and auxiliary equipment such as pumps, compressors and/or heat exchangers.

2. open the reactor belonging to the aforementioned hydrogen production plant and inspect the interior, including, but not limited to, the catalyst bed, the thermal insulation layer and the electrical cabling;

3. access the control systems of the aforementioned hydrogen production plant (including, but not limited to, the Distributed Control System (DCS) and/or any local control system (e.g. Human-Machine Interfaces (HMI) of a Programmable Logic Controller (PLC)) as well as the plant sensors (e.g. for temperature, pressure and flow rates) and to export process data.

II. Alternatively to I., if inspection (in particular of the interior of the reactor of the electrically heated hydrogen production plant, which bears the inscription "www.hygear.com" on its outer wall) is not possible, in particular because the plant is in operation, the respondents are obliged to shut down the plant, not to modify or remove any parts or components thereof, and to allow inspection of the exterior and interior of the plant within seven days.

III. The expert shall, within a period set by the Chamber, ideally no more than three weeks, prepare and submit to the Chamber a detailed description of the electrically heated hydrogen production plant, which at the outer wall the inscription "www.hygear.com" (Hydrogen production plant with a solid oxide fuel cell), and submit it to the Chamber, including a detailed description of the features of the aforementioned hydrogen production plant that are relevant for assessing the infringement of the patent in question.

IV. Mr Philipp Harlacher, patent attorney at the law firm Dr. Solf & Zapf, Munich office, Candidplatz 15, 81543 Munich, is appointed as expert witness, although he may be replaced by other European patent attorneys working at the same law firm.

V. To assist the expert, the locally competent bailiff Verena Späth is appointed as an assistant, who may be replaced by other locally competent bailiffs in the event of unavailability.

VI. As an additional assistant who is particularly qualified to open the reactor located in the hydrogen plant, which bears the inscription "www.hygear.com" on its outer wall, the specialist company SBS Industrial Solutions GmbH, Hermann-Oberth-Straße 31, 85640 Putzbrunn, or, if unavailable, a comparable specialist company, is appointed.

VII. Mr Klaus Haft, solicitor, Ms Christine Kanz, solicitor, Mr Alexander Bothe, solicitor, Ms Antonia Wilhelm, solicitor, and Mr Thomas Pfeffermann, solicitor, all UPC Agreement representatives and legal representatives of the applicant in this matter from the law firm HOYNG ROKH MONEGIER, Steinstraße 20, 40212 Düsseldorf, to be present during the measures requested under sections I and II, whereby only one solicitor may be present. If the aforementioned persons are unavailable, they may be represented by another solicitor from the law firm HOYNG ROKH MONEGIER.

VIII. The persons involved in carrying out the inspection and securing evidence, in particular the bailiff, the expert, the applicant's representatives and other assistants, 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, until the Unified Patent Court issues a release order, the aforementioned persons may not allow the applicant or third parties to inspect the electrically heated hydrogen production plant, which bears the inscription "www.hygear.com" on its outer wall, or to view the detailed description to be prepared by the expert.

IX. The respondents are obliged to cooperate in the implementation of the measures applied for under I. and II. , in particular to grant the bailiff and the expert unrestricted access to the electrically heated hydrogen production plant bearing the inscription "www.hygear.com" on its outer wall, which, insofar as this cannot be carried out by the expert's assistants, includes the opening of the reactor.

X. The respondents are obliged to allocate their managing directors and employees to comply with the requests of the bailiff and/or the expert in accordance with Section IX.

XI. A penalty payment of EUR 2,500 per 15-minute period shall be imposed if the respondents fail to comply with the requests of the bailiff and/or the expert with regard to the implementation of the measures requested in Sections I and II.

XII. The order to be issued shall be served personally by one of the representatives of the applicant named in Section VII, together with a copy of the application for the order, including the evidence and other documents on which the application is based, as well as the notice of provisional measures and instructions for access to the proceedings in the CMS, immediately upon execution of the measures. These documents shall be served in cooperation with the bailiff.

XIII. The order is immediately enforceable.

REASONS FOR THE ORDER:

23. The application for an order for inspection and preservation of evidence (R. 192, 199 RoP) is successful to the extent stated in the operative part.

I.

24. The Düsseldorf local division has jurisdiction pursuant to Art. 32 (1) c), 33 (1) (b), 60 UPC Agreement. The application has been filed in an admissible manner pursuant to R. 192 of the RoP. In particular, the applicant has stated that it intends to bring an action on the merits against the respondents before the local division in Düsseldorf.

II.

25. Furthermore, the applicant has credibly demonstrated that the application patent may be infringed by the respondents (Article 60 (1) of the UPC Agreement), whereby it is dependent on inspection and preservation of evidence for a final assessment.

26. In view of the circumstances of the case described above, it is possible that the container labelled "www.hygear.com" on the premises of the second respondent contains a steam reforming plant (biogas-to-hydrogen plant) that makes use of the technical teaching of the patent in suit.

27. The applicant, who is entitled to bring the action as the owner of the patent in suit, has explained in a comprehensible manner why it considers it possible for all the features of claim 1 of the patent in suit to be realised by the plant and for claim 22 of the patent in suit to be realised by the (imminent) operation of the plants.

28. The applicant has stated that a reactor belonging to the first respondent is installed in the facility with the inscription "www.hygear.com" on the outer wall, referring to the information provided by the managing director of the first respondent during the inspection on 26 November 2025, to LinkedIn posts by the first respondent (Annexes HRM 2, HRM 3) and the

website of the "ERe Tech" project. With regard to the design of the reactor manufactured by the first respondent inside the plant, the applicant referred in particular to the website of the first respondent, to an article by Stephen B. Harrison, which appeared in the magazine "Gasworld" in August 2025 and describes the reactors of the first respondent ("Sypox e-SMR") (Exhibit HRM 11), a description of the "ERe Tech" project (Exhibit HRM 12) and the patent application WO 2021/209509 A1 (hereinafter: WO 509, Exhibit HRM 13). The latter was filed by the managing director of the first respondent on 14 April 2021 and describes a reactor with an electrically heated structured ceramic catalyst. The applicant assumes that the plant to be inspected is essentially based on the invention described in WO 509.

29. Based on the documents presented, the applicant has comprehensively demonstrated why it considers it possible to realise all features of patent claim 1 through the installation and all features of patent claim 22 through the operation of the installation. However, in order to make a final assessment of the infringement, it is dependent on an examination of the installation.

30. The applicant has also explained in a comprehensible manner why patent infringement or imminent patent infringement by all three respondents is possible. According to the applicant's submission, this concerns a plant belonging to respondent 3 in which a reactor manufactured by respondent 1 is installed. Respondents 1 and 3 also offer hydrogen production plants on their websites, whereby the applicant assumes that the plant shown on the website of respondent 3 will, at least in future, correspond to the plant to be inspected. The second respondent, on whose premises the plant to be inspected is located, will use the device within the meaning of patent claim 1 and apply the method claimed in patent claim 22 when the plant is commissioned, provided that the plant makes use of all the features of the aforementioned claims. In this respect, according to the applicant's submission, there is a threat of patent infringement within the meaning of Article 60(1) of the UPC Agreement.

31. The applicant's submissions also explain why an inspection order against all three respondents is necessary.

32. The legal validity of the patent in suit is not to be examined in the present proceedings. Something else can only apply if there are clear indications that the legal validity of the patent in suit is in doubt, for example as a result of a negative decision on legal validity (see UPC_CoA_327/2025, order of 15 July 2025, para. 43 – Maguin v. Tiru). However, there are no such indications.

III.

33. The applicant has also demonstrated that the application is urgent (Rule 194.2(a) of the RoP). In addition, it has shown grounds for issuing an ex parte order (Rule 194.2(b), (c), 197 of the RoP).

1.

34. The inspection or preservation of evidence is urgent.

35. As explained, a final assessment of the infringement of patent claims 1 and 22 of the application can only be made by examining the biogas-to-hydrogen plant.

36. According to the applicant, no examination other than an inspection is possible. In particular, the plant has not yet been exhibited at a trade fair or marketed via the website of the third respondent. Any patent infringement cannot therefore be proven by the inspection of the first respondent's plant, as these are already visibly different from each other.

37. The fact that the managing director of the first respondent granted access to the facility for a very short period of time does not preclude the issuance of an order. The applicant has stated that the necessary detailed on-site inspection was not possible. In addition, the facility belongs to the third respondent, which means that the applicant is dependent on an inspection order for this reason alone. Nor is it apparent that respondents 1 and 2 would allow a thorough inspection of the reactor installed inside the plant of respondent 3 without an order being issued against them as well.

38. After the applicant became aware of the existence of the facility to be inspected during the inspection on 26 November 2025, it filed the application only eight days later. In doing so, it expressed that the matter was urgent for it, especially since further research and justification regarding the possible patent infringement was necessary.

2.

39. The order was to be issued ex parte pursuant to 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).

40. As the applicant argued, a prior hearing of the respondents would entail the risk that components of the installation relevant to the examination of the patent infringement would be removed.

41. This cannot be countered by the argument that an inspection has already taken place on the premises of the second defendant and that, therefore, at least the first and second defendants are aware of the applicant's allegation of patent infringement. In this respect, it could at most be argued that it is obvious to the defendants that a further inspection and preservation of evidence will take place and that relevant components would already have been removed if this had been intended. However, it cannot be assumed that such a further inspection and preservation of evidence is obvious. This is because, as the applicant has argued, the additional plant to be inspected is already recognisably different in appearance. Furthermore, unlike the plant that was inspected, it belongs to the third respondent, who was not a party to the earlier proceedings for inspection and preservation of evidence.

IV.

42. In the context of the discretionary decision, the interests of the applicant prevail.

43. Based on the information available to it to date, the applicant has comprehensively explained why it assumes that all features of patent claims 1 and 22 are realised by the biogas-to-hydrogen plants and their operation. It has also explained in a comprehensible manner why it has no other option than to conduct an inspection on the premises of the second respondent in order to conclusively clarify the issue of patent infringement.

44. Against this background, the present order is necessary in order to satisfy the applicant's prevailing interests in this respect. The measures ordered do not place an unreasonable burden on the respondents. The confidentiality orders included in the order take sufficient account of their confidentiality interests.

V.

45. The applicant has paid the court fee for the application for inspection and preservation of evidence, R. 192.5 RoP.

VI.

46. In accordance with the applicant's application, it was ordered that the inspection and examination should include an external inspection of the hydrogen production plant, the opening of the reactor, the examination of its interior, access to the plant's control systems and/or any local control systems, and the export of process data.

47. The shutdown of the plants and the facilitation of the inspection shall, as requested, only be carried out as a precautionary measure in the event that an inspection is not possible. In this regard, it was to be clarified that the inspection and preservation of evidence must take place immediately after notification by the respondents. This will avoid placing an excessive burden on the respondents due to avoidable downtime.

48. The order stipulates, in accordance with Rules 196.4 and 196.5 of the RoP, that an expert be appointed to carry out the measures. There are no objections to the appointment of patent attorney Philipp Harlacher as expert. The applicant has stated that Mr Harlacher has no connection whatsoever with her, the applicant, or with the defendants. In the event of his unavailability, Mr Harlacher may be replaced, as requested, by a European patent attorney working in the same firm. The applicant has argued that the parties also have no relationship with any other patent attorney at the firm of Dr Solf & Zapf.

49. In order to assist the expert in preserving evidence, the Chamber made use of the option granted by Rule 196.5(2) of the RoP to order assistance from the competent bailiff already named by the applicant or, if he is unavailable, from another locally competent bailiff.

50. In addition, the applicant was to be permitted, in its own name and at its own expense, to commission a specialist company to assist the expert and to bring it along for the inspection and preservation of evidence, which is particularly qualified to open the reactor. The applicant has comprehensibly demonstrated that this assistance is necessary for

the interior of the facility must be opened and closed in a professional manner. Having this work carried out by a specialist company ensures that the facility is not damaged. In order to maintain proportionality, the expert may only have the reactor opened by the specialist company if the respondents do not do so themselves.

51. According to Rule 196.5 of the RoP, members or representatives of the applicant itself were to be excluded from the inspection and preservation of evidence.

52. In view of proportionality and the protection of confidential information, the number of persons authorised to represent the applicant in the proceedings was also to be limited during the inspection (Art. 60 (1) UPC Agreement, R. 196.1 RoP). The Chamber considers it sufficient for one legal representative of the applicant to be present during the inspection and preservation of evidence.

53. The confidentiality measures imposed on the representatives, the expert and the bailiff also take into account the confidentiality interests of the respondents. The same applies to the procedure described after receipt of the detailed description.

54. Furthermore, it was to be ordered that the detailed description to be prepared by the expert may only be used in main proceedings against the first respondent and/or the second respondent and/or the third respondent (R. 196.2 RoP).

55. 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 she has requested the inspection. Unless the expert waives the payment of an advance for his costs, the applicant shall pay the expert a reasonable advance, to be determined by the expert, before the inspection begins.

56. This order, together with the documents referred to in the order, shall be served by the bailiff in cooperation with one of the applicant's representatives present at the inspection and preservation of evidence in accordance with R. 197.2 RoP.

VII.

57. The general threat of coercive measures included in the order gives the Chamber the necessary flexibility to respond to any violations of this order, taking into account the interests of both parties and the severity of the violation.

58. In this specific case, it was possible to refrain from ordering security to be provided. The special circumstances required for an ex parte order (R. 196.6 RoP) are present. Unlike in the case of an injunction, the respondents face only minor damage at most as a result of the inspection and preservation of evidence. Respondents 1 and 3 remain entitled to offer and, if necessary, manufacture and distribute the equipment (UPC_CFI_260/2025 (LD Düsseldorf), order of 26 March 2025, p. 9 f. – OTEC Präzisionsfinish v. STEROS; distinction from: UPC_CFI_177/2023 (LD), order of 22 June 2023 – myStromer v. Revolt). Respondent 2

is still authorised to operate the plant located on its premises. Furthermore, to the applicant's knowledge, the plant is currently not in operation, but could be put into operation at any time, which would complicate and delay the inspection. On this basis, it is justified to refrain from ordering an order for a security deposit in the present case.

ORDER:

The following inspection and preservation order is issued without prior hearing of the respondents:

I. The applicant is permitted to inspect the electrically heated hydrogen production plant located on the premises of the second respondent (Beim Weiher 1, 91795 Dollnstein, Germany), , which bears the inscription at , , on the outer wall , , by means of an expert and a bailiff, which includes the taking of photographs and video recordings, and in particular:
"www.hygear.com" (Hydrogen production plant), to be inspected by an expert and a bailiff, which includes taking photographs and video recordings, and in particular:

1. inspecting the exterior of the aforementioned hydrogen production plant, in particular

   - the control system for controlling the plant and the electronics;

   - all physical components of the installed hydrogen production plant, including, but not limited to, the reactor, the water gas shift reactor (WGS) and the pressure swing adsorption unit(s) (PSA), as well as

   - all connecting pipes and valves, instruments and auxiliary equipment such as pumps, compressors and/or heat exchangers.

2. open the reactor belonging to the aforementioned hydrogen production plant and inspect the interior, including, but not limited to, the catalyst bed, the thermal insulation layer and the electrical cabling;

3. access the control systems of the aforementioned hydrogen production plant (including, but not limited to, the Distributed Control System (DCS) and/or any local control system (e.g. Human-Machine Interfaces (HMI) of a Programmable Logic Controller (PLC)) as well as the plant sensors (e.g. for temperature, pressure and flow rates) and to export process data.

II. Alternatively to I., if inspection (in particular of the interior of the reactor of the electrically heated hydrogen production plant, which bears the inscription "www.hygear.com" on its outer wall) is not possible, in particular because the plant is in operation, the respondents are obliged to shut down the plant, not to modify or remove any parts or components thereof, and to allow inspection of the exterior and interior of the plant within seven days. Once one of the respondents has notified that the plant has been shut down, the inspection must take place without delay.

III. The expert shall, within a period of three weeks, prepare a detailed description of the electrically heated hydrogen production plant bearing the inscription "www.hygear.com" on its outer wall and submit it to the Chamber, which shall include a detailed description of the features of the aforementioned hydrogen production plant relevant to the assessment of the infringement of the

The detailed description to be prepared by the expert and all other results of the inspection and preservation of evidence may only be used in main proceedings against the first respondent and/or the second respondent.

The detailed description to be prepared by the expert and all other results of the inspection and preservation of evidence may only be used in main proceedings against the first respondent and/or the second respondent and/or the third respondent.

IV. The expert witness shall be

Mr Philipp Harlacher, patent attorney, law firm Solf & Zapf

working at the Munich office of the firm, Candidplatz 15, 81543 Munich, is appointed as the expert, whereby he may be replaced by another European patent attorney working at the same firm in the event of his unavailability.

V. Bailiff Verena Späth

as an assistant, who may be replaced by other locally competent bailiffs in the event of unavailability.

VI. The applicant is permitted, in its own name and at its own expense, to commission the specialist company SBS Industrial Solutions GmbH, Hermann-Oberth-Straße 31, 85640 Putzbrunn, Germany, or, if unavailable, a comparable specialist company, to assist the expert and to bring along the necessary number of its employees for the inspection and preservation of evidence. The specialist company shall in particular be capable of opening the reactor located in the hydrogen plant, which bears the inscription "www.hygear.com" on its outer wall, if necessary, and closing it again after the inspection.

VII. Mr Klaus Haft, solicitor, Ms Christine Kanz, solicitor, Mr Alexander Bothe, solicitor, Ms Antonia Wilhelm, solicitor, and Mr Thomas Pfeffermann, solicitor, all representatives of UPC and legal representatives of the applicant in this matter from the law firm HOYNG ROKH MONEGIER, Steinstraße 20, 40212 Düsseldorf, Germany, to be present during the measures ordered in sections I and II, whereby another solicitor from the law firm HOYNG ROKH MONEGIER may represent the aforementioned representatives in the event of their unavailability.

However, only one of the aforementioned legal representatives of the applicant may be present during the inspection and preservation of evidence.

Representatives or employees of the applicant may not be present during the inspection and preservation of evidence.

VIII. The persons involved in carrying out the inspection and securing evidence, in particular the bailiff, the expert, the employees of the specialist company engaged and the applicant's representatives, are obliged to keep confidential any facts that come to their knowledge in the course of carrying out the entire order

, both from third parties and from the applicant. In addition, the aforementioned persons may not, until a release order has been issued by the Unified Patent Court, provide the applicant or third parties with access to the electrically heated hydrogen production plant, which bears the inscription "www.hygear.com" on its outer wall, or to the detailed description to be prepared by the expert.

IX. The respondents shall be requested to comment on any confidentiality interests they may have after the expert has submitted the detailed description. The applicant's legal representative, who is present during the inspection and preservation of evidence, 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 applicant's representatives.

X. The respondents are obliged to cooperate in the implementation of the measures ordered in sections I and II, in particular to grant the bailiff and the expert unrestricted access to the electrically heated hydrogen production plant, the at the outer wall the inscription "www.hygear.com" (The first nuclear reactor in Germany). This also includes opening the reactor.

If the respondents fail to open the reactor, the expert may call upon the specialist company commissioned by the applicant in accordance with Section VI and brought in for inspection and preservation of evidence. After the investigation, the specialist company must reseal the reactor in a professional manner, unless this is done by the respondents.

XI. The respondents are obliged to allocate their managing directors and employees to comply with the requests of the bailiff and/or the expert in accordance with Section X.

XII. In the event of a culpable violation of this order, the court may impose a penalty payment for each violation by each party, the amount of which may be determined by the court taking into account the circumstances of the individual case.

XIII. The order to be issued shall be served personally by one of the applicant's representatives named in section VII, together with a copy of the application for the order, including the evidence and other documents on which the application is based, as well as the notice of provisional measures and instructions for access to the proceedings in the CMS, without delay at the time of execution of the measures. These documents shall be served in cooperation with the bailiff present in each case.

XIV. The applicant shall be obliged to bear the costs of the inspection and preservation of evidence, including the detailed description. The applicant shall be required to pay the expert a reasonable advance on costs, to be determined by the expert, prior to the commencement of the inspection, unless the expert waives such an advance on costs.

XV. The measures for inspection and preservation of evidence shall be revoked on application by the respondents or shall otherwise cease to have effect if the applicant fails to comply within a period of no more than 31 calendar days or 20 working days, whichever period is longer, after the detailed description of the applicant to be prepared in accordance with Section III has been disclosed, or the court has decided by final decision not to grant access to this description, has brought an action against the first respondent, the second respondent or the third respondent.

XVI. The order is immediately enforceable.

XVII. In all other respects, the application for inspection and preservation of evidence is rejected.

INFORMATION ON REVIEW AND APPEAL:

The respondents may request a review of this order within 30 days of the measures being enforced (Art. 60 (6) UPC Agreement, R. 197.3 RoP).

The party adversely affected may appeal against this order within 15 days of its service (Art. 73 (2) (a) UPC Agreement, R. 220.1 (c) RoP).

Issued on 10 December 2025 NAMES
AND SIGNATURES

Presiding Judge Thomas	Ronny Thomas signed Digital by Ronny Thomas Date: 2025.12.09 19:37:10 +01'00'
Legally qualified judge Dr Schumacher	JuleKathrin Schumacher Digitally signed by Jule Kathrin Schumacher Date: 10 December 2025 10:05:14
Legally qualified judge Agergaard	Peter Juul Agergaard Digitally signed by Peter Juul Agergaard Date: 10 December 2025 09:19:21
for the Deputy-Registrar	Rachida Boudra-Seddiki Digitally signed by Rachida Boudra-Seddiki Date: 10 December 2025 10:14:34 +01'00'