



UPC_CFI_583/2025
Procedural order
of the Court of First Instance of the Unified Patent Court
delivered on 04/02/2026
(produce evidence)

APPLICANT - CLAIMANT

Bostik, Inc.

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Represented by **Gaëlle Bourout**,

RESPONDENTS – DEFENDANTS

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Henkel France Operations,

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Henkel Technologies France,

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Henkel AG & Co. KGaA.,

Henkel AG & Co. KGaA
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Henkel Nederland B.V.,

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Henkel Italia S.r.l.,

Via Carlo Amoretti 78,
20157, Milano, DE

Represented by **Marcus GROSCH**

PATENT AT ISSUE

Patent no.

EP 1 725 627 B1

DECIDING JUDGE

Judge-rapporteur

Carine Gillet

LANGUAGE OF PROCEEDINGS: English

ORDER

On 9 July 2025, Bostik brought an infringement action 627 against Henkel entities based on patent EP 1 725 before the Paris Local Division. On 4 November 2025, Henkel filed its defence statement and a counterclaim for revocation.

Bostik replied on 5 January 2026, filing a separate application on the same date to produce evidence pursuant to Article 59 of the Unified Patent Court Agreement (UPCA) and Rule 190 of the UPC Rules of Procedure (RoP).

In this application, Bostik asked the Paris Local Division of the Court of First Instance to:

Having regards to article 59 UPCA and rule 190 RoP,

Having regards to article 82(4) UPCA and rule 354(3) RoP,

Having regards to rule 36 RoP,

Having regards to the principles of proportionality, equity and fairness of the UPC,

And having regards to article 6(1) and recital 20 of the preamble of Directive 2004/48 of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights,

-Order Henkel France, Henkel France Operations, Henkel Technologies France, Henkel AG & Co. KGaA, Henkel Nederland B.V., and Henkel Italia S.r.l. to produce the following evidence:

– Technical Data Sheet(s) of product LOCTITE LIOFOL CS 7300-21 as current in years 2019-2025; or

Confirmation that the Technical Data Sheet dated September 2016 of LOCTITE LIOFOL CS 7300-21 (exhibit 32) is still current and up to date;

– Technical Data Sheet(s) of product LOCTITE LIOFOL CS 22-861 as current in years 2019-2025; or

Confirmation that the Technical Data Sheet dated September 2016 of LOCTITE LIOFOL CS 22-861 (exhibit 40) is still current and up to date;

-Technical Data Sheet(s) of product LOCTITE LIOFOL CS 7500-22 as current in years 2019-2025; or

Confirmation that the Technical Data Sheet dated September 2016 of LOCTITE LIOFOL CS 7500-22 (exhibit 39) is still current and up to date;

-Technical Data Sheet(s) of product LOCTITE LIOFOL CS 7416 as current in years 2019 2025.

-Order that the evidence be produced within two weeks following service of the order to produce evidence;

- Order that requested documents be produced in electronic format by email to Bostik's Representatives and via the Court CMS;
 - Order Henkel France, Henkel France Operations, Henkel Technologies France, Henkel AG & Co. KGaA, Henkel Nederland B.V., and Henkel Italia S.r.l. to pay of up to EUR 2,000 per day in case of failure to comply with the order to produce evidence within two weeks of its notification;
 - Order that the failure to execute the order to produce evidence be considered when deciding on the issue in question;
 - Order that Bostik Inc. and Henkel France, Henkel France Operations, Henkel Technologies France, Henkel AG & Co. KGaA, Henkel Nederland B.V., and Henkel Italia S.r.l. be allowed to submit further written pleadings in view of the evidence produced.
- In case the judge-rapporteur rejects Bostik Inc.'s request for an order to produce evidence:
- Grant Bostik Inc. leave to file an appeal under Rule 220.2 RoP.

On 3 February 2026, Henkel submitted its written comment on the application, requesting that the Court dismiss the request. Alternatively, Henkel is asking the Court to:

- order that the documents only be produced in an electronic format via the Court's CMS and not by email;
- deny the requested modalities in the event of non-compliance with the order;
- deny the request for permission to submit further written pleadings.

GROUND FOR THE ORDER

Art. 59 §1 UPCA provides that “ At the request of a party which has presented reasonably available evidence to support its claims and has, in substantiating those claims, specified evidence which lies in the control of the opposing party, the Court may order the opposing party or a third party to present such evidence, subject to the protection of confidential information. Such order shall not result in an obligation of self-incrimination”.

R.190 RoP states that “Where a party has presented reasonably available and plausible evidence in support of its claims and has, in substantiating those claims, specifies evidence which lies in the control of the other party or a third party, the Court may on a reasoned request by the party specifying such evidence, order that other party or third party to produce such evidence. For the protection of confidential information, the Court may order that evidence be disclosed to certain named persons only and be subject to appropriate terms of non-disclosure”.

Bostik argues that the specific nature of the market for the product in question — cohesive coatings used in flexible packaging by professional purchasers, converters, and select distributors — makes access to evidence difficult, if not impossible.

The only information available on websites is general and insufficient to establish the products' specific technical characteristics, to support a detailed analysis of patent infringement. It is also impossible to obtain product samples or information on commercial channels.

Bostik maintains that it has made reasonable efforts to substantiate its allegations. It has conducted extensive research to gather evidence and obtained technical information (Technical Data Sheets — TDS) relating to three of the four alleged infringing products (Exhibits 32, 39 and 40), as well as a sample of the Henkel CS 7300-21 product. However, despite these efforts, Bostik does not have information on distribution channels, Henkel's exact role, or sales territories.

Bostik adds that Henkel considers that the technical information relating to the Loctite Liofol CS7300-21, CS7500-22 and CS22-861 products, dated 2016, to be outdated and outside the period of the alleged infringement. However, Bostik adds that it is reasonable to assume that the technical characteristics of these products have remained unchanged since that time, and that the defendants did not provide any counterevidence.

Bostik therefore considers its request for evidence to be specific, determined and limited to certain products and time periods. It is also necessary and proportionate in order to confirm its arguments and to respond to the defendant's objections.

Henkel argues that the claimant :

- did not justify the issues it encountered when gathering the requested documents, as it did not demonstrate that these elements could not be obtained. Henkel's technical support website allows users to file a form to obtain the product characteristics,
- did not provide plausible evidence in support of its claims, because there is no proof that a general note on Technical Data Sheets (TDS) can determine whether products are used for food packaging, particularly the Liofol CS7500-22 product. This product was not a part of Henkel's products portfolio in EU countries, including the UK, during the relevant period;
- did not demonstrate the relevance of the requested documents and the provisions of R.190 RoP are not met. The TDS do not constitute pertinent and plausible proof of any infringing acts committed by the defendants.

In the case at hand, Bostik identifies the defendants' alleged infringement products, as Loctite Liofol references CS7300-21, CS22-681, CS7500-22, and CS7416, in its statement of Claim and its reply to Statement of defence. To substantiate its allegations, Bostik has provided various pieces of evidence, such as Technical Data sheets (TDS) for the first three references (exhibits 32,39, 40), some composition analysis (exhibits 34, 36, 37) and some adhesion performance test of the products (exhibits 38, 42). Due to the specific nature of the market for this kind of products, which is not contested by the defendants, and the fact that it is only traded between professionals, Bostik has obtained a sample of the only product CS7300-21 .

These elements, provided by the claimant, are necessary and sufficient to render plausible the allegations of infringement by Bostik, given that at this stage of the proceedings, and particularly in the context of a request for the production of evidence, it is not required to establish the materiality of the infringement. The claimant is only required to present "reasonably accessible evidence", as set out in the legal provisions, which has been done here. It will be for the Court, to assess the defendants' involvement in the alleged acts and the materiality of the infringement, in its decision on the merits.

Furthermore, it is not disputed that the information requested by Bostik exists and is in Henkel's possession. Although the defendants claim that this information is available on Henkel's official technical website, by filling out a simple form, there is no indication on the content of the information that can be obtained in this way.

This information is useful and necessary for Bostik to respond to the defendants' argument regarding the obsolescence of information dating from 2016. Due to the lack of information provided by Henkel, it is impossible to ascertain whether the official technical website provides information on a product from a period prior to the date of the request, and more specifically, in this case, for the period 2019-2025.

Therefore, it is reasonable and proportionate to grant the request to produce the documents in question, in accordance with the terms set out in the operative part of the decision.

Conversely, there is no legitimate reason to order the communication of documents by email, given that the rules of procedure stipulate that documents are to be communicated by the Court's CMS (R. 4.1 RoP).

Similarly, there is no justification for ordering a penalty payment to ensure proper enforcement of the decision, although the Court can draw conclusions from the defendant's failure to comply with the injunction.

R. 36 RoP is not applicable at this stage of the proceedings, however, it is clear that, as these are new documents that have come to light during the proceedings, the parties will be able to comment on them in their subsequent submissions.

Finally, the present decision is appealable, in the conditions set out by R.220.1c) RoP. The application for leave to appeal is irrelevant.

For all these reasons,

The judge-rapporteur

-Orders Henkel France, Henkel France Operations, Henkel Technologies France, Henkel AG & Co. KGaA, Henkel Nederland B.V., and Henkel Italia S.r.l. to produce via the Court's CMS, the following evidence:

- Technical Data Sheet(s) of product LOCTITE LIOFOL CS 7300-21 as current in years 2019-2025; or

- Confirmation that the Technical Data Sheet dated September 2016 of LOCTITE LIOFOL CS 7300-21 (exhibit 32) is still current and up to date;

- Technical Data Sheet(s) of product LOCTITE LIOFOL CS 22-861 as current in years 2019-2025; or

- Confirmation that the Technical Data Sheet dated September 2016 of LOCTITE LIOFOL CS 22-861 (exhibit 40) is still current and up to date;

- Technical Data Sheet(s) of product LOCTITE LIOFOL CS 7500-22 as current in years 2019-2025; or

- Confirmation that the Technical Data Sheet dated September 2016 of LOCTITE LIOFOL CS 7500-22 (exhibit 39) is still current and up to date;

- Technical Data Sheet(s) of product LOCTITE LIOFOL CS 7416 as current in years 2019 2025.

within a time-period of two weeks following issuance of the present order ;

-Rejects the request for penalties,

-Rejects at this stage of the proceedings the request to be allowed to submit further written pleadings in view of the evidence produced,

This order may be appealed under the conditions set out in Art. 73(2)(a), 59 UPCA, R. 190, R. 220.1 (c), 224.1 (b) RoP) within 15 days of its notification.

Issued in Paris, on 04 February 2026

Carine Gillet, Judge-rapporteur.

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ORDER DETAILS

UPC number: UPC_CFI_583/ 2025

Action type: Infringement Action

Related proceedings: UPC_CFI_1435/2025

Type of order: R. 190 RoP (produce of evidence) Date of issue: 04 February 2026