



UPC_CFI_283/2026
Procedural Order
of the Court of First Instance of the Unified Patent Court
delivered on 19/02/2026

concerning R. 262.1(b)
Request for access to the case file - UPC_CFI_697/2025

APPLICANT

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PARTIES in the case UPC_CFI_697/2025

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PATENT AT ISSUE

<i>Patent no.</i>	<i>Proprietor</i>
EP2377536	Merz Pharmaceuticals, LLC

<i>Patent no.</i>	<i>SPC details</i>	
EP2377536	SPC ID	FR13C0033
	National Designations	FR

<i>Patent no.</i>	<i>SPC ID</i>	<i>National Designations</i>	<i>Holders</i>
EP2377536	FR13C0033	FR	Merz Pharmaceuticals, LLC

DECIDING JUDGE:
Presiding judge &
Judge-rapporteur

Camille Lignières

LANGUAGE OF PROCEEDINGS: English

ORDER

Summary of procedure

A final order on provisional measures requested by MERZ against VIATRIS was delivered by the present Division on 21 November 2025 in the case UPC_CFI_697/2025.

On 27 January 2026, the court was seized by a request for access to the concerned case file from a third party, Gowling WLG (dit ci-après "GOWLING" or the "Applicant") pursuant to R. 2621b) RoP.

Invited by the judge rapporteur to provide comments on this application, the parties of the case, MERZ and VIATRIS, filed their written comments via CMS on 12 February 2026.

Parties' requests and arguments

The Applicant (third party) requests access, "including but not limited to":

- Application for provisional measures filed by Merz on 31 July 2025;
- Application for provisional measures filed by Merz on 1 August 2025
- "Objection Viatris Sante 15092025 APP 339802025 compressed signed" filed by Viatris on 15 September 2025;
- "Request for procedural order" filed on 16 September 2025;
- "Objection" filed on 16 September 2025
- Response to Objection filed by Merz on 29 September 2025;
- "Statement of reply" filed on 1 October 2025;
- "Application" filed on 1, 2, 5, 9 and 14 October 2025;
- Rejoinder filed by Viatris on 3 October 2025;
- All exhibits, in particular:
 - o Exhibits evidencing the threat of infringement or actual infringement, including but not limited to:
 - Exhibit MERZ No. 120 - French Price Notice 22.11.2024;
 - Exhibit MERZ No. 122 - French Fampridine MA;
 - Exhibits MERZ No. 125 - Notice Letter 18.06.2025;
 - Exhibit MERZ No. 126 - Reply Letter 02.07.2025;
 - Exhibit MERZ No. 127 - Notice Letter 04.07.2025;

- Exhibit MERZ No. 128 - Reply Letter 10.07.2025;
- Exhibit MERZ No. 129 - FAMPYRA French Reimbursement Order 02.06.2025;
- Exhibit MERZ No. 130 - FAMPYRA French Public Institution Approval Order 02.06.2025;

- Exhibit MERZ No. 135 - Email from Viatris to indicate that the product would be marketed in the French market.
 - Exhibits relevant to the balance of interest.

In support of its request, the applicant argues that it seeks access to the Documents as it has a general interest in information to gain a better understanding of how the parties and the court conducted the proceedings and ultimately reached the decision in view of the arguments brought forward by the parties and the evidence relied upon in the context of preliminary injunction proceedings. Such understanding is important for the Applicant, a firm of UPC representatives, to provide professional and expert advice to their clients, which would benefit both the court and their users.

In its comments, MERZ requests that the Court:

A) Reject the third-party request in its entirety on the ground that its open-ended formulation fails to satisfy the requirement under Rule 262(1)(b) RoP that a request be reasoned.

B) In the alternative to A), require the requesting party to identify with precision the documents to which it seeks access before the request is considered further;

In the alternative,

C) Refuse access to, or defer disclosure of, any documents or parts thereof relating to any issues not adjudicated at first instance and subject to the pending appeal UPC_CoA_917/2025 – i.e., patent and SPC validity, proportionality, necessity, and balance of interests – at least until the appeal has been determined and/or it is clear whether main proceedings on the merits will be commenced;

D) In the alternative to C), impose conditions on access to documents relating to validity, proportionality, necessity and balance of interests, such as an undertaking that the documents will not be published, disseminated, publicly commented on, or filed with other Courts or judicial instances until the appeal has been adjudicated or otherwise closed;

E) Reject the request insofar as it seeks access to documents that are publicly available and do not require Court intervention to obtain;

And in any event,

F) Permit disclosure only in redacted form of the Applicant's written pleadings and translations thereof, including Merz's Exhibits Nos. 701, and 702;

G) Exclude from disclosure Merz's Exhibits Nos. 123, 124, 125, 126, 127, 128, 134, 135, 136, 142, 143, 406, 407, 410, and 416; or in the alternative, permit disclosure only in redacted form;

H) Exclude from disclosure all copyright-protected publications, including Merz's Exhibits Nos. 103, 104, 105, 106, 400, 401, 402, 403, 404, 413, 421, 429, 430, 431, 432, 434, 435, 436, 437, 438, 439, 443, 444, 445, 446, 502, 503, 504, and 512; or in the alternative, permit disclosure of bibliographic details (cover pages) only;

I) Apply appropriate redactions to all remaining documents to protect personal data pursuant to the GDPR and any remaining commercially confidential information, consistent with Article 45 UPCA and Rule 262(2) RoP.

In its comments, VIATRIS requests the Court to:

Primarily,

- Grant Gowling GLW access to the following elements insofar as their content is limited to the lack of urgency requirement and redacted otherwise, namely:
 - o Application for provisional measures filed by Merz on 31 July 2025 in a redacted version;
 - o The Objection filed by Viatris on 15 September 2025 in an uncompressed and redacted version;
 - o The Summary of the Objection filed by Viatris on 19 September 2025 in a redacted version;
 - o Statement of Reply filed by Merz on 1 October 2025 in a redacted version;
 - o Rejoinder filed by Viatris on 3 October 2025 in a redacted version;
- Deny the Application for public access for the remainder, namely all other written pleadings and evidence filed in the case UPC_CFI_697/2025;

In the alternative,

- Grant Gowling GLW access to the following written pleadings pertaining only to procedural matters, namely:
 - o Merz's Request for Procedural Order of 16 September 2025; o Viatris' Objection to Merz's Request of 16 September 2025;
 - o Merz's Request for Review of Procedural Order of 22 September 2025;
 - o Viatris' Objection to Merz's Request for Review of 23 September 2025;
 - o Viatris' Request for Procedural Order of 1 October 2025;
 - o Merz's Objection to Viatris' Request of 2 October 2025;
 - o Viatris' Reply to Merz' Objection of 2 October 2025;
- Deny the Application for public access for the remainder, namely all other written pleadings and evidence filed in the case UPC_CFI_697/2025;

In the final alternative,

- Grant Gowling GLW access to the elements detailed above, namely the redacted written pleadings on the substantive aspects of the case outside of urgency and/or the pleadings relating only to procedural matters;
- Grant Gowling GLW access to only the exhibits mentioned by the Court in the Final Order of 21 November 2025, namely:
 - o After the redaction of personal data within the meaning of Regulation (EU) 2016/679 included pursuant to Rule 262.1:
 - Viatrix' Exhibits no. 135, 135bis and 146;
 - Merz's Exhibits no. 125, 126, 127, 200, 201, 203, 204 and 212 ;
 - o Viatrix's Exhibits no. 82, 82bis, 145, 148, J5 and J5bis;
 - o Merz's Exhibits no. 6, 100, 116, 117, 118, 120, 205, 300 and 301;
- Deny the Application for public access for the remainder, namely all other written pleadings and evidence filed in the case UPC_CFI_697/2025;

In any event,

- Order that any provided documents and the information they contain must not be published nor otherwise be made available to the public;
- Pursuant to Rule 262.2, maintain the confidentiality of Viatrix' Exhibit 149 "IQVIA Data unredacted version" as requested in the Application of 15 September 2025.

In its response of 16 February 2026, GOWLING refuted the parties' arguments, as follows:

-regarding the integrity of the proceedings: The mere existence of an appeal in the matter opposing Merz and Viatrix is not a valid reason to refuse access to the proceedings ;

-regarding a request sufficiently reasoned: the request is sufficiently reasoned since the Court recognised that the request for access was legitimate and justified by the general educational and information interest set forward by the applicant, and the Request identifies the categories of documents (pleadings and exhibits) and explains the educational purpose;

-regarding confidentiality: the Court will hold Merz's request to reject the Request on the grounds of confidentiality as unfounded and will give access to the written pleadings and exhibits after redaction of the confidential passages. Moreover, the Applicant reserves the right to contest any redactions that go beyond personal data or genuinely confidential commercial information, should parties' proposed redactions prove excessive.

-regarding a limitative access: The Court's decision on urgency alone does not justify limiting access. "The Documents [we] request access to are unrelated to any pending or upcoming proceedings [we are] advising on, and the hereby request is unrelated to the parties involved in the action [...] in question in this action." As a result, there is no risk of any "competitive harm" occurring.

Legal framework

<i>Art. 45 UPCA-Public access to the register</i>

The proceedings shall be open to the public unless the Court decides to make them confidential to the extent necessary, in the interest of one of the parties or other affected persons, or in the general interest of justice or public order.

Rule 262 – Public access to the register

1. Without prejudice to Articles 58 and 60(1) of the Agreement and subject to Rules 190.1, 194.5, 196.1, 197.4, 199.1, 207.7, 209.4, 315.2, and following, where applicable, redaction of personal data within the meaning of Regulation (EU) 2016/679 and confidential information according to paragraph 2

[...]

b) written pleadings and evidence, lodged at the Court and recorded by the Registry, shall be available to the public upon reasoned request to the Registry; the decision is taken by the judge-rapporteur after consulting the parties.

FOUNDATIONS

On the admissibility of the application

As decided by the UPC Court of Appeal (UPC_CoA_404/2023, April 10, 2024), the general principle set out by the UPC is that the register is public and the proceedings are open to the public, unless the balance of interests at stake is such that access to the register must be denied.

Consequently, when hearing an application based on Rule 262.1(b) RdP, the Judge Rapporteur must balance the applicant's interest against the interests mentioned in Article 45 UPCA. These interests include the protection of confidential information and personal data, but also the general interest of justice, which includes the protection of the integrity of the proceedings and public order (UPC_CoA_404/2023, April 10, 2024). As a matter of principle, once the decision has been made public, the relevant arguments and evidence presented by the parties are disclosed, which justifies access to the procedural documents.

The UPC Court of Appeal rightly pointed out that in order to enable the Judge Rapporteur to balance these interests, the applicant must set out the reasons why it has an interest in obtaining access to the briefs and evidence. It follows that the term “reasoned request” means a request that not only indicates the briefs and evidence that the applicant wishes to obtain, but also specifies the purpose of the access request and explains why access to the specified documents is necessary for the purpose pursued, thereby providing all the information necessary for the Judge Rapporteur to weigh up the interests (UPC_CoA_404/2023, April 10, 2024; UPC_CoA_480/2024, January 9, 2025).

In the present case, the applicant is a law firm that is interested in accessing certain documents in the proceedings in order to better understand the decision rendered in the dispute between Merz and Viatrix.

The UPC CoA has already ruled in a case in which the applicant was also a law firm with a legitimate interest in accessing certain documents in the case file. (CoA, 22 December 2025, *Herbert Smith Freehills Kramer LLP v Insulet and EOFlow*, UPC_CoA_886/2025:” *The interest put forward by*

Herbert Smith Freehills Kramer LLP to have a better understanding of the decision rendered on 30 April 2025 in view of the arguments brought forward by the parties and the evidence relied on, corresponds to the general interest named in the Ocado v Autostore order, which interest arises after a decision was rendered.”)

Furthermore, it has already been ruled that the request cannot be too vague or general and must relate to specifically designated documents in the case file. In this case, even though the applicant used the term “in particular,” it specifically designated a list of documents to which it wished to have access. The Court considers that it is seized of the application only for the documents specifically designated in the request and not for the entire file.

Consequently, GOWLING's application will be declared admissible.

Regarding the scope of access

Regarding the scope of access to the concerned case file, it should be noted that GOWLING, law firm, is justified in its request to access certain documents in the file supporting the final decision and procedural orders issued by the Court, to better understand the decisions rendered by the Court in the provisional measures dispute between MERZ and VATRIS. As the applicant has indicated, the purpose of this request for access to the documents in the file is as follows: “to gain a better understanding of how the parties and the court conducted the proceedings.” When deciding on the scope of access to the case file, the Judge rapporteur takes into account, on a case-by-case examination, the legitimate objective pursued by the applicant. (see decision of the Milan CD, 16/10/2025, Herbet Smith Freehills Kramer v. Insulet, EO Flow, UPC_941/2025)

In the present case, concerning the procedural issues dealt with by the Court:

- The Court essentially dealt with the issue of the alleged excessive number of pages in the Objection, and this procedural order was published. It is therefore legitimate (and this is not disputed by the parties) for the applicant, a law firm, to have access to the applicant's pleadings on this important point of law in the handling of provisional measures cases before the UPC:
- “Request for procedural order” filed on September 16, 2025;
- “Objection” filed on September 16, 2025.

Both applications will be made available to the applicant.

The other procedural issue addressed by the Court in this dispute concerns VIATRIS's request for an extension of time in the specific context of summary proceedings for “provisional measures,” which was rejected in its order by the judge rapporteur:

- “Application” filed on October 1, 2025, by VIATRIS and Response by MERZ filed on October 2, 2025.

These documents will be made available to the applicant.

As for the procedural applications of October 5, 9, and 14, 2025, they concern the admissibility of documents alleged to be late, which only concern the validity of the SPC, a point of law that was not addressed in the final decision and is therefore not relevant to its understanding. Access to them will therefore not be granted as it is not justified by a legitimate interest in better understanding the Court's decision rejecting MERZ's provisional application.

Concerning the final order,

-The Court addressed only one key issue in the dispute, namely the criterion of unreasonable delay under Rule R. 211.4 RoP, MERZ's failure to comply with this criterion having rendered MERZ's application inadmissible. In view of this context, the Court considers that GOWLING's legitimate interest in better understanding the issues dealt with in the MERZ/VIATRIS dispute by the Paris Local Division at first instance will be limited to this point of law and will not be extended to other points of law that were debated but which the Court did not have to rule on (such as the validity of the SPC, proportionality, necessity and balance of interests). This is in order to protect the integrity of the proceedings, as no ruling has yet been made on these points, and the parties still have the possibility at this stage to bring an action on the merits before this division. Access to the case file will be strictly limited to the point of law dealt with in the decision concerned, i.e. the unreasonable delay provided for in Rule 211.4 RoP.

In view of the various interests at stake, it is therefore not justified to grant the applicant broader access to enable him to understand how the dispute was decided.

Consequently, the arguments set out in the parties' submissions will be made available to the applicant but limited to extracts relating to the point of law concerning "unreasonable delay", as follows:

--in MERZ's Application: § 4.2 and 4.3 (pages 17 to 20)

-in VIATRIS's Objection: § 2 (pages 61 to 75) and Summary Objection: §2, pages 4 to 6

-in MERZ's Reply: §1 (pages 3 to 6)

-in VIATRIS's Rejoinder: §1 (pages 1 to 3);

Regarding the exhibits supporting these submissions relating to the criterion set out in R. 211.4 RoP and specifically referred to by GOWLING in its application:

- Exhibits MERZ Nos. 120, 122, 125, 126, 127, and 128.

The Court notes that Exhibits MERZ Nos. 129 and 130, to which the applicant specifically requested access, have been published in the "Journal Officiel" and are therefore public data, meaning that a court order is not necessary to access them. The access to Exhibit MERZ N°135, which does not relate to the matter of "unreasonable delay" is not justified by the purpose of the request. And the content of the "- Email from Viatris to indicate that the product would be marketed in the French market" has already been shown in the final order (see § 55 of the Final order MERZ v VIATRIS, Exhibit VIATRIS n°135).

Access to the above-mentioned documents will be granted to the third-party applicant to enable him to better understand the final decision, even though the judge-rapporteur notes that, in the interests of transparency and clarity, the Court had already chosen to include in its grounds the extracts from these documents that were most relevant to the examination of the point of law to be settled.

In response to the arguments of MERZ and VIATRIS based on confidentiality and the protection of third-party rights, the Court notes that, at the time of filing, none of the above-mentioned documents were the subject of a request under R. 262.2 or R. 262A RoP, so these documents will be

made available to the applicant after the Registry has anonymised the personal data contained in those documents.

On these grounds,

The Judge rapporteur orders access to the following documents, after anonymisation by the Registry to protect personal data:

- in MERZ's Application: § 4.2 and 4.3 (pages 17 to 20)
- in VIATRIS's Objection: § 2, pages 61 to 75 (and Summary Objection §2, pages 4 to 6)
- in MERZ's Reply: §1 (pages 3 to 6)
- in VIATRIS Rejoinder: §1 (pages 1 to 3);
- "Application" filed on October 1, 2025, by VIATRIS and Response by MERZ filed on October 2, 2025.
- Exhibits MERZ No. 120, 122, 125, 126, 127, and 128.
- And dismisses the other claims.
- This order is subject to a review under the conditions provided for in the provisions of R. 333 RdP.

Issued in Paris, on 19 February 2026.

C. Lignières, Presiding judge and Judge rapporteur

ORDER DETAILS

Date of issue of the order: 19/02/2026

CFI case: UPC_CFI_283/2026

Type of application: R. 262.1(b)-Request for access to the case file - UPC_CFI_697/2025