

Decision
of the Court of Appeal of the Unified Patent Court
issued on 24 February 2026
concerning public access to the register (R. 262.1(b) RoP)

HEADNOTES

- Reasoned requests to the Registry for written pleadings and evidence (access to documents pursuant to R. 262.1(b) RoP), lodged at the Court of First Instance, shall be made to the relevant Division. Similarly, reasoned requests for written pleadings and evidence, lodged at the Court of Appeal, shall be made to the Court of Appeal.
- The provision that a decision will be taken by the judge-rapporteur after consulting the parties (R. 262.1(b) RoP) ensures that the judge adjudicating on access is familiar with the case file, separately for each instance.
- Such separate responsibility for the Court of First Instance and Court of Appeal is in line with the provisions on the court files in the Statute and the Registry Rules. The Statute makes a clear distinction between the register kept by the Registrar (Art. 23 UPCS) and the sub-registries kept by the Deputy-Registrar (Art. 25 UPCS). The latter concerns the records of the cases before the Court of First Instance. In accordance with this distinction, the RegR provide that the Deputy-Registrar shall keep the “case files of proceedings before the CFI” (R. 56 RegR), which include all pleadings and documents filed with the Court of First Instance (R. 59 RegR), and shall ensure access to such Court of First Instance case files by third parties (R. 66 RegR). For the management of case files before the Court of Appeal, the Registrar shall have those duties (R. 73 RegR).
- Re-lodging on appeal of documents lodged at the Court of First Instance is normally not called for since the Court of Appeal shall consult the file of the proceedings before the Court of First Instance pursuant to R. 222.1 RoP. Such consultation does not generate any copies of the documents into the file of the proceedings before the Court of Appeal.
- If a party, for reasons of its own, re-lodges documents on appeal, this not only represents additional work for parties and the Court alike, but it also means that members of the public can chose to request access to those documents from the Court of First Instance, the Court of Appeal, or if there is reason for it, both.

- A request for written pleadings and evidence must be specified and cannot be made in terms which would require the Court to search and select documents based on relevance criteria set up by the requesting party.

KEYWORDS

Public access to the Register

APPLICANT

Gowling WLG, Paris, France

represented by: attorney at law Marianne Schaffner, Gowling WLG, Paris, France

APPELLANTS IN THE PROCEEDINGS (AND DEFENDANTS BEFORE THE COURT OF FIRST INSTANCE)

1. Sumi Agro Limited

2. Sumi Agro Europe Limited

both UK registered companies with registered branch offices in Allershausen, Germany (hereinafter jointly 'Sumi Agro')

both represented by: European patent attorney Gareth Williams, Marks & Clerk LLP, London, UK

RESPONDENT IN THE PROCEEDINGS (AND APPLICANT BEFORE THE COURT OF FIRST INSTANCE)

Syngenta Limited, Berkshire, UK

(hereinafter 'Syngenta')

represented by: attorney at law Dr. Jörn Peters, Casalonga, Düsseldorf, Germany

LANGUAGE OF THE PROCEEDINGS

English

PATENT AT ISSUE

EP 2 152 073

DECIDING JUDGE

This decision has been issued by Ingeborg Simonsson, legally qualified judge and judge-rapporteur

REQUESTS AND PARTY SUBMISSIONS

1. Gowling WLG is requesting access to the written pleadings and evidence listed below in UPC_CoA_523/2024 with reference to R. 262.1(b) RoP.

- Statement of appeal and Statement of grounds of appeal filed by Sumi Agro on 11 September 2024;

- Response to Request for correction filed by Sumi Agro on 18 September 2024;
 - Statement of appeal filed by Sumi Agro on 18 September 2024;
 - Response to Statement of appeal filed by Syngenta on 11 October 2024;
 - Reply to Response to Statement of appeal filed by Sumi Agro on 29 October 2024;
 - CoA Order on new evidence of 19 December 2024;
 - Application for rehearing filed on 5 May 2025;
 - Request for stay of proceedings filed on 28 July 2025;
 - Response to application for rehearing filed on 28 July 2025;
 - "Application" filed on 30 September 2025;
 - Application documents filed on 2 December 2024 and 18 December 2024.
 - All exhibits, in particular
 - o Exhibits evidencing the threat of infringement or actual infringement;
 - o Exhibits relevant to the balance of interest.
2. Gowling WLG seeks access to the above-mentioned documents as it has a general interest for information to gain a better understanding how the parties and the UPC 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 Gowling WLG, a firm of UPC representatives, to provide professional and expert advice to their clients, which would benefit both the Court and their users.
 3. Gowling WLG mentions that the above-mentioned documents are unrelated to any pending or upcoming proceedings Gowling WLG is advising on and the request is unrelated to the parties involved in the action UPC_CoA_523/2024 or the patent at issue in this action.
 4. Gowling WLG specifies that the action UPC_CoA_523/2024 subject to this request is terminated, the proceedings have ended in a final order. Therefore, the protection of the integrity of the proceedings no longer plays a role in the balancing of interests. Gowling WLG therefore has an interest to have access to the documents.
 5. Sumi Agro refers to three documents (exhibits) that were filed at first instance and are the subject of existing confidentiality orders under R. 262A RoP made by the Munich Local Division and the subject of an application under R. 262.2 RoP filed by Sumi Agro before the Local Division. Sumi Agro states that while none of the documents were re-filed on appeal, the appeal submissions invited the Court of Appeal to consult the first instance file. To the extent copies of these exhibits remain on the Court of Appeal file, Sumi Agro objects to their disclosure on the basis that they contain commercially sensitive confidential information. Sumi Agro also requests that 'Rehearing Exhibit SA-1 filed 5 May 2025' and 'Exhibit SA-16', a bank payment report submitted as confirmation that Sumi Agro paid the court fees, containing confidential bank details and personal data, be kept confidential. Finally, Sumi Agro requests redaction of personal data.
 6. Syngenta requests to redact the personal data of all Syngenta employees who did not act as UPC representatives, in particular the data of the internal expert witness whose name was redacted from the published decision.

GROUNDS

The legal framework for public access to the register

7. Subject to conditions set out in the UPCA and the RoP, the register kept by the Registry shall be public (Art. 10(1) second sentence UPCA).
8. Art. 45 UPCA stipulates that 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.
9. R. 262.1(b) RoP provides that, without prejudice to several articles and rules that provide for the protection of confidential information mentioned in R. 262.1 RoP, the redaction of personal data pursuant to Regulation (EU) 2016/679 (hereinafter referred to as protection of personal data) and redaction of confidential information according to R. 262.2 RoP, written pleadings and evidence, lodged at the Court and recorded in 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.
10. The following principles apply insofar as is relevant here (see CoA, 10 April 2024, UPC_CoA_404/2023, Ocado):
 - When a request for access is made, the interest of the member of the public to obtain access must be balanced against the general interests in Art. 45 UPCA; protection of confidential information and personal data, and of justice, including the protection of the integrity of proceedings, and public order.
 - These interests are usually properly balanced and duly weighed against each other, if access to written pleadings and evidence is given to a member of the public after the proceedings have come to an end by a decision of the Court.
 - To allow the judge-rapporteur to balance all the interests set forth in Art. 45 UPCA, the applicant of a R. 262.1(b) RoP request must set out the reasons why he has an interest to obtain access to the written pleadings and evidence. It follows that 'reasoned request' in R. 262.1(b) RoP means a request that not only states which written pleadings and evidence the applicant wishes to obtain, but also specifies the purpose of the request and explains why access to the specified documents is necessary for that purpose, thus providing all the information that is necessary for the judge-rapporteur to make the required balance of interests mentioned in Art. 45 UPCA. This includes but is not limited to an assessment whether the request is abusive or not. Nor are the reasons only relevant when determining whether there is a need to keep information confidential.
11. The procedure according to R. 262.1(b) RoP is based on individual assessments of each request.
12. Reasoned requests to the Registry for written pleadings and evidence (access to documents pursuant to R. 262.1(b) RoP), lodged at the Court of First Instance, shall be made to the relevant Division. Similarly, reasoned requests for written pleadings and evidence, lodged at the Court of Appeal, shall be made to the Court of Appeal.

13. The provision that a decision will be taken by the judge-rapporteur after consulting the parties (R. 262.1(b) RoP) ensures that the judge adjudicating on access is familiar with the case file, separately for each instance.
14. Such separate responsibility for the Court of First Instance and Court of Appeal is in line with the provisions on the court files in the Statute and the Registry Rules. The Statute makes a clear distinction between the register kept by the Registrar (Art. 23 UPCS) and the sub-registries kept by the Deputy-Registrar (Art. 25 UPCS). The latter concerns the records of the cases before the Court of First Instance. In accordance with this distinction, the RegR provide that the Deputy-Registrar shall keep the “case files of proceedings before the CFI” (R. 56 RegR), which include all pleadings and documents filed with the Court of First Instance (R. 59 RegR), and shall ensure access to such Court of First Instance case files by third parties (R. 66 RegR). For the management of case files before the Court of Appeal, the Registrar shall have those duties (R. 73 RegR).
15. Re-lodging on appeal of documents lodged at the Court of First Instance is normally not called for since the Court of Appeal shall consult the file of the proceedings before the Court of First Instance pursuant to R. 222.1 RoP. Such consultation does not generate any copies of the documents into the file of the proceedings before the Court of Appeal.
16. If a party, for reasons of its own, re-lodges documents on appeal, this not only represents additional work for parties and the Court alike, but it also means that members of the public can chose to request access to those documents from the Court of First Instance, the Court of Appeal, or, if there is reason for it, both.

Application to the case

17. Gowling WLG’s request for Application documents filed on 2 December 2024 and 18 December 2024 is dismissed since there are no such documents in the appeal file. Although the request can be vitiated by a spelling error, any such mistakes fall on the requesting party.
18. In view of what has been set out above about the need for separate reasoned requests for access to written pleadings and evidence for each instance, Gowling WLG’s request for access to exhibits (“All exhibits, in particular Exhibits evidencing the threat of infringement or actual infringement; Exhibits relevant to the balance of interest”), must be understood as exhibits lodged with the Court of Appeal.
19. It must be emphasised that a request for written pleadings and evidence must be specified to the greatest extent possible and cannot be made in terms which would require the Court to search and select documents based on relevance criteria set up by the requesting party. In the present case, there are many exhibits in the appeal file, and the request cannot be understood without specification. The request is ambiguous since it refers both to all exhibits and to some exhibits in particular with selection criteria.
20. For these reasons, the request for access to the exhibits shall be dismissed.
21. Leaving aside the exhibits, what Gowling WLG has submitted about its interest in access fulfils the requisite criteria and the request shall be granted.

22. The documents shall be redacted of personal data prior to making them available to Gowling WLG. The Registry shall see to this.

DECISION

- I. The following written pleadings and evidence shall be made available to Gowling WLG after redaction of personal data:
 - Statement of appeal and Statement of grounds of appeal filed by Sumi Agro on 11 September 2024;
 - Response to Request for correction filed by Sumi Agro on 18 September 2024;
 - Statement of appeal filed by Sumi Agro on 18 September 2024;
 - Response to Statement of appeal filed by Syngenta on 11 October 2024;
 - Reply to Response to Statement of appeal filed by Sumi Agro on 29 October 2024;
 - CoA Order on new evidence of 19 December 2024;
 - Application for rehearing filed on 5 May 2025;
 - Request for stay of proceedings filed on 28 July 2025;
 - Response to application for rehearing filed on 28 July 2025;
 - "Application" filed on 30 September 2025;
- II. The remainder of Gowling WLG' request is dismissed.
- III. This decision closes the application.

Issued on 24 February 2026

Ingeborg Simonsson, legally qualified judge and judge-rapporteur