

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 casefile, 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 Ms. Marianne Schaffner, Gowling WLG, Paris, France

APPELLANT AND RESPONDENT IN THE CROSS-APPEAL (AND APPLICANT BEFORE THE COURT OF FIRST INSTANCE)

Boehringer Ingelheim International GmbH, Ingelheim am Rhein, Germany

(hereinafter 'Boehringer')

represented by attorney at law Joana Piriquito Santos, Piriquito Santos & Associados, Lisbon, Portugal, and other representatives from that firm

RESPONDENT AND CROSS-APPELLANT (AND DEFENDANT BEFORE THE COURT OF FIRST INSTANCE)

Zentiva Portugal, LDA., Algés, Portugal

(hereinafter 'Zentiva')

represented by attorney at law Patrícia Paias, Antas da Cunha ECIJA, Lisbon, Portugal, and other representatives from that firm

LANGUAGE OF THE PROCEEDINGS

English

PATENT AT ISSUE

EP 1 830 843

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 following written pleadings and exhibits with reference to R. 262.1(b) RoP (UPC_CoA_446/2025 and 520/2025).
 - Statement of appeal and Statement of grounds of appeal filed by Boehringer on 23 May 2025;
 - Statement of Response | Cross-Appeal filed by Zentiva on 10 June 2025;
 - Statement and Grounds of Cross-appeal filed by Zentiva on 11 June 2025;
 - Statement of response filed by Boehringer on 25 June 2025;
 - 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 No UPC_CoA_446/2024 or the patent at issue in this action.
4. Gowling WLG specifies that the action UPC_CoA_446/2024 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. Boehringer has submitted that it will proceed on the assumption that, under the request for access to the written pleadings and exhibits filed before the Court of Appeal in these proceedings, Gowling WLG is only requesting and may only have access to the pleadings and exhibits submitted in the context of the appeal proceedings, and not to the pleadings and exhibits submitted by the parties before the Lisbon Local Division at first instance, especially since a separate request has been made at that instance. Furthermore, Boehringer has requested that part of the Statement of appeal and Statement of grounds of appeal be restricted through the provision of redacted written pleadings and exhibit, together with paragraph 30 of Zentiva's Cross appeal and the whole Exhibit 2A submitted with the Statement of appeal. This is partly because it includes the name of a Boehringer employee, partly because it includes sensitive financial information related to Boehringer's activity in the Portuguese market, and partly because it expressly mentions Boehringer's foreseeable representation costs in both the first instance and the appeal proceeding.
6. Zentiva has objected to the request, arguing that unlike the circumstances in *Ocado v Autostore* (UPC_CoA_404/2023) and *Abbott v Sibio* (UPC_CoA_480/2024), where the underlying proceedings had been concluded (either through settlement or final order), the present case involves main proceedings that remain pending. As the main action is ongoing, and the interests protected under Art. 45 UPCA —

including the protection of the integrity of proceedings — carry significantly greater weight, a mere general interest in transparency or understanding UPC decisions cannot be sufficient to override the protection of the integrity of such proceedings. Access to written pleadings and evidence in pending cases requires the applicant to demonstrate a direct legitimate interest in the subject matter of the dispute — such as being a competitor concerned about the patent's validity or facing similar infringement issues. According to Zentiva there are legitimate confidentiality interests at stake and the request lacks reasoning and is overly broad in scope.

7. Gowling WLG has lodged a Response to the observations filed by the Boehringer and Zentiva on 11 February 2026.

GROUNDS

Gowling WLG's Response of 11 February 2026

8. Gowling WLG's response was lodged at its own initiative, not invited by the Court. It is not an Application pursuant to R. 262.3 RoP. R. 262.1(b) RoP provides that the judge-rapporteur shall take a decision after consulting 'the parties', which is to be understood as the parties to the proceedings to which the request for access relates. A further response thereto by the applicant is not foreseen in the RoP. It shall therefore be disregarded.

The legal framework for public access to the register

9. 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).
10. 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.
11. 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.
12. 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.

13. The procedure according to R. 262.1(b) RoP is based on individual assessments of each request.
14. 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.
15. 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 casefile, separately for each instance.
16. 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).
17. 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.
18. 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.
19. The classification of information as a trade secret requires that (a) the information is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question; (b) the information has commercial value because it is secret; and (c) the information has been subject to

reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret (see Art. 39 (2) TRIPS Agreement). The TRIPS Agreement does not have direct effect under EU law (judgment of 14 December 2000, Dior and Others, joined cases C-300/98 and C-392/98, EU:C:2000:688, para. 44), but is, in so far as relevant here, a source of law on which the Court shall base its decisions by virtue of Art. 24(1)(d) UPCA. The TRIPS Agreement is an international agreement applicable to patents. All the Contracting Member States are, as EU Member States, parties to the TRIPS Agreement (judgment of 11 September 2025, Duca di Salaparuta, C-341/24, EU:C:2025:693, para 6).

20. R. 262 RoP refers to confidential information (cf. Art. 58 UPCA: “for the protection of trade secrets, personal data or other confidential information”).

Application to the case

21. 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.
22. 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.
23. For these reasons, the request for access to the exhibits shall be dismissed.
24. Leaving aside the exhibits, what Gowling WLG has submitted about its interest in access fulfils the requisite criteria and the request shall be granted insofar as it does not relate to confidential information.
25. What Zentiva has submitted about detailed litigation strategies and legal assessments, confidential business data relating to market entry strategies, competitive positioning as well as internal assessments concerning the risk of infringement and balance of interests, has not been coupled with provision of copies of the said documents with the relevant parts redacted (R. 262.2 RoP).
26. It is apparent that certain passages identified by Boehringer, coupled with provision of redacted copies, require confidential treatment. They contain sensitive, non-public commercial information relating to Boehringer’s revenues, and its detailed litigation costs.
27. Gowling WLG shall only receive access to the redacted versions submitted by Boehringer.
28. The Statement of response and Cross-appeal appears twice in the case file, on 10 and 11 June 2025, but is one and the same document.
29. 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 Boehringer on 23 May 2025 as redacted by Boehringer on 9 February 2026;
 - Statement of Response | Cross-Appeal filed by Zentiva on 10 June 2025, as redacted by Boehringer on 9 February 2026;
 - Statement of response filed by Boehringer on 25 June 2025.
- II. The remainder of Gowling WLG's request is dismissed.
- III. This decision closes the application.

Issued on 24 February 2026

Ingeborg Simonsson, legally qualified judge and judge-rapporteur