



LISBON – LOCAL DIVISION

UPC\_CFI\_282/2026

**ORDER**

of the Court of First Instance of the Unified Patent Court

issued on 6 March 2026

APPLICANT

Gowling WLG,  
38 avenue de l'Opéra, 75002, Paris, FR

represented by  
Marianne SCHAFFNER

RESPONDENTS

BOEHRINGER INGELHEIM INTERNATIONAL GMBH  
Binger Straße 173 - D-55216 - Ingelheim am Rhein  
Germany

represented by  
Ms. Joana Catarina Piriquito Santos  
Ms. Sara Nazaré  
Ms. Beatriz Lima

(NLP - NAZARÉ, LIMA, PIRIQUITO SANTOS & ASSOCIADOS SOCIEDADE DE ADVOGADOS)

ZENTIVA PORTUGAL, LDA  
Alameda Fernão Lopes, n.º 16-A, 8.º A - 1495-190 – Algés  
Portugal

represented by  
Ms. Patrícia Paias

DECIDING JUDGE:

This order was issued by Judge Rute Lopes acting as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS:

English

SUBJECT:

Access to the public – R. 262.1.b RoP

SUMMARY OF THE RELEVANT FACTS AND REQUEST

- 1 Under R. 262.1(b) RoP, the Applicant requested access to the following documents and pleadings filed in the preliminary injunction proceedings UPC\_CFI\_41/2025 opposing BOEHRINGER INGELHEIM INTERNATIONAL GMBH (hereinafter Boehringer) and ZENTIVA PORTUGAL, LDA (hereinafter Zentiva), in which a final order was issued on 8 May 2025:
  - "*Application for provisional measures*" filed by Boehringer on 21 January 2025;
  - "*Application for provisional measures*" filed by Boehringer on 23 January 2025;
  - "*Response to the request for amendments*" filed on 23 January 2025;
  - "*Objection provisional measures application*" filed on 3 March 2025;
  - "*Request remit to Objection filed 03.03.25*", filed on 7 March 2025;
  - "*Reply to the Objection*" filed by Boehringer on 12 March 2025;
  - "*Rejoinder*" filed by Zentiva on 21 March 2025;
  - "*Generic Procedural Application*" filed on 28 March 2025;
  - "*Application for Written Witnesses Statements*" filed on 31 March 2025;
  - "*Application – written*" filed on 31 March 2025;
  - "*BI reply to Zentiva evidence submission*" filed by Boehringer on 4 April 2025 (4 different documents);
  - "*Applicant's note award of costs*" filed by Boehringer on 7 April 2025;
  - "*Response under Order of April 2, 2025*" filed on 7 April 2025;

- "Response under App\_15653.2025 of April 2, 2025" filed on 7 April 2025;
- "Generic Procedural Application" filed on 8 April 2025;
- "Response under order April 2, 2025" filed on 10 April 2025;
- "Response under APP15653.2025" filed on 10 April 2025;
- All exhibits, in particular:
  - o Exhibits evidencing the threat of infringement or actual infringement;
  - o Exhibits relevant to the balance of interest.

- 2 The Applicant argued that it has a general interest in the information to gain a better understanding of how the parties and the court conducted the proceedings and how the decision was reached, in view of the arguments and evidence brought forward by the parties. Such understanding is important for the Applicant, a firm of UPC representatives, to provide professional and expert advice to its clients, thereby benefiting both the court and its users.
- 3 Respondent Boehringer did not object, but requested that part of the information contained in the written pleadings and exhibits listed by the Applicant be kept confidential as it includes the personal information of Boehringer's employees and directors; sensitive financial information related to Boehringer's commercial activity; projected market erosion in case of launch of a generic medicine containing nintedanib in the Portuguese market; and Boehringer's foreseeable representation costs in the referred proceedings.
- 4 Respondent Zentiva objected to the Applicant's request, arguing that the main action is still pending. Hence, the arguments underlying the cited Court of Appeal decision in *Ocado v Autostore* are not applicable. As further arguments, Zentiva stated that the documents include confidential information and that the Applicant has not presented any justification for the broad access required.
- 5 In the alternative, Zentiva submitted that should the Court decide to grant access to the written pleadings and evidence, such access should be limited to duly redacted versions of the documents, with confidential business information, litigation strategies, and sensitive legal assessments being redacted.
- 6 Both respondents have provided copies of the redacted pleadings, in accordance with R. 262.2 RoP.
- 7 The Applicant responded, requesting that Zentiva's objection be dismissed.

GROUNDS FOR THE ORDER

- 8 The general principle regarding publicity of proceedings, as laid down in Art. 10 and 45 UPCA, is that proceedings shall be open to the public, unless the court decides to make them confidential, to the extent necessary, to protect the interests of the parties, other persons, the interests of

justice, and public order. These interests include the protection of confidential information and personal data, but are not limited thereto. The general interests of justice and public order must also be considered. The general interest of justice includes the protection of the integrity of proceedings, and public order is at stake, e.g., when a request is abusive or security interests are at stake – CoA, 10 April 2024, Ocado vs Autostore, PC\_CoA\_404/2023 (mn. 43).

- 9 Following that principle, R. 262.1(b) RoP states that the written pleadings and evidence lodged at the court and recorded by the registry shall be available to the public upon a reasoned request to the registry. This request provides the necessary information allowing the judge-rapporteur to perform the balancing of interests required by Article 45 UPCA (CoA, 10 April 2024, Ocado vs Autostore, mn. 44). In this context, the reasoned request must clearly state the purpose of the request and explain why access to the specific documents is necessary for that purpose.
- 10 A member of the public generally has an interest that written pleadings and evidence are made available. Such interest usually arises after a decision is rendered as it needs to be understood and scrutinised in light of the arguments and evidence presented by the parties – CoA, 9 January 2024, Abbot vs Powel Gilbert, UPC\_CoA\_480/2024 (mn. 12, 13).
- 11 Once the proceedings have come to an end by a decision of the court, the balance of the interests laid down in Art 45 UPCA is generally in favour of the granting of access (CoA, 19 December 2025, UPC\_CoA\_523/2024, Navigator vs Sumi, mn. 15 and CoA, 17 February 2026, UPC\_CoA\_926/2025, TP-Link vs Netgea, mn. 16). A case in which a decision has been rendered no longer needs to protect the integrity of the proceedings, as such protection, relevant during proceedings, exists to ensure that the court decides impartially and independently, without influence or interference from external parties in the public domain.
- 12 Parties must be consulted on the application. Under R. 262.2 RoP, they may request that certain information in written pleadings or evidence concerning trade secrets and company-related information be kept confidential, providing specific reasons for the request. If such a restriction on access is requested, the member of the public may only be granted access to the redacted version, without prejudice to the member of the public's right to request, with justification, full access (R. 262.3 RoP). But, if such a restriction of access is not requested, or not duly reasoned according to R. 262.2 RoP, then full access must be granted. Personal information is always protected under Regulation (EU) 2016/679 regardless of any request (CoA, 17 February 2026, UPC\_CoA\_926/2025, TP-Link vs Netgear, mn. 17, 18).

#### *Reasoned interest*

- 13 Zentiva is not right in arguing that the Applicant's request is too general and lacks a genuine, concrete justification, as the Court finds that the request from the Applicant to access the proceedings, *to gain a better understanding 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*, is within the understanding of the Court of Appeal's decisions already mentioned. A member of the public has a general interest in having access to the proceedings, to scrutinise a decision in light of the parties' arguments.

**14** However, regarding evidence, the Court finds the request not sufficiently substantiated, as the Applicant did not specify which pieces of evidence it seeks to obtain. The request is formulated in general terms: access to evidence of the threat of infringement or actual infringement, as well as the balance of interests. Such a general request would require the Court to search and select documents based on relevance criteria set up by the requesting party. It is therefore not admissible, as the Court of Appeal decided (CoA, 24 February 2026, Boehringer vs Zentiva).

#### *Balance of interests*

**15** The Applicant requests access to a case where a final decision has been rendered, and that is closed. In such a case, as said, the interests laid down in Art 45 UPCA are properly balanced and, unless relevant reasons arise, access should be granted.

**16** To justify not granting access, Zentiva argued that the proceedings the Applicant wants to access are provisional, and that the main proceedings are still pending. This argument cannot be followed. As the Court of Appeal has decided (see Decision from 9 January 2024, above cited, mn. 19), there is no reason to depart from the principles underlying access if the rendered order concerns an application for provisional measures. The same principles apply regardless of whether, after the granting of provisional measures, proceedings on the merits are initiated within the time limits outlined in R. 213.1 RoP.

**17** Zentiva also argued, again without merit, that the request does not outweigh the specific and substantial confidentiality interests of the parties. Zentiva did not present any argument explaining why the confidentiality regime under R. 262.2 RoP does not sufficiently protect its interests, nor why protecting confidential information in this case should outweigh the principle of public access. The Court finds that the confidentiality interests of the parties are duly protected upon the interested party's request under R. 262.2 RoP.

#### *Scope and confidentiality*

**18** Regarding the list of documents that the Applicant requested access to, respondents Boehringer and Zentiva (in this case, as an alternative request) provided copies of the said documents with the relevant parts redacted (R. 262.2), to protect the confidentiality of personal, financial, and commercial information. The Court agrees with such restrictions.

**19** For these reasons, the Applicant is granted access to the documents specified in its request, which are to be accessed in the redacted versions presented by the respondents and, where necessary, also in accordance with Regulation (EU) 2016/679.

#### ORDER

1. The Applicant is given access to the documents specifically identified in its request, after anonymisation by the Registry to protect personal data, as follows:

- "*Application for provisional measures*" filed by Boehringer on 21 January 2025 – in the redacted version provided by Boehringer;
- "*Application for provisional measures*" filed by Boehringer on 23 January 2025 - in the redacted version provided by Boehringer;
- "*Response to the request for amendments*" filed on 23 January 2025;
- "*Objection provisional measures application*" filed on 3 March 2025 - in the redacted version provided by Boehringer and Zentiva;
- "*Request remit to Objection filed 03.03.25*", filed on 7 March 2025;
- "*Reply to the Objection*" filed by Boehringer on 12 March 2025 - in the redacted version provided by Boehringer;
- "*Rejoinder*" filed by Zentiva on 21 March 2025 - in the redacted version provided by Zentiva;
- "*Generic Procedural Application*" filed on 28 March 2025;
- "*Application for Written Witnesses Statements*" filed on 31 March 2025 - in the redacted version provided by Boehringer;
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- "*Response under App\_15653.2025 of April 2, 2025*" filed on 7 April 2025 - - in the redacted version provided by Boehringer;
- "*Generic Procedural Application*" filed on 8 April 2025;
- "*Response under order April 2, 2025*" filed on 10 April 2025 - in the redacted version provided by Zentiva;

- "*Response under APP15653.2025*" filed on 10 April 2025;

2. The requested access to the exhibits is dismissed.

This order may be reviewed according to R. 333 RoP.