Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

UPC Court of Appeal
UPC_CoA_3/2026

Order

of the Court of Appeal of the Unified Patent Court
issued on 16 March 2026
concerning review of an ex parte order for inspection (R. 197 RoP)

HEADNOTES

Measures to preserve evidence without hearing the other party raise issues of due process. The applicant's duty to disclose any material fact known to it which might influence the Court in deciding whether to make an order without hearing the defendant is there so that the Court can take due account of the interests of both parties, in spite of having to rely only on the facts presented in the Application. Representatives are generally obliged not to misrepresent facts (R. 284 RoP). R. 192.3 RoP imposes a heightened requirement where the applicant must disclose, and not leave out, any material facts that might be relevant for an *ex parte* order. This includes (for example) facts that may be relevant for the proportionality assessment.

Omissions and distorted accounts of material facts which might be of central importance for the Local Division's assessment on whether to allow the request at all cannot be compensated or circumvented by later submissions in response to a Request for review.

KEYWORDS

Order for inspection without hearing the other party

APPELLANT (AND APPLICANT BEFORE THE COURT OF FIRST INSTANCE)

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(hereinafter referred to as "Ecovacs")

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RESPONDENT (AND DEFENDANT BEFORE THE COURT OF FIRST INSTANCE)

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(hereinafter referred to as "Roborock")

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LANGUAGE OF THE APPEAL PROCEEDINGS

English

PANEL AND DECIDING JUDGES

Panel 2

Rian Kalden, presiding judge and legally qualified judge
Ingeborg Simonsson, legally qualified judge and judge-rapporteur
Patricia Rombach, legally qualified judge
Steen Wadskov-Hansen, technically qualified judge
Stefan Wilhelm, technically qualified judge

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

Order of 19 December 2025, Local Division Düsseldorf, UPC_CFI_834/2025

PATENT AT ISSUE

EP 3 808 512

SUMMARY OF THE FACTS

The inspection order

1. On 2 September 2025 Ecovacs applied to the Local Division Düsseldorf for an inspection and preservation of evidence at one of Roborock's exhibition stands at the Internationale Funkausstellung 2025 (hereinafter: IFA 2025) in Berlin. The contested embodiments were in particular those belonging to the product series „Roborock Saros 10", „Roborock S8 Max V Ultra" and „Roborock QV 35A" (hereinafter "the robot vacuum cleaners at issue").

2. On 4 September 2025, the Düsseldorf Local Division issued an order for the inspection of the robot vacuum cleaners at issue at the IFA 2025 without hearing Roborock. The Local Division explained that the order was to be issued *ex parte* in accordance with R. 192.3 and R. 197 RoP. Otherwise, there would be a demonstrable risk that evidence would be destroyed or would no longer be available for other reasons (R. 197.1 RoP). Ecovacs had plausibly explained that there was a serious risk that the robot vacuum cleaners, which are relatively small objects, could easily be transported to another location by car and thus easily removed from access before an inspection could be carried out. Similarly, they could be altered by means of a short-term software update or by formatting the memory, so that there was a risk of evidence being destroyed.

3. The inspection was *inter alia* intended to clarify whether the products exhibited at the trade fair were the same products that were already being sold by Roborock's German subsidiary. The Local Division stated (at page 16) that Ecovacs had plausibly demonstrated that Roborock is most likely the manufacturer from whom the German subsidiary obtains the contested embodiments, or that it will offer the contested embodiments itself at the trade fair. However, sufficient certainty for Ecovacs could only be provided by a binding declaration from Roborock or an investigation of the contested embodiments if exhibited at the trade fair. According to Ecovac's submission, it has no other means of

proving Roborock's manufacturing and supply activities, as Roborock operates from Hong Kong. The IFA 2025 trade fair therefore offered Ecovacs an opportunity to gather evidence to prove the alleged infringement of the patent at issue.

4. In brief, Roborock was ordered to hand the robot vacuum cleaners at issue over to an expert and to hand them over for inspection at a location other than the exhibition stand, to be determined by the expert. The expert was permitted to put the robot vacuum cleaners into operation and carry out tests as specified in the order, and Roborock was required to enter/provide any necessary passwords. If an inspection would not be possible on site, Ecovacs was permitted to have the robot vacuum cleaners physically seized by a bailiff during the trade fair and then have the expert carry out the measures specified at a location determined by the expert. The purpose was to secure evidence from an expert regarding the realisation of the features and method steps of the claims of the patent in relation to the robot vacuum cleaners at issue. Inspection of documents, records and/or media, including digital media and data was included as well, as specified in the operative part of the order, as was the making of copies, printouts, photos or videos of the robot vacuum cleaners and the documentation. Within four weeks of completing the measures, the expert should prepare a detailed description of the robot vacuum cleaners and submit it to the Local Division. Roborock was ordered to cooperate in the implementation of the measures for inspection and preservation of evidence in accordance with the order, and was informed about the possibility to request a review of the order within 30 days of the measures being enforced. The orders for inspection and preservation of evidence was coupled with confidentiality and non-disclosure orders.

5. The inspection was carried out on site on 7 September 2025. A written report/expert opinion was submitted on 15 October 2025.

The impugned order

6. Roborock requested a review of the inspection order. In the impugned order of 19 December 2025, the Local Division revoked the inspection order except for all confidentiality and non-disclosure orders (including the threat of a penalty payment). The Local Division obliged the persons to whom confidential information had already been made accessible in the course of the proceedings to continue to treat it confidentially and ordered Ecovacs to bear the costs incurred for the inspection and preservation of evidence, including the preparation of the detailed description by the expert.

7. It was noted in the impugned order that shortly after the Application for inspection and preservation of evidence, Ecovacs started proceedings on the merits.

8. According to the Local Division, Ecovacs had disregarded its duty to present the facts of the case to the court completely and correctly when applying for an *ex parte* order (R. 192.3 RoP). On the contrary, it had presented the facts in a misleading and incomplete manner. The Court would not have issued the inspection order had it been aware that Roborock *itself* was offering and/or distributing the contested embodiments on the European market directly to German customers via the Amazon webshop. This fact was submitted in the action on the merits, which contains an excerpt from an offer on an Amazon webshop, identifying Roborock itself as the offeror, but was not included in the Application for inspection and preservation of evidence. Rather, it was stated on page 26 of the Application that Roborock uses its

affiliated companies for logistics and distribution. The Local Division understood that the trade fair offered the sole possibility of proving an act of use directly by Roborock itself.

9. Ecovacs had already had the robotic vacuum cleaners tested. The technical details of these vacuum robots were therefore available to Ecovacs. Based on the Application, the inspection was not aimed at clarifying the existence of a (not readily visible) technical feature. Rather, the aim was to secure evidence at the trade fair as to whether the products offered by Roborock in the territory of the Member States infringe the patent. This would have been possible after a test purchase via Amazon.

10. Insofar as Ecovacs argued in the review proceedings that the purpose of the inspection was (also) to identify new designs that differed from the products previously marketed, the Local Division held that this was by no means covered by the submissions in the Application, but was said for the first time in the review proceedings. In addition, Ecovacs did not present any technical facts to support such a suspicion. Such a request would therefore also have been a so-called fishing expedition.

11. The Local Division saw no room for upholding the inspection order partially, but considered that a violation of R. 192.3 RoP leads to complete revocation. The ambiguous and incomplete factual submission concerns the core issue of the facts, which was the basis for the order.

REQUESTS

12. Ecovacs has appealed and requests that the Court of Appeal set aside the impugned order, that Roborock's request for review of the inspection order be dismissed and that Roborock shall bear the costs of the review proceedings.

13. Roborock requests that the appeal be rejected and that Ecovacs be obliged to bear the costs of the proceedings, including the costs of the appeal proceedings.

PROCEDURE

14. After consulting the panel and having obtained the parties' agreement, the judge-rapporteur changed the language of the appeal proceedings to English on 15 January 2026.

15. The parties agreed that the Court of Appeal decide the issue on the basis of the written submissions, without an oral hearing.

SUBMISSIONS OF THE PARTIES

Ecovacs (in summary and insofar as relevant)

16. Ecovacs challenges the Local Division's finding that the inspection was aimed at clarifying whether Roborock was offering the same contested embodiments at the trade fair as those marketed by the European companies in its group and in particular Roborock Germany GmbH. The Application was aimed at securing evidence about the robot vacuum cleaners exhibited at IFA 2025, in particular the Roborock Saros 10, Roborock S8 and Roborock QV 35 series and other LiDAR-based models - and, on the other hand, to secure technical and commercial documents relating to the robot models as a whole. Ecovacs has submitted the following (in summary and insofar as relevant).

- The patent in suit relates to a method for localising a robot as well as corresponding claims to a robot and a computer-readable storage medium which enables the method to be carried out. Proof of patent infringement requires, among other things, proof of features that are controlled by the software of the robots of the contested embodiment.
- A commercially purchased copy does not grant access to the programme code or to internal developer documents. Previous attempts to gain knowledge of the respective software have so far failed. There is no recognisable interface through which decompilable code could be obtained. Furthermore, there is no guarantee that commercial goods have the same software and configuration status as the embodiments shown at the trade fair.
- Trade fair devices typically contain the latest builds and feature flags, while market devices may differ depending on the batch, region, sales channel or OTA update status. Only on-site inspection of the non-public technical documentation and the programme code actually used on the exhibited devices can therefore provide absolutely reliable evidence, which cannot be replaced by a mere test purchase.
- Roborock does not have an establishment in the Contracting Member States of the UPCA and therefore, in particular, the technical and commercial documents to be secured to prove the patent infringement could only be secured during the trade fair and at Roborock's stand.

17. Concerning the applicable legal standard, Ecovacs submits that the disclosure obligations only relate to facts that have a decisive influence on the core criteria of R. 197.1 RoP. If reasons remain that justify the inspection order, there are no grounds for revoking the measure, as the lack of information cannot have been causal in this respect.

18. With reference to Article 7 of Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (Directive 2004/48) Ecovacs argues that evidence preservation orders are required that allow the preservation of specific, otherwise jeopardised evidence (e.g. technical configurations, software statuses at the time of the offer at a trade fair, internal documents on the supply chain, invoices, parts lists). Should the Court take a different view, Ecovacs suggests a referral to the Court of Justice of the European Union (CJEU) to clarify the scope of "legally relevant evidence" that can be obtained.

19. Furthermore, Ecovacs challenges the Local Division’s consideration that it is "not the task of the inspection procedure to determine the "best" or "safest" evidence alongside existing evidence" (Order p. 11 f. para. 47), as incompatible with the wording and purpose of securing evidence. Similarly, Ecovacs objects to the Local Division’s view that it would not have issued the inspection order if it had been aware of the Amazon ordering option (see order p. 12 para. 49).

Roborock (in summary and insofar as relevant)

20. Roborock defends the impugned order and emphasizes the following:
    - Ecovacs initially argued that the IFA 2025 appearance by Roborock was the only way to determine whether Roborock was infringing the patent at issue. Evidence would allegedly no longer be available after the IFA 2025; patent infringement could not be determined by any other means. There was allegedly no other way of securing evidence with regard to Roborock, who only appeared at the IFA 2025 for the European market.

- Ecovacs argued in the Application that Roborock was highly likely to be the manufacturer of the *tested products* purchased form Roborock's German affiliate.
- At the time of filing the Application, Ecovacs knew that Roborock actively offered and sold the accused products directly on the European market, in particular the German market. At that time, Ecovacs had already carried out its own test purchase through its representative in the present proceedings on the German market directly from Roborock (according to Ecovac's representative as confirmed during the first instance oral hearing on December 12, 2025, this test purchase had been done some time before the Application was filed). This knowledge is also evident from page 17 of Ecovac's parallel infringement action, which was filed only within a few hours after the Application.
- This purchase confirmation shows Ecovac's representative as delivery address and Roborock as seller of the product. Exactly this information was removed from the otherwise almost identical passage on the facts of the case as presented in the Application filed just before the parallel action on the merits.
- Ecovacs also knew that Roborock was not the manufacturer of the tested products purchased from the German affiliate, but another company in the Roborock company group. This is evident from the corresponding passage (page 1 under B.) of Ecovac's party expert opinion (cf. JD10; already filed with the Application), and from the EU declaration of conformity of the manufacturer in the corresponding instructions for use (cf. JD8, page 50; already filed with the Application).
- The argument that Ecovacs was concerned with special technical documentation relating to the software and Roborock's commercial activities is also unconvincing. This alleged purpose of the Application is not specified in any way in the Application itself. The specific technical and commercial documentation allegedly sought (in particular software documentation) would not be available at a trade fair booth.

21. As regards the applicable legal standard, Roborock contends that all facts that "might influence" the court's decision must be presented. It is therefore not the actual relevance of the fact that matters, but only whether it is related to the subject matter of the application for preservation of evidence in a way that might influence the court.

REASONS

22. The appeal is unsuccessful. The Local Division was right in finding that Ecovac's factual submission was ambiguous and incomplete, and that the inspection order could not be upheld in full or partially.

Legal framework

23. At the request of the applicant which has presented reasonably available evidence to support the claim that the patent has been infringed or is about to be infringed the Court may, even before the commencement of proceedings on the merits of the case, order prompt and effective provisional measures to preserve relevant evidence in respect of the alleged infringement, subject to the protection of confidential information (Art. 60(1) UPCA).

24. Measures shall be ordered, if necessary without the other party having been heard, in particular where any delay is likely to cause irreparable harm to the proprietor of the patent, or where there is a demonstrable risk of evidence being destroyed (Art. 60(5) UPCA).

25. Where an applicant requests that measures to preserve evidence be ordered without hearing the defendant, the Application for preserving evidence shall (in addition to the items in R. 192.2 RoP) set out the reasons for not hearing the defendant having regard in particular to R. 197 RoP. The applicant shall be under a duty to disclose any material fact known to it which might influence the Court in deciding whether to make an order without hearing the defendant (R. 192.3 RoP).

26. R. 197.1 RoP duplicates Article 60(5) UPCA and must be read with reference to Article 7 Directive 2004/48, concerning measures for preserving evidence. Article 7(1), first part, provides that Member States shall ensure that, even before the commencement of proceedings on the merits of the case, the competent judicial authorities may, on application by a party who has presented reasonably available evidence to support his/her claims that his/her intellectual property right has been infringed or is about to be infringed, order prompt and effective provisional measures to preserve relevant evidence in respect of the alleged infringement, subject to the protection of confidential information. Such measures may include the detailed description, with or without the taking of samples, or the physical seizure of the infringing goods, and, in appropriate cases, the materials and implements used in the production and/or distribution of these goods and the documents relating thereto. Those measures shall be taken, if necessary, without the other party having been heard, in particular where any delay is likely to cause irreparable harm to the rightholder or where there is a demonstrable risk of evidence being destroyed.

27. Article 3(2) of Directive 2004/48 states that measures, procedures and remedies shall be effective, *proportionate* and dissuasive and shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

28. The principle of proportionality requires that measures do not exceed the limits of what is appropriate and necessary in order to attain the objectives legitimately pursued by the legislation in question; when there is a choice between several appropriate measures recourse must be had to the least onerous, and the disadvantages caused must not be disproportionate to the aims pursued (see judgment of 5 October 1994, Crispoltoni and Others v Fattoria Autonoma Tabacchi and Others, C-133/93, EU:C:1994:364, para 41). This is often referred to as a three-pronged test of legitimate objective (or purpose), suitability (or appropriateness) and necessity (less restrictive means). It applies to the legislation but also to its application to the case at hand. Reasons why the legislation is proportionate will often translate into a method to ensure that the application is proportionate.

29. As for the underlying EU legislation, the objective pursued by Directive 2004/48 is, as stated in recital 10 thereof, to approximate the legislative systems of the Member States in respect of the means of enforcing intellectual property rights so as to ensure a high, equivalent and homogeneous level of protection in the internal market (see judgment of 18 October 2018, Bastei Lübbe, C-149/17, EU:C:2018:841, paras 33-34). The appropriateness of ensuring that effective means of presenting, obtaining and preserving evidence are available has been recognized as well (Bastei Lübbe at para 40). Necessity is a requirement in Article 3(1) of Directive 2004/48; “measures, procedures and remedies necessary to ensure the enforcement of the intellectual property rights covered by this Directive”, and

as already mentioned, in Article 7(1) of the directive "Those measures shall be taken, if necessary, without the other party having been heard".

30. The UPCA and the RoP are drafted accordingly.
    - When the Court decides on *ex parte* measures in R. 197.1 RoP, the *purpose* is satisfied once the applicant has presented reasonably available evidence to support the claim that the patent has been infringed or is about to be infringed (Art. 60(1) UPCA).
    - The *appropriateness* of *ex parte* measures is a matter of deciding whether the measures sought will enable the applicant to obtain evidence of the alleged infringement. This is present in R. 192.2 (b - c) RoP which require the Application to contain a clear indication of the measures requested [Rule 196.1], including the exact location of the evidence to be preserved where it is known or suspected with good reason and the reasons why the proposed measures are needed to preserve relevant evidence.
    - Closely connected is *necessity (or less restrictive means)*, which in this context is criteria for the preservation of evidence without hearing the defendant *(ex parte*). The test is whether any delay is likely to cause irreparable harm to the proprietor of the patent, if there is a demonstrable risk of evidence being destroyed or if there are other reasons of similar magnitude (Art. 60(5) UPCA and R. 197.1 RoP).

      This is coupled with procedural safeguards. As set out in R. 197.3 RoP, if measures were ordered without the defendant having been heard, the defendant may request a review of the order to preserve evidence within 30 days after the execution of the measures. The Court may modify, revoke or confirm the order. In case the order is modified or revoked the Court shall oblige the persons to whom confidential information has been disclosed to keep this information confidential [Rule 196.1]. The same rules apply *mutatis mutandis* when the Court, on a reasoned request by a party, orders an inspection of products, devices, methods, premises or local situations in situ (R. 199.1 and .2 RoP).

31. Furthermore, when R. 197.1 RoP is applied, it entails *a proportionality test in the strict sense*; meaning that a balancing is conducted with reference to the facts of the case. This involves weighing opposing interests.

32. Here, in relation to enabling the injured party to obtain the evidence within the control of the opposing party necessary for supporting its claims under Directive 2004/48, case-law pinpoints the need to reconcile the requirements of the protection of several fundamental rights, namely the right to an effective remedy and the right to intellectual property, on the one hand, and the right to respect for private and family life, on the other (see Bastei Lübbe, para 44).

33. The interference with the business activities of the defendant, or with the private life of a natural person, is an interest to be weighed against the applicant's interest in evidence preservation. This interference is more acute when carried out without the defendant being heard. However, once the purpose, appropriateness and necessity have been established (see para 30 above), the weighing will normally come down to determining whether the requests are within a meaningful range, or if the operative part of the order must be limited in relation to what is requested to ensure proportionality. In rare cases this could result in denying the measures altogether, for example if the evidence to be preserved can be

obtained in a less intrusive manner, rendering the sought measures disproportionate. Similarly, requests that are of a more speculative nature (fishing expeditions) in relation to the reasonably available evidence in support of the claim that the patent has been infringed or is about to be infringed, should be denied (see CoA, 28 May 2025, UPC_CoA_239/2025, Centripetal/Palo Alto Networks para. 12)

34. Measures to preserve evidence without hearing the other party raise issues of due process. The applicant's duty to disclose *any material fact known to it which might influence the Court in deciding whether to make an order without hearing the defendant* is there so that the Court can take due account of the interests of both parties, in spite of having to rely only on the facts presented in the Application. Representatives are generally obliged not to misrepresent facts (R. 284 RoP). R. 192.3 RoP imposes a heightened requirement where the applicant must disclose, and not leave out, any material facts that might be relevant for an ex parte order. This includes (for example) facts that may be relevant for the proportionality assessment.

Application to the case at hand

35. Contrary to what Ecovacs is asserting, the *ex parte* order could not have been maintained on review in this case, even in an amended form. The Local Division was right to revoke it.

36. On page 26 of the Application, Ecovacs described that the Respondent (Roborock) uses its affiliated companies for the logistics and distribution of its products. For example, it uses its wholly-owned subsidiary Roborock Germany GmbH to respond to customer enquiries from Germany and distributes its products through this company. In addition, it has other wholly-owned subsidiaries that operate on the European market and offer and distribute its products (examples were made). At page 61 it was asserted that the main action is based on observations based on the embodiments sold by Roborock Germany GmbH, a company entrusted with the distribution of robots. It was argued as highly likely that this German company obtained these from the Roborock or from another company in the Roborock Group.

37. Page 62 of the Application conveys that Roborock does not have its own branch in Europe, but operates - as far as can be seen - from Hong Kong, and that the trade fair appearance thus offered the sole opportunity to determine whether Roborock is infringing the patent. The conclusion was that Ecovacs had no other way of securing evidence outside the trade fair as to whether the products offered by Roborock in the territory of the Member States infringe the patent.

38. On page 62 last paragraph of the Application, Ecovacs suggested that it was not certain that Roborock would offer the same products at IFA 2025 and that it was conceivable that Roborock uses different software. In view of what was stated above, and failing any substantiation that there might be another version of the product, the Local Division rightly understood this such that Ecovacs wanted a confirmation that Roborock was itself active on the European market by offering and/or distributing the contested embodiments directly to German customers.

39. When arguing for an ex parte order at page 63, Ecovacs alerted the Court that Roborock would leave after the trade fair, including the products exhibited there. The evidence would therefore no longer be available after the trade fair and a patent infringement could no longer be established otherwise.

40. These submissions contrast with Ecovacs' factual account in the parallel main proceedings. At page 17 of its Statement of claim, submitted on 3 September 2025, Ecovacs stated that Roborock sells the attacked embodiments directly to German customers through its Amazon webshop. A screenshot was adduced with the delivery address of Ecovac's counsel and "Verkauft von" (sold by) Roborock HK Limited with address in Hong Kong.

41. Ecovacs also omitted to mention that the documentary evidence submitted together with the Application, if read close enough, pointed towards Beijing Roborock Technology Co., Ltd – another group company – as manufacturer (JD8). Ecovacs' expert opinion submitted together with the Application also pointed out this company as manufacturer.

42. As can be seen, the presentation in the Application about sales in Germany through Roborock Germany GmbH is incompatible, or at least incomplete, in relation to what was stated in the main proceedings about Roborock as seller of the attacked embodiments to German customers directly on the Amazon webshop. Furthermore, the assertion that the German group company obtained the robots from Roborock or from another company in the Roborock Group is difficult to equate with the documentary evidence that points out Beijing Roborock Technology Co., Ltd as manufacturer.

43. Rather than being mere clerical errors or details of an insignificant nature, the statements amount to omissions and distorted accounts of material facts which not only might influence the Court in deciding whether to make an order without hearing the defendant; they were of central importance for the Local Division's assessment on whether to allow the request at all. On the facts of this case, such shortcomings cannot be compensated or circumvented by later submissions in response to a Request for review. The possibility that other grounds might have existed cannot retroactively justify the Application. Facts introduced later by the applicant in support of the Application shall be disregarded on review. As regards submissions in other proceedings, such as proceedings on the merits, the Court is under no obligation to consult other casefiles (UPC_CoA_182/2024, order of 25 September 2024, Mammut vs Ortovox, para 72).

44. On a proper understanding of the Application as explained above, Ecovacs' arguments raised in view of the alleged need to obtain the source code were all raised after the Application and must therefore be disregarded and as such cannot be the basis for a partial revocation.

The suggestion that a referral be made to the CJEU

45. Ecovacs unsuccessfully suggests a referral to the CJEU to clarify the scope of "relevant evidence" that can be obtained pursuant to Article 7 of Directive 2004/48. Ecovacs has not suggested any specific question for referral and there are no reasons for a reference for a preliminary ruling pursuant to Art. 267 TFEU.

46. Ecovacs suggestion that a referral be made is irrelevant (see, for example, judgment of 6 October 2021, Consorzio Italian Management e Catania Multiservizi , C-561/19, EU:C:2021:799, para 32-33). Ecovacs is attempting to take issue with the notion of relevant evidence in Art. 60(1) UPCA and R. 192.2 (c) RoP, interpreted in the light of Article 7 of Directive 2004/48. However, the real issue under review is the

notion of the applicant's duty, in the context of a request for measures to preserve evidence without hearing the other party, to disclose any material fact known to it which might influence the Court in deciding whether to make an order without hearing the defendant (R. 192.3 RoP). Unless this requirement is fulfilled, the notion of relevant evidence does not come into play.

47. Insofar as Ecovacs can be understood to ask for an interpretation of what is set out in Art. 60(5) UPCA and R. 192.3 RoP, it must be rejected because the UPC cannot ask the CJEU to interpret the UPCA or the RoP. A request for a preliminary ruling must concern the interpretation or validity of EU law, not the interpretation of rules of national law or issues of fact raised in the proceedings. The RoP are procedural rules that can be equated with national procedural law in this respect (UPC_CoA_380/2025, order on 20 August 2025, *expert vs Viosys*).

48. Furthermore, if Ecovacs request is to be understood as an assertion that the applicant's duty to disclose any material fact known to it which might influence the Court in deciding whether to make an order without hearing the defendant runs contrary to the principle of equivalence or renders the application of Article 7 of Directive 2004/48 impossible or excessively difficult, such an assertion has not been made in a comprehensible way (see, for example, judgment of 17 November 2022, Harman International Industries, C-175/21, EU:C:2022:895, para 65, also judgment of 14 December 2023, Getin Noble Bank [Délai de prescription des actions en restitution], C-28/22, EU:C:2023:992, para 61).

49. The fact that a particular procedure comprises certain procedural requirements that a party must observe in order to assert their rights does not mean that they do not enjoy effective judicial protection. It is only if those procedural rules were so complex and contained requirements so onerous that they went beyond what is necessary to achieve their objective that those rules would disproportionately affect the party's right to effective judicial protection (see judgment of 23 November 2023, Provident Polska, C-321/22, EU:C:2023:911, paras 66 and 69).

Conclusion

50. For the reasons set out the appeal must be rejected.

Costs

51. Ecovacs shall be ordered to bear Roborock's costs for the appeal proceedings.

ORDER

I. The appeal is rejected.

II. Ecovacs shall bear the legal costs and other expenses incurred by Roborock for the appeal proceedings.

Issued on 16 March 2026

Rian Kalden, presiding judge and legally qualified judge

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