



Order
of the Court of First Instance of the Unified Patent Court
delivered on 30 April 2026 and in writing (with grounds) on 4 May 2026
Review of preservation of evidence order (R.197.3)

APPLICANT

AdvanSix Resins & Chemicals LLC.
("Applicant") - 300 Kimball Drive, Suite 101, -
NJ 07054, - Parsippany, - US

Represented by Arjen
Reijns and Mark Marfé

DEFENDANT

Krahn Chemie Benelux BV of Westzijde 138,1506 EK Zaandam, the Netherlands (being both the registered address and the main business operations address known to Applicant)

Represented by: Philippe Campolini, Louis Bidaine and Auke-Frank Tadema

Hereafter referred to as **Applicant** or **AdvanSix** and as **Defendant 1** or **Krahn**, respectively.

PATENT AT ISSUE

EP3286270

AdvanSix Resins & Chemicals LLC.

DECIDING JUDGE/SINGLE JUDGE

Margot Kokke as single judge.

LANGUAGE OF PROCEEDINGS: English

I. SUMMARY OF FACTS AND PROCEDURE

1. The Applicant requested the preservation of evidence pursuant to R. 192 RoP and inspection of premises pursuant to R.199 RoP (cases UPC_CFI_2028/2025 and UPC_CFI_2031/2025), together: the “**Applications**”, against three defendants, the Dutch-based defendant Krahn and two Italian defendants, asserting indirect infringement of EP3286270 (the “**patent**”) with an anti-skinning composition comprising at least 98 wt% of 2-pentanone oxime (“2-PO”) for use in a claimed coating composition (as an essential component thereof).
2. The following documents are part of the case files (identical submissions in both cases):
 - Application for preservation of evidence R. 192 and 199 RoP submitted on 18 December 2025, with 24 exhibits (PM01-PM24);
 - An Amended application dated 14 January 2026 (submitted pursuant to discussion with the JR on 7 January 2026), with two further exhibits (PM25 and PM26);
 - A communication of 3 February 2026 with information about the Laboratory mentioned in the Application.
3. On 23 February 2026 the Court issued an *ex parte* order granting the inspection and the preservation of evidence (the “**Order**”), including the taking of samples of any 2-PO found, against the three defendants in both cases. Reference is made to the (published) Order for details of facts, the patent, considerations and the measures granted.
4. On 17 March 2026 the order was executed vis-à-vis all three defendants, including vis-à-vis Krahn at its premises in The Netherlands during which the order was officially served on Krahn by a Dutch bailiff.
5. On 16 April 2026 Krahn filed an application for review of the *ex parte* order pursuant to R.197.3 RoP (the Review). The Review only came to the attention of the Court on 28 April 2026.
6. The Italian Defendants 2 and 3 did not file an application for review.
7. On 23 April 2026, the Technical Reports, concerning the results of the infringement analysis including the analysis of any samples, were made available to Krahn and to the two Italian defendants, according to the Order, operative part at J.:

“Reporting and access to seized information”

J. stipulates that during the first phase after the seizure:

- (...)Each territorially competent bailiff appointed in the execution of this order shall produce a report (a “**Bailiff Report**”) in accordance with their usual practice under their national laws in cooperation with the respective IT Expert to describe the Preserved Evidence. The Bailiff Reports shall be provided to the Court only (by Tresorit upon instructions from the (sub)registry of the LD The Hague of the Court) within five working days from the seizure.
- The Technical Experts shall provide the Samples to the Laboratory as soon as practically possible after the completion of the seizure of the Samples and the Laboratory is ordered to analyse the Samples on the content of 2-PO as soon as practically possible after receipt thereof and that shall share the Samples’ **Analysis Report** or Reports with the relevant Technical Expert within 5 working days from completion of the analysis.
- The Technical Experts are ordered to prepare, collectively or individually but with separate reports for the Italian and the Dutch Defendants, a written **Technical Report** summarising the

technical characteristics based on the Analysis Report of the Samples and on any other relevant seized technical documents concerning the (chemical) composition and manufacture of the product as part of the Preserved Evidence as envisaged in A. c above (seizure of documents), and the appointed IT Experts shall therefore grant the appointed Technical Experts access to such technical documents;

- The Technical Experts shall submit the Technical Reports to the Court (by Tresorit upon instructions from the (sub)registry of the LD The Hague of the Court) and to the representatives of the respective Defendants within 10 working days after receipt of the Analysis Report.
 - The Technical Reports shall at first be made accessible to the (Court and to the) respective representatives of the Defendant(s) only, and from the fifth working day after the submission of the Technical Reports, also to the representatives of the Applicant, unless one of the Defendants makes use of the opportunity to file a request for confidentiality regarding a Technical Report before that date, in which case the Court shall decide by specific order on access to the relevant Technical Report and on the terms of a “confidentiality club” for the relevant report.
 - In case a/the Technical Report(s) justify this, the Applicant can then apply to the Court to proceed to the second phase. The Court shall then decide on such request promptly.”
8. The Technical Report relating to Krahn, dated 2 April 2026, prepared by the appointed Dutch technical expert, is hereafter referred to as Technical Report NL. On 29 April 2026, Krahn indicated that it has no confidentiality issues with the Technical Report NL but is of the opinion that the release should be suspended until a decision has been taken regarding the Review.
9. In view of the urgency of the Review (also because of the imminent release of the Technical Report NL to AdvanSix), the Court, after consulting the parties, on 29 April 2026 summoned the parties to an oral hearing on 30 April 2026. The hearing was held by video conference (Rules 197.4, 199.2, 195.2 and 112.3 (b) RoP), which the Court considered appropriate due to the exceptionally short notice of the hearing and the fact that several representatives are not based in the Netherlands. Parties did not object to this.
10. At the oral hearing both parties, represented by their representatives and Krahn also by its general manager, had the opportunity to (further) present their arguments.

II. REQUEST

11. With the Review, Krahn requests the Court:

Main request:

- to revoke the Order in its entirety and, consequently, to order that the evidence and information collected through or as a result of the Order be returned to the defendants without the right for AdvanSix to access it or, to the extent AdvanSix has already accessed such evidence or information, to order AdvanSix to immediately destroy any copy of it under its control and to keep it confidential;

Subsidiary request:

- to revoke the Order as far as it allows evidence to be collected at Krahn’s premises and, consequently, to order that the evidence and information collected at Krahn’s premises through or as a result of the Order be returned to the defendants without the right for AdvanSix to access it or, to the extent AdvanSix has already accessed such evidence or

information, to order AdvanSix to immediately destroy any copy of it under its control and to keep it confidential;

More subsidiary request:

- to order that access to any evidence or information collected through or as a result of the Order shall only be granted to AdvanSix upon proof of constitution of a security of 100 000 EUR either by a deposit on the UPC dedicated account or by a bank guarantee issued by the EU based establishment of a first ranking bank satisfactory to the Court;

In any event:

- to suspend the enforcement of the Order, including any communication of evidence or information to AdvanSix, pending the outcome of this review;
- to reserve its decision on costs and on AdvanSix' liability pursuant to Rule 198(2) RoP.

12. In support of its Review, Krahn submitted that:

- AdvanSix did not make it plausible that the Patent had been infringed or was about to be infringed
- The Order should not have been given *ex parte*
- The Order was not necessary due to less prejudicial means to obtain evidence being available
- AdvanSix' breached its duty to disclose material facts to the Court pursuant to Rule 192(3) RoP
- AdvanSix should provide for an appropriate security under Rule 196(3)(b) and 196(6) RoP
- The enforceability of the Order should be suspended pending the review

It specifically mentioned (in paragraphs 55 and 56 of the Review) the following allegedly misrepresented or omitted 'facts', each of which according to Krahn directly influenced the Court's decision to grant the measures:

AdvanSix failed to disclose the following material facts in the Application:

- the fact that AdvanSix expressly waived anti-skinning agents comprising lower concentrations of 2-PO, and in particular concentrations between 92 wt.% and 98 wt.% of 2-PO;
- the fact that the Patent confirms that effective anti-skinning agents can be obtained by using 2-PO at levels of purity which are lower than 98 wt.%, in particular levels of purity between 92 wt.% and 98 wt.%;
- the fact that shortly after the termination of the Distribution Agreement, AdvanSix took steps to inform the market about its patent rights, in particular the fact that on 20 January 2025, it sent a document entitled "*Sourcing Guidance re 2-pentanone Oxime in EU 27 and the UK*" to its distributors, inviting them to warn their customers against buying 2-PO outside of their distribution network;
- the fact that Dura's website, which was still referring to "Duroxime P" after the termination of the Distribution Agreement, had manifestly not been updated since 2020 (when the Distribution Agreement with AdvanSix was concluded) and could therefore not reasonably be considered as an indication that Duroxime would be the same product as

Duroxime P.

AdvanSix also misrepresented material facts:

- AdvanSix argued that it believed that Dura's product (Duroxime) comprises essentially 100% of 2-PO, although it had no reason to believe this, let alone evidence making this plausible;

- AdvanSix argued that it presumed that Duroxime is used "as shorthand for Duroxime P", whilst AdvanSix cannot have ignored that this change in name most likely corresponded to a change in 2-PO concentration;

- the fact that throughout the Application, AdvanSix referred to 2-PO as being the "*Essential Element Product*" and used the terms "2-PO" and "Duroxime P" interchangeably, thereby implying that the product commercialised by Dura is nothing more than 2-PO, while (i) AdvanSix knew that 2-PO as such cannot be considered as a means relating to an essential element of the invention and (ii) AdvanSix had reasons to believe that Duroxime was not composed of at least 98 wt.% of 2-PO;

- the fact that the Troy UK Proceedings would have any relation with the current case and/or that the behaviour of the defendants in the Troy UK Proceedings could have any relevance for the assessment of the Application;

- the fact that AdvanSix had an urgent interest in obtaining evidence, without explaining why it waited nearly a year before requesting the Order;

- the fact that AdvanSix would only "*recently*" have become aware of the alleged infringement whereas the Application does not refer to any recent fact or evidence in support of its allegation that a patent infringement would be plausible;

- the fact that Mr. Raghu would have confirmed that he was sourcing 2-PO from Chinese suppliers;

- the fact that sourcing 2-PO from Chinese suppliers would have constituted a breach of the Distribution Agreement whereas art. 2.f) of this agreement does not prohibit it;

- the fact that AdvanSix would have terminated the Distribution Agreement because of a breach of this agreement by Dura, while it clearly appears from the facts of the case that this was in reality a "business decision" (see **Exhibit ST-008** and in particular its annex b) driven by the fact that AdvanSix simply found it more convenient to use its recently obtained patent rights rather than the Distribution Agreement to try to prevent Dura and its distributors and clients from sourcing 2-PO from alternative suppliers (see **Exhibit ST-001**);

- the fact that the alleged patent infringement or risk of evidence being destroyed was rendered plausible by the fact that Dura would have removed labels from products, shipped products under unmarked containers and/or omitted to provide relevant product documentation, while these allegations are unrelated to the alleged patent infringement (as

they concern products sourced from AdvanSix at the time the Distribution Agreement was still in place), not proven by any evidence other than the declaration of Mr. Sanders (the content of which is contested and in which annex 3 was missing) and contradicted by the e-mails exchanged between Dura and AdvanSix after the termination of the Distribution Agreement (see **Exhibit ST-012**), which AdvanSix omitted to produce.

13. During the oral hearing, AdvanSix contested Krahn's submissions, amounting to dismissal of the Review in its entirety.

III. GROUNDS

Preliminary issues

14. The Review is admissible as it was filed timely and also meets the other requirements of R.197.3 RoP.
15. During the oral hearing, Krahn argued that its main request to revoke the order in its entirety, also applies to defendants 2 and 3. AdvanSix objected. As only Krahn filed a timely request for review, which is clear from the Review application, the Review can only affect the Order vis-à-vis this defendant. The Order as granted vis-à-vis the Italian (co)defendants 2 and 3 (represented by other representatives), cannot be affected, as is also the case with an appeal filed by only one of several parties.
16. A single judge was assigned to handle the R.192 and R.199 applications (cases UPC-CFI-2028 and 2031/2025) by appointment of the presiding judge of the Local Division The Hague of 29 December 2025 according to R. 194.3. The single judge issued the orders accordingly. Pursuant to R. 194.3 and R.193.3 RoP, as well as R. 1.2(b) RoP the assigned single judge is also competent to address any review requests pertaining to the applications. This is furthermore deemed practical in view of the urgency of the matter. Parties did not object to the single judge handling the Review in view of the urgency.

Legal framework for assessment

17. At the request of an 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).
18. In the Rules of Procedure of the UPC (RoP), partly supplemental rules for the preservation of evidence and inspection are provided. R.192.3 RoP sets out that, 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. In that context, 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). R. 197.1 RoP duplicates Article 60(5) UPCA.
19. When examining the application for preserving evidence (R. 194 RoP), the Court shall have the discretion - including where the application is made pursuant to R. 192.3 RoP - to inform the defendant about the application or to decide the application without having heard the defendant (R. 194.1(d) RoP). In exercising its discretion, the Court shall consider (R. 194.2 RoP):
 - (a) the urgency of the action;
 - (b) whether the reasons for not hearing the defendant appear well-founded;

(c) the probability that evidence may be destroyed or otherwise cease to be available.

20. In the case of an order to preserve evidence issued without hearing the defendant, the Court may order measures to preserve evidence without the defendant having been heard, in particular where any delay is likely to cause irreparable harm to the applicant or where there is a demonstrable risk of evidence being destroyed or otherwise ceasing to be available (R. 197.1 RoP, duplicated from Art. 60(5) UPCA).
21. These provisions (of the UPCA and the RoP) must be read in conjunction with those of the Enforcement Directive¹ (“ED”), in particular Art. 7 concerning measures for preserving evidence. Furthermore, the application of the above provisions must be carried out in accordance with general principles set out in the UPCA, the RoP and the ED (especially Art. 3(2) ED), especially the principles of proportionality and efficiency.
22. As clarified by the Court of Appeal of the UPC (“CoA”)², when the Court exercises its discretion assessing the urgency of the action (R. 194.2(a) RoP), any unreasonable delay/time taken by the applicant to file the application for preserving evidence does not, in general, cast doubt on the ‘urgency of the action’ because no urgency requirement similar to that applicable to an application for provisional measures (R.209.2(b)) exists.
The risk of the disappearance or unavailability of evidence must be assessed with reference to probability (R. 194.2(c) RoP) or to the demonstrable risk (R. 197.1 RoP) of evidence being destroyed or otherwise ceasing to be available, and not with reference to the certainty of the disappearance or the unavailability of evidence³.
23. The CoA also confirmed the standard of proof in assessing the requirement (under Art. 60(1) UPCA) to provide reasonably available evidence to support the claim that the patent has been infringed or is about to be infringed⁴. This bar is lower than the burden of proof required for a claimant in an infringement action, in particular lower with respect to those aspects of the alleged infringement for which no evidence is reasonably available to the applicant, and for which the orders to preserve and disclose evidence are therefore particularly relevant. The CoA also clarified that mere speculation that the patent has been infringed is generally not sufficient to justify an order to preserve evidence, to avoid ‘fishing expeditions’ for evidence that have no basis in Art. 60 UPCA. It is, as a general rule, required that the applicant has made it plausible that the patent has been infringed, also where the order is sought in proceedings without hearing the other party. The Court adds that this standard is necessarily also lower than the proof required in proceedings concerning (inter partes) provisional measures pursuant to R.205 RoP. For the latter, “A sufficient degree of certainty pursuant to R. 211.2 RoP, in conjunction with Art. 62(4) UPCA requires that the court considers it on the balance of probabilities at least more likely than not that (...) the patent is infringed.”⁵
24. As also set out by the CoA in the course of the interpretation of the relevant rules in light of EU legislation⁶, 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

¹ Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights.

² CoA order of 15 July 2025, UPC_CoA_002/2025 (Valinea/Tiru).

³ See previous footnote.

⁴ CoA order of 28 May 2025, UPC_CoA_239/2025 (Centripetal/Palo Alto).

⁵ CoA order of 26 February 2024, UPC_CoA_335/2023 (Nanostring/10X Genomics).

⁶ CoA order of 16 March 2026, UPC_CoA_3/2026 (Ecovacs/Roborock).

influence the Court in deciding whether to make an order without hearing the defendant ensures that the Court can take due account of the interests of both parties, despite having to rely only on the facts presented in the application. Representatives are generally obliged not to misrepresent any facts (R. 284 RoP). R. 192.3 RoP imposes a heightened requirement whereby the applicant must disclose any material facts that might be relevant for an *ex parte* order and not omit any relevant facts. This includes (for example) facts that may be relevant for the proportionality assessment.

Application to the present case

25. Reference is made to the (published) order. With the Review, Krahn challenges several aspects of the Order. The substantiation for most issues raised by Krahn (see 12 above), amount to the assertion that AdvanSix withheld information which according to Krahn has influenced the decision (R. 192.3 RoP). The Court finds that the allegedly misrepresented or omitted 'facts', are either
- in dispute between the parties [whereas the scope of the assessment concerning R.192/199 requests does not provide for exact determination of facts and the hearing of witness to establish whose point of view is correct; the test is whether the applicant's version is plausible];
and/or
 - not publicly available or otherwise considered reasonably known to the applicant;
and/or
 - not considered relevant for the assessment of the request for measures to preserve evidence and for inspection.

The subsidiary request to revoke the Order vis-à-vis Krahn, is therefore dismissed, as further explained below.

Ex parte

26. This order was adopted *ex parte*, without hearing the Defendants. Krahn submits that due to strict retention requirements in the chemical industry (in particular the REACH regulation⁷, which AdvanSix did not mention in its Applications), the risk that evidence would be destroyed in case the defendants were heard, does not exist. The Applicant rightly pointed out that also the possible (temporary) disappearance of evidence, merits an *ex parte* hearing, as also temporary unavailability of the sought information, can frustrate the execution of an order for the preservation of evidence.
27. As set out above, the risk of the disappearance or unavailability of evidence must be assessed with reference to probability (R. 194.2(c) RoP) or to the demonstrable risk (R. 197.1 RoP) thereof, and not with certainty. The Court found and finds that AdvanSix made it sufficiently plausible that such risk exists, also in view of the terminated distribution agreement with Krahn's direct supplier Dura (see 32-34 below). An obligation to retain data/information during a certain period, exists in all fields of industry in one way or another and do not set this case apart; this 'fact' is thus not considered particularly relevant for the order. Such legal obligation in any case does not prevent the temporary transfer of such data outside the defendant's sphere. The seizure furthermore includes the taking of samples from containers

⁷ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).

that can be moved and placed elsewhere relatively easily. Thus, the risk of disappearance of evidence was correctly assumed.

Alleged misrepresentation of the scope of protection

28. Defendant asserts inter alia that plausibility of infringement should not have been assumed, because there are no indications that Krahn (imminently) infringes the patent. In this context it firstly asserts that AdvanSix misrepresented the scope of protection of the patent by not making clear that the patent was limited to a coating composition comprising an anti-skinning composition comprising at least 98 wt.% of 2-PO. This is factually incorrect; see the Order at 6. Whether AdvanSix made broader assertions of protection to 3rd parties, as evidenced by an exhibit submitted with the Review (which communication was distributed in January 2025, before the limitation of the patent), is not considered relevant for the Order. Krahn also did not explain why it finds this relevant.

Duroxime P and Duroxime

29. Krahn also submits that it was known, or in any case should have been known, to AdvanSix that Dura no longer sells the anti-skinning agent Duroxime P, but has replaced this with an anti-skinning agent referred to as Duroxime, which contains 2-PO in a wt % below 98 and which thus falls outside the scope of protection. In support, Krahn submitted a one-page internal document titled “Formulation and Process Instructions” dated April 2025 (exhibit ST-002). According to Krahn, it is common in the chemical sector for product variants to have similar yet distinct names. These naming variations are commonly used to distinguish between products based on their purity, concentration or intended use. AdvanSix thus clearly misrepresented the facts with the following statement, in footnote 17 of the Applications:

Both the terms Duroxime and Duroxime P are used by Dura distributors (e.g. Krahn and Reschem just refer to “Duroxime” on their websites). AdvanSix presumes that Duroxime is used as shorthand for Duroxime P.

According to Krahn, upon inspection of the website of Dura’s French distributor, Univar, it should have been apparent to AdvanSix that Duroxime P and Duroxime are different products/anti-skinning agents had it prepared the case diligently and in good faith. On its website, Univar has published the Material Safety Data Sheet (“MSDS”) for both the Duroxime, and DuroximeP/EZ-Blox products (Exhibits ST-010 and ST-011). It follows from these two separate MSDS that Duroxime and Duroxime P are two separate products. The MSDS for Duroxime provides that it is made up of a mix (see section 3.2, “Mélanges”) of (i) 2-PO, (ii) cyclohexanone oxime and (iii) MIBKO, whereas Duroxime P/EZ-Blox is made up of 100% 2-PO. That Dura and several of its distributors still offer Duroxime P on their websites, is due to the fact that these websites were not updated, as should have been obvious to AdvanSix because of the copyright date indicated on the respective websites, e.g. Dura’s website shows © 2020. Krahn also pointed out that sales are not made via the website, but person to person only, which makes updating of the website not relevant.

Lastly, Krahn submitted (as exhibit ST-003) recent evidence (dated 13 April 2026) concerning the analysis of a sample from the only batch of 2-PO anti-skinning agent that was delivered to Krahn, performed by a Spanish laboratory. The results (the report is in Spanish) are said to confirm that the sample contains 97,7 Wt.% 2-PO and thus falls outside the scope of protection of the patent.

30. AdvanSix disagrees. During the oral hearing it pointed out that it was not aware of the existence of two different skinning agents under the name Duroxime, one with and one

without P. This was never communicated by Dura to AdvanSix or made public in any other way (which was confirmed by Krahn). The only available evidence is internal. Even if AdvanSix had noticed the two different anti-skinning agents offered by Dura's French distributor, and examined the respective MSDS, this would not have changed the suspected infringement, because the MSDS of Duroxime (without P, exhibit ST-011) indicates that the wt.% of 2-PO in the product ranges between 90-100% (table on page 2). According to the MSDS, also this product may therefore fall within the scope of protection. The exact wt.% can only be confirmed by analysis of a specific sample.

31. The Court finds AdvanSix arguments more convincing. The evidence presented by Krahn to contradict the infringement, are mostly internal documents. The internal Formulation and Process Instructions for Duroxime (exhibit ST-002) also do not align with the published MSDS for the same product. From the latter it cannot be concluded that the wt.% 2-PO is always below 98. On the contrary, there seems to be quite some variation possible. In addition, in case of 100 wt.% 2-PO in the anti-skinning agent which also falls within the range of 90-100% mentioned in the MSDS, the product is identical to (the MSDS for) Duroxime P. In view of the former distribution agreement with AdvanSix, during which period the anti-skinning agent Duroxime P was sold by Dura to its distributors, and its (in any case to be assumed⁸) knowledge of the scope of the amended limited patent, it seems that Dura has at least created uncertainty in the market by the following (in)actions and/or facts:

- (i) the asserted, apparently silent, launch of a new anti-skinning agent called Duroxime;
- (ii) the fact that the only publicly available document regarding this other product, the MSDS, does not prove that Duroxime falls outside the scope of the patent as maintained and
- (iii) the alleged failure to update its website, where Duroxime P is still offered.

This uncertainty has rightly led AdvanSix to suspect infringement, which is made plausible by Dura's actions or lack thereof. In the niche market of personalised business-to-business sales, it must have been common knowledge that AdvanSix was actively maintaining its patent rights due to the proceedings it had initiated against another player in the market (Troy) in the UK and before the UPC (in which parties settled). This (in)action also reflects on Dura's distributors, who can thus plausibly be assumed to infringe the patent as well. There is therefore a legitimate interest to verify this suspicion by collecting and testing samples and collecting related documentation. The evidence created well after the Order was issued, concerning the alleged sample of the batch delivered to Krahn, is not taken into account for the purpose of the assessment.

Distribution agreement AdvanSix-Dura

32. Further submissions made by Krahn concern the distribution agreement between AdvanSix and Dura (Krahn's supplier of, inter alia, a 2-PO-based anti-skinning agent, see the Order at 11 and 12). Krahn asserts that AdvanSix misrepresented facts relating thereto, namely: the reason why the agreement was terminated (breach), that the termination was not disputed, that exclusive sourcing of the relevant 2-PO from AdvanSix was agreed, and whether Dura did or did not remove labels from containers of 2-PO that were to be returned after the termination of the distribution agreement. These issues are, according to Krahn and supported by declarations from Dura employees (Krahn was not a party), not correctly

⁸ See CoA decision of 9 December 2025, UPC_CoA_2025 (Bhagat/Oerlikon), headnote (ii).

presented in the Order and in the Applications, therefore incorrectly picturing Dura as ‘bad guy’.

33. AdvanSix disputes Krahn’s assertions and maintains the facts it presented in the Applications, supported by a party declaration. Whatever the case may be, these facts are not considered relevant for the Court in deciding whether the allegedly indirectly infringing acts by Krahn are plausible and whether to issue the order *ex parte*. These have not influenced the decision. Even though some of these now disputed facts are mentioned as part of the summary of facts and procedure in the Order (in paragraphs 11 and 12), they are not mentioned in the grounds of the Order.
34. What is considered relevant, is that there was a distribution agreement in place between Dura and AdvanSix, under which agreement Dura distributed an anti-skinning agent containing more than 98 wt% 2-PO that it obtained from AdvanSix directly and distributed to end users and via a network of distributors, under the brand name EZ-BLOX and co-branded as Duroxime P, and that this anti-skinning agent still seems to be offered for sale after the termination of the distribution agreement. Irrespective of the reason why the relationship ended, it is precisely this former situation which makes that Dura should have distanced itself clearly from its former licensed? product to avoid any confusion in the market, also vis-à-vis AdvanSix (and its customers).
35. As mentioned before, the scope of the assessment in these R.192/199 applications does not provide for an exact determination of facts and the hearing of witness to establish whose declaration is correct; it suffices that the (versions of the) facts presented by AdvanSix and that are considered relevant are plausible. That the separation between Dura and AdvanSix was not amicable, and that some issues there need to be resolved, falls outside the scope of this case.

Proportionality

36. Krahn’s assertion is that the Order was not necessary due to less prejudicial means to obtain evidence being available. AdvanSix could for instance have bought a sample or even asked for one. This is also dismissed. It is contested by AdvanSix and is not considered plausible. AdvanSix made clear in the Applications that due to the (niche) market, with sophisticated business-to-business sales in a highly personalised interaction and with restricted distribution channels, a test purchase is difficult and, in any case, not possible without raising suspicions. This is confirmed rather than contradicted by Krahn in the Review and during the oral hearing, stating that online sales do not take place in this market, but only person-to-person sales.

Other issues

37. Any other issues raised by Krahn, are not considered relevant or are based on an incorrect interpretation of the rules (such as the urgency requirement).

Security and Release of Technical Report and Security

38. Krahn’s (subsidiary) request that (i) the release of any report be suspended until a decision regarding the Review has been issued and (ii) access to any evidence or information collected through or as a result of the Order shall only be granted to AdvanSix upon proof of constitution of a security of 100 000 EUR, are (effectively) met. The height of the security was a topic discussed at the oral hearing. AdvanSix’ arguments that no security was needed or alternatively security should be limited to EUR 10,000, are dismissed. The security amount is set at EUR 50,000 (see below).

39. Krahn informed the Court (on 28 April 2026) that it has no confidentiality issues with the Technical Report concerning the Dutch seizure (“Technical Report NL”). The Technical Report NL will thus be ordered to be made accessible to the representatives of AdvanSix, subject to the provision of security of EUR 50,000 by AdvanSix to be deposited as set out below.
40. As the Applications in fact concern two separate seizures, the Court will from now on use the CMS file of UPC_CFI_2028/2025 for the ‘Dutch seizure’ concerning measures directed at defendant 1 and the CMS file of UPC_CFI_2031/2025 for the ‘Italian seizure’ concerning measures directed at defendants 2 and 3. The sub-registry is instructed to remove the representatives of defendant 1 (Krahn) from UPC_CFI_2031/2025 and the representatives of defendants 2 and 3 (Reschem and Vicris) from UPC_CFI_2028/2025 before uploading any reports (which have so far been shared via Tresorit) in the CMS.

IV. ORDER

- A. The requests to revoke the Order are dismissed.
- B. The Technical Report NL is to be made available to the applicant, AdvanSix **subject to AdvanSix providing security in the form of a deposit of EUR 50,000** (fifty thousand euros) to the relevant UPC bank account, details of which can be found at <https://www.unifiedpatentcourt.org/en/court/payments>.⁹
- C. The sub-registry The Hague is ordered to remove the representatives of defendants 2 and 3 from CMS file UPC_CFI_2028/2025 (pursuant to para 40 above).
- D. The sub-registry The Hague is ordered to make the Technical Report NL available to AdvanSix via CMS in file UPC_CFI_2028/2025 upon receipt of the security deposit.

Kokke	
On behalf of the registry	

⁹ Although security deposits pursuant to R.196.6 are not explicitly mentioned, the bank account mentioned at 3 seems to be the relevant account.