



UPC_CFI_927/2025
ORDER
of the Court of First Instance of the Unified Patent Court
Central Division (Milan Seat)
issued on 19 May 2026
concerning EP 3 592 333 (UP)

CLAIMANT:

La Siddhi Consultancy Ltd., 16 St. Michaels Avenue, HP3 8HF Hemel Hempstead,
United Kingdom

Representatives: Dr. Christian Meyer, c/o Maiwald GmbH, Grünstraße 25, 40212
Düsseldorf, Dr. Holger Glas and Dr. Felix Schröter, c/o Maiwald GmbH, Eisenstraße 3,
80335 München

DEFENDANT:

1. Athena Pharmaceutiques SAS, Espace Arnold de Ville, 12 Rue Georges Blandon,
78430 Louveciennes, France
2. Substipharm, 24 Rue Erlanger, 75016 Paris, France

Representatives: Dr. Jegannath Korukottu, Grünecker Patent- und Rechtsanwälte
PartG mbB, Leopoldstr 4, 80802 München

PATENT AT ISSUE: European Patent no. 3 592 333 (UP)

COMPOSITION OF PANEL – FULL PANEL:

Presiding Judge	Andrea Postiglione
Judge Rapporteur	Anna-Lena Klein
Technically Qualified Judge	Dr. Michael Alt

DECIDING JUDGE:

This order has been issued by the full panel.

LANGUAGE OF PROCEEDINGS: English

SUBJECT MATTER OF THE PROCEEDINGS

revocation action; here: R 262A RoP-application

SUMMARY OF FACTS:

1. On 13 April 2026, the claimant filed a Rejoinder to the reply to the defence to the application to amend the patent along with an application for protection of confidential information under R. 262a RoP related to exhibit MW 21 (the latter referred to in this order as the “application”).
2. Upon preliminary order of the Court dated 13 April 2026, the defendants commented on the application (referred to in this order as “reply-application”).
3. Upon further invitation by the Court, the claimant commented on the defendants’ reply (referred to in this order as “rejoinder-application”).
4. The **claimant** submits MW21 to demonstrate the “concern by the patent” within the meaning of Art. 47.6 UPCA. Claimant explains that MW21 is a non-public agreement between claimant and a third party. The claimant redacted information including, i.a., the identity of the third part, product- and territory-specific information, details of the collaboration structure and details concerning development, intellectual property rights and commercially sensitive financial and profitsharing terms. Disclosure of the information pertained in MW21 would, according to the claimant, permit conclusions to be drawn regarding the non-public business relationship between the parties of the agreement, product strategy and other issues.
5. Claimant is of the opinion that the redacted version of exhibit MW21 suffices for the defendant to understand and comment on that issue (application margin 6, rejoinder-application margin 3), and that defendants have not shown that access to the unredacted version is necessary to understand or address that limited procedural issue and safeguard the Defendants’ right of defence (rejoinder-application margins 3, 4). The primary request (“attorneys’ eyes only”) is therefore justified, since, on the one hand, claimant only relies on MW21 for a limited procedural issue, and, on the other hand, business interests of both the claimant and a third party are at stake.
6. With regard to Defendants’ requests relating to external Indian counsel, claimant underlines that no specific proceedings have been identified and no evidence has been provided that Exhibit MW21 gives rise to any concrete issue requiring advice from Indian counsel or that disclosure of the unredacted agreement to foreign advisers is necessary for the present UPC proceedings (rejoinder-application margin 6).
7. With regard to external experts, claimant maintains that the request is premature (rejoinder-application margin 8).
8. The **claimant requests**, under R. 262a, that
 1. Access to the unredacted version of Exhibit MW 21 shall be restricted to:
 - (a) the Court and the Registry;

(b) the Claimant's representatives; and
(c) the Defendants' external representatives in these proceedings;
and shall not be granted to any natural person employed by, managing, or otherwise acting within any of the Defendants, nor to any expert, consultant or other adviser of the Defendants
unless and until expressly authorised by the Court.

2. The redacted version of Exhibit MW 21 shall be the only version made available to the Defendants themselves and to any other person not included in paragraph 1.

Auxiliary requests:

3. In the alternative, if the Court considers that access must also be granted to a natural person from each Defendant pursuant to Rule 262A.6 RoP, access to the unredacted version of Exhibit MW 21 shall be restricted to:

(a) the persons identified in paragraph 1(a) to (c); and
(b) one natural person per Defendant, to be designated by name in advance, provided that such person is not involved in competitive decision-making, including licensing, pricing, product strategy, business development, regulatory strategy or related commercial negotiations.

4. No expert, consultant, in-house counsel or other adviser of the Defendants shall be given access to the unredacted version absent prior order of the Court.

5. Any person given access to the unredacted version of Exhibit MW 21 shall:

(a) use the information solely for the purposes of these proceedings;
(b) not disclose it to any third party or to any other person not admitted to the confidentiality regime;
(c) not use it for any commercial, licensing, regulatory or competitive purpose, nor in any parallel proceedings, absent leave of the Court; and
(d) return or destroy any copies in their possession at the end of the proceedings, including any appeal.

9. The defendants request

- I. to reject the Claimant's primary request under R. 262a RoP of 13 April 2026 for an "external representatives only" confidentiality regime in respect of the unredacted version of Exhibit MW21;
- II. primarily, order that access to the unredacted version of Exhibit MW21 on the Defendants' side be granted to
 - a. the Defendants' external representatives in these proceedings;
 - b. Mr. [REDACTED] [REDACTED] Head of Legal of Defendant 1, nominated by Defendant 1 and likewise by Defendant 2, as the designated natural person for both Defendants;
 - c. the following specifically identified Indian external legal advisers of the Defendants:
 - Mr. [REDACTED] [REDACTED] Indian counsel of the Defendants, [REDACTED] [REDACTED]
 - Ms. [REDACTED] [REDACTED] Indian counsel of the Defendants, [REDACTED] [REDACTED]

- d. to any expert or consultant or other adviser of the Defendants, upon request;
- III. in the alternative to II, order that access to the unredacted version of Exhibit MW21 on the Defendants' side be granted to
- a. the Defendants' external representatives in these proceedings;
 - b. Mr. ██████████ Head Legal of Defendant 1, nominated by Defendant 1 and likewise by Defendant 2, as the designated natural person for both Defendants;
 - c. to any expert or consultant or other adviser of the Defendants, upon request;
- IV. Claimant bears the costs and expenses of the proceedings.
10. In reaction to the defendant's requests, applicant requests the Court to reject the Defendants' request for broader access to the unredacted version of Exhibit MW21.
11. The **defendants are of the opinion** that at least one natural person from each party must be given access to confidential information, and that persons admitted into the confidentiality club do not need to be employees or UPC representatives, according to the CoA (defendants' reply, margins 4 et sequi, with reference to UPC_CoA_621/2024, order of 12 February 2025, Daedalus Prime v Xiaomi and UPC_CoA_631/2025 and UPC_CoA_632/2025, order of 26 January 2026 – Sun v Vivo). They underline that claimant treats MW21 as "key evidence", while at the same time trying to prevent the defendants from verifying the existence, scope and nature of those rights. Outside counsel alone cannot, without meaningful input from the party, fully assess whether the agreement supports the Claimant's standing case or instead points to a different commercial reality, according to the defendants (reply-application margin 11).
12. The redacted version is, according to the defendants, not sufficient to assess the claimant's alleged "concern" by the patent (Art. 47.6 UPCA), because it does not allow the defendants to assess "whether any licence exists at all, whether it is exclusive or non-exclusive, what its territorial scope is, whether it confers enforceable rights, or what the basic commercial significance is" (reply-application margin 12).
13. With regard to Indian external legal advisers, they allege that these legal advisers are already engaged by the defendants on legal issues relating to the patent/ patent family the relevant entities and products, and the legal significance of the relationships reflected by MW21. The instruction chain, according to the defendants, is "Defendant -> Indian Counsel -> external representatives" (reply-application margin 21). Defendants argue that, in case parallel proceedings abroad are pending, lawyers representing the party in parallel proceedings must be part of the confidentiality club in order to align the respective briefs and arguments as well as to co-ordinate the strategy (reply-application margin 21, with reference to UPC_CFI_400/2024 (LD Milan), order of 4 September, 2024; UPC_CFI_230/2023 (LD Paris), order of 19 December 2023).

14. In the defendants' view, it might also become necessary to appoint external experts, so the request to include external experts is, in the defendants' view, proportionate (reply- application margin 21).

GROUNDS FOR THE ORDER:

15. **A.** According to Art. 58 UPCA, to protect the trade secrets, personal data or other confidential information of a party to the proceedings or of a third party, or to prevent an abuse of evidence, the Court may order that the collection and use of evidence in proceedings before it be restricted or prohibited or that access to such evidence be restricted to specific persons.
16. **R.** 262A.1 RoP specifies that a party may make an application to the Court for an order that certain information contained in its pleadings or the collection and use of evidence in proceedings may be restricted or prohibited or that access to such information or evidence be restricted to specific persons. The Application shall contain the grounds upon which the applicant believes the information or evidence in question should be restricted in accordance with Article 58 of the UPCA, R. 262A.2 RoP, and shall be made at the same time as lodging a document containing the information or evidence and shall provide a copy of the unredacted relevant document and, if applicable, a copy of the redacted document, R. 262A.3 RoP. The Court may allow the Application considering in particular whether the grounds relied upon by the applicant for the order significantly outweigh the interest of the other party to have full access to the information and evidence in question, R. 262A.5 RoP. The number of persons referred to in paragraph 1 shall be no greater than necessary in order to ensure compliance with the right of the parties to the legal proceedings to an effective remedy and to a fair trial, and shall include, at least, one natural person from each party and the respective lawyers or other representatives of those parties to the legal proceedings, R. 262A.6 RoP.
17. When the Court decides on an application based on R. 262A RoP, it must take into account the need to ensure the right to an effective remedy and to a fair trial, the legitimate interest of the parties and, where appropriate, of third parties, and any potential harm for either of the parties, and, where appropriate, for third parties, resulting from granting or rejection of such measures, based on Art. 9.3 of the Enforcement Directive (UPC_CoA 755/2025 et alii, order of 26 January 2026, margin 23 – Sun v Vivo).
18. Generally, as the CoA has held (UPC_CoA 755/2025 et alii, order of 26 January 2026, margins 25 et sequi – Sun v Vivo) where the party against whom the R. 262A RoP-application is directed, is a legal person, that party shall have a right to propose at least one natural person who shall become a member of the "confidentiality club", subject to specific and appropriate judicial control. In general, the fact that a person is an employee of a party is not sufficient to deny access to that person. Such a general exclusion would severely restrict the party's freedom to choose representation during proceedings, although employees will often be better positioned to present the party's view, provide and review relevant information and instruct the representatives than persons external to the party's organization. Therefore, access for a party's employee will often be essential with regard to ensuring that party's right to an effective remedy and to a fair trial. The interest of the party in having full access for, at

least, one of its employees therefore, as a general rule, outweighs the interests of the applicant.

19. However, the concerned party may not only choose employees or representatives as persons to whom access shall be given on their side. The parties may also choose lawyers who are not representatives within the meaning of Art. 48 UPCA, but who are part of an international team providing input to the proceedings before the UPC (UPC_CoA_221/2025 et alii, order of 3 July 2025, margin 19 – NST v Qualcomm; UPC_CoA_621/2024, order of 12 February 2024, margins 13 et sequi – Daedalus v Xiaomi).
20. The party requesting restriction of access to the other party must show that the requirements for restricted access are met, Art. 54 UPCA (UPC_CFI_31/2024 et alii (LD Milan), order of 28 April 2025 - Ericsson v Asustek).
21. **B.** Against this legal background, the application is allowable to the extent specified in the order.
22. **I.** Claimant’s primary request (“external eyes only”) is rejected.
23. In accordance with the legal background specified above, the Court does not see the need to restrict access to MW21 to “external eyes only”.
24. The applicant has not demonstrated to the Court that a confidentiality regime excluding all natural persons from the defendants from access to the concerned exhibit MW21 is necessary and proportionate in this case.
25. **1.** As explained above, in general, at least one person of the parties’ choosing, other than external representatives in the specific case, must be given access to concerned documents, to comply with the concerned party’s right to an effective remedy and fair trial. The Court does not need to decide if it is in general possible to order an “external eyes only” or “attorneys eyes only” regime based on Art. 58 UPCA, R. 262A RoP (in general favourable to this approach where possible antitrust issues arise UPC_CFI_31/2024 et alii (LD Milan), order of 28 April 2025 - Ericsson v Asustek; more general UPC_CFI_239/2023 (LD The Hague), order of 4 March 2024, margin 12 - Plante v Arkyne). In any event, a request for an order deviating from the rule that at least one person from the other party must be given access to the document in question would need to show that exceptional circumstances require such deviation.
26. **2.** Such exceptional circumstances are not shown here.
27. MW21 is a document that contains undoubtedly confidential information, however, the Court does not see that the information contained in the unrestricted version is so confidential as to require an external eyes only-regime.
28. The fact that certain conclusions can be drawn by persons to whom an unredacted version of MW21 is disclosed is not enough to show the need for an external eyes only regime. In general, all confidential information in the sense of Art. 58 UPCA allows such conclusions to be drawn, therefore the information is protected with specific measures. The claimant’s (and third

party's) interests are in that regard protected by limited access to the confidential information and a strict confidentiality regime.

29. The claimant's argument that the document in question only relates to a "limited procedural purpose" is not successful, either. The claimant relies on MW21 to show "concern" in the sense of Art. 47.6 UPCA. All documents relied upon by one party, are, in principle, to be disclosed to the other party. The defendants have the right to assess all (limited) procedural aspects of the case and all documentation lodged by the other party pertaining to such aspects.
30. The fact that third party's interests are concerned does not change the assessment, either. The third party's interests are protected by the fact that very limited access is given to the other side, and that the persons who get access are bound by strict confidentiality.
31. **II.** The claimant's auxiliary request (access only to one natural person per Defendant, to be designated by name in advance, provided that such person is not involved in competitive decision-making, including licensing, pricing, product strategy, business development, regulatory strategy or related commercial negotiations) is allowable, with the specifications set out in the order.
32. **1.** It is not in dispute between the parties that MW21 contains confidential information. The Court agrees and therefore deems the redacted parts of MW21 as confidential within the meaning of Art. 58 UPCA, R. 262, 262A RoP.
33. **2.** Access shall, on the defendants' side, be restricted to the persons addressed and named in the order.
34. **a)** The Court does not deem it necessary to include the Court and the Registry and the Claimant's representatives in the order, as is requested by the primary and auxiliary request. While a confidentiality order may be directed against the requesting party itself if a legitimate interest in such an order is shown to the Court (see, e.g., UPC_CFI_1034/2025 et alii (LD Düsseldorf), order of 11 May 2026, margin 23 – Yangtze Memory v Micron), claimant has not demonstrated any legitimate interest why the claimant itself should be excluded from the confidentiality club. The order therefore addresses restrictions to the confidential information on the defendants' side only.
35. **b)** The defendants' representatives need access. The claimant does not object to this. The parties have not requested that specific persons be mentioned in the confidentiality order, so the order does not address the representatives by name.
36. **c)** ██████████ ██████████ Head of Legal of Defendant 1 and nominated as natural person for both defendants shall also get access. The claimant does not specifically object to the person named by both defendants. Claimant does not allege that the specifications set forth in the initial request ("not involved in competitive decision-making, including licensing, pricing, product strategy, business development, regulatory strategy or related commercial negotiations") are not met with regard to ██████████
37. **d)** Access to one person of the defendants' Indian legal counsel team is also allowed.

38. As explained above, the party to whom access to certain documents shall be restricted may in general – subject to specific objections to specific persons by the other side – choose who to include in the confidentiality club, even if these persons are not employed by or representatives of the party concerned (UPC_CoA_169/2024, order of 12 February 2024, margins 12, 13 – Daedalus v Xiaomi).
39. The defendants do not allege that Indian counsel is concerned with specific parallel proceedings (although they cite case law relating to parallel proceedings), but that Indian counsels “are already engaged by the Defendants on legal issues relating to the patent / patent family, the relevant entities and products, and the legal significance of the relationships reflected by MW21”. According to the defendants, the instruction chain goes from the defendants via Indian counsel to the defendant’s external representatives in this case (reply-application, margin 21). Therefore, they allege that Indian counsel is already concerned with the proceedings before this Court. Claimant, who bears the burden of proof, has not specifically disputed this allegation, or provided any indication to the Court that/ why the defendants’ allegation could be incorrect.
40. As laid down in the order, Indian counsel is bound by the confidentiality regime and therefore may not use confidential information outside of these proceedings.
41. Defendants, on the other hand, have not demonstrated to the Court why two persons from Indian legal counsel need to be part of the confidentiality club. It is not demonstrated to the Court why one person does not suffice. With regard to the confidential nature of the information which requires the limitation of access, the Court is of the opinion that allowing one Indian Counsel into the confidentiality club suffices. As he is named first, Mr. ██████████ is allowed into the confidentiality club.
42. e) The defendants’ request to grant access to experts, consultants or other advisers upon request is rejected at this point in time.
43. Experts, consultants and advisers shall be named in advance to make sure that accountability is clear (see UPC_CFI_181/2024 et alii (LD Düsseldorf), order of 15 July 2025, margin 27 with further reference - Qiagen v bioMérieux). Furthermore, the name of the expert, consultant or adviser must be disclosed to the other side before inclusion into the confidentiality club in order to make sure that the other side does not have reason to oppose the specific expert.
44. Therefore, the defendants’ request cannot be granted at this point without reference to specific persons. Should the need arise, in the defendants’ view, to include a specific, consultant or adviser into the confidentiality club, a reasoned application can be lodged and will be assessed by the Court.
45. **3.** The persons authorized to get access to MW21 may not disclose it to any third party or to any other person not admitted to the confidentiality regime, except to the extent that it has come to the knowledge of the receiving party outside these proceedings, provided that the receiving party has obtained it on a non-confidential basis from a source other than the Defendant or its affiliates, provided that such a source is not bound by a confidentiality agreement with or other obligation of secrecy with the Defendant or its affiliates. While the

defendants do not specifically oppose the claimant's request insofar as it goes beyond the aforementioned wording, the Court does not see a basis to order a confidentiality regime extending beyond this wording.

46. While the defendants do not specifically oppose the claimant's request to "return or destroy any copies in their possession at the end of the proceedings, including any appeal", the Court does not see a basis for such a request either. It is therefore rejected (see also UPC_CFI_846/2024 (LD Munich), order of 10 March 2025 – Promosome v BioNTech).
47. There is no legal basis for a cost decision in proceedings relating to applications based on R262A RoP.

ORDER

- 1) The following information is classified as confidential within the meaning of Article 58 UPCA and Rule 262.2 RoP: redacted (blackened) parts of the unredacted version of the claimant's exhibit MW21 filed with the Rejoinder to the reply to the defence to the application to amend the patent, dated 13 April 2026.
- 2) Access to the information classified as confidential in paragraph 1) is restricted, on the part of the defendants, to the defendants' external representatives in these proceedings, and to the following natural persons:
 - Mr. [REDACTED] Head of Legal of Defendant 1
 - Mr. [REDACTED] [REDACTED] [REDACTED]

No expert, consultant, in-house counsel or other adviser of the Defendants shall be given access to the unredacted version absent prior order of the Court.

- 3) Information classified as confidential in paragraph 1) shall be treated as such by the defendants' external representatives in these proceedings and the natural persons as mentioned under 2) above. It shall
 - not be used or disclosed outside of these court proceedings
 - or to any third party or to any other person not admitted to the confidentiality regime,
 - and it shall not be used for any commercial, licensing, regulatory or competitive purpose, nor in any parallel proceedings, absent leave of the Court,except to the extent that it has come to the knowledge of the receiving party outside these proceedings, provided that the receiving party has obtained it on a non-confidential basis from a source other than the claimant, provided that such a source is not bound by a confidentiality agreement with or other obligation of secrecy with the claimant. This obligation of confidentiality shall continue to apply until further notice, even after the conclusion of the Court proceedings, unless this information becomes otherwise known or readily accessible to persons who typically have access to such information.

- 4) In the event of a culpable breach of this order, the Court may, at the request of the claimant, impose a penalty payment for each breach, to be determined having regard to the circumstances of each case.
- 5) In all other aspects, the application is rejected.
- 6) The provisional protection granted by the Preliminary Order dated 13 April 2026 is hereby lifted in so far as it goes beyond this order.
- 7) Insofar the application is rejected, leave to appeal is granted to the applicant. Leave to appeal is furthermore granted to the defendants, insofar as the order goes beyond their requests.

Issued on 19 May 2026

Presiding Judge Andrea Postiglione	ANDREA POSTIGLIONE <small>Firmato digitalmente da ANDREA POSTIGLIONE Data: 2026.05.19 17:15:05 +02'00'</small>
Legally Qualified Judge Anna-Lena Klein	ANNA-LENA KLEIN <small>Firmato digitalmente da ANNA-LENA KLEIN Data: 2026.05.19 16:01:19 +02'00'</small>
Technically Qualified Judge Dr. Michael Alt	MICHAEL OLIVER ALT <small>Digital unterschrieben von MICHAEL OLIVER ALT Datum: 2026.05.19 16:17:53 +02'00'</small>

Information about appeal in case of an order falling under Art. 73(2)(b) UPCA:

The present order may either

- be the subject of an appeal by any party which has been unsuccessful, in whole or in part, in its submissions together with the appeal against the final decision of the Court of First Instance in the main proceedings, or
- be appealed by any party which has been unsuccessful, in whole or in part, in its submissions at the Court of Appeal with the leave of the Court of First Instance within 15 days of service of the Court of First Instance's decision to that effect (Art. 73(2)(b) UPCA, R. 220.2, 224.1(b) RoP).