



UPC Court of Appeal
UPC_CoA_61/2026

ORDER
of the Court of Appeal of the Unified Patent Court
issued on 10 June 2026
concerning an application pursuant to R. 262A RoP

APPELLANT (APPLICANT IN THE MAIN PROCEEDINGS BEFORE THE CFI)

SharkNinja Operating LLC, Needham, United States
(hereinafter also referred to as “SharkNinja”)

represented by Paul Bettridge, European Patent Attorney and other patent attorneys and attorneys at law of
Carpmaels & Ransford LLP, London, United Kingdom

RESPONDENTS (DEFENDANTS IN THE MAIN PROCEEDINGS BEFORE THE CFI)

1. **Groupe SEB France**, Écully, France
2. **S.A.S. SEB**, Selongey, France
3. **SEB International Service (SIS)**, Faucogney et La Mer, France
4. **Groupe SEB WMF Consumer GmbH**, Geislingen an der Steige, Germany
(hereinafter also jointly referred to as “SEB”)

all represented by Thomas Bouvet, attorney at law, and other attorneys at law of Jones Day, Paris,
France

PATENT AT ISSUE

EP 3 689 198

LANGUAGE OF THE PROCEEDINGS

English

DECIDING JUDGES

This order was issued by

Panel 2

Rian Kalden, legally qualified judge and presiding judge

Patricia Rombach, legally qualified judge and judge-rapporteur

Ingeborg Simonsson, legally qualified judge

Max Tilmann, technically qualified judge
Marc van der Burg, technically qualified judge

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

“Decision” in UPC_CFI_1594/2025, issued by the Local Division Paris on 10 April 2026.

FACTS

1. With the impugned “decision” (hereinafter: impugned order) the Paris Local Division dismissed SharkNinja’s application for provisional measures against SEB.
2. SharkNinja appealed the impugned order.
3. On 22 May 2026, the Court of Appeal recognized specific information in the Statement of appeal and grounds of appeal as confidential information and gave SEB the opportunity to comment on the confidential information no later than 29 May 2026.
4. SEB commented on 29 May 2026 and submitted a R. 262.2 RoP and a R. 262A RoP request.
5. By an order of 2 June 2026, the judge-rapporteur granted provisional protection for the alleged confidential information. Access to the information in the unredacted version of SEB’s Statement of response of 29 May 2026 and the redacted passages in SEB’s Exhibits marked confidential was given to SharkNinja’s authorized UPC representatives and their internal assistants with specific limitations. SharkNinja was given the opportunity to comment on the confidentiality request no later than 5 June 2026.

PARTIES' REQUESTS

6. SEB requests inter alia that the Court of Appeal
 - I. order that the information redacted or in red in the Statement of response of 29 May 2026 and the redacted passages in SEB’s Exhibits marked Confidential is confidential information between the parties;
 - II. order that the information redacted or in red in the Statement of response of 29 May 2026 and the redacted passages in SEB’s Exhibits marked Confidential be excluded (i) from publications, (ii) from any documents available, and (iii) from any information made available in response to an application;
 - III. order that the information redacted or in red in the Statement of response of 29 May 2026 and the redacted passages in SEB’s Exhibits marked Confidential be made available only to two natural persons from SharkNinja’s legal department as well as to SharkNinja’s UPC representatives on the CMS and their internal assistants, insofar as their access to the confidential information is required for their work in these proceedings;
 - IV. disregard the new arguments.
7. SharkNinja requests:
 1. Access to SEB’s confidential information in their Response and confidential exhibits should be granted to
 - a. SharkNinja’s UPC representatives and their internal assistants, and

- b. the following three representatives of SharkNinja:
 - i. [REDACTED]
 - ii. [REDACTED]
 - iii. [REDACTED]
 - c. in the alternative to b., the following two representatives of SharkNinja:
 - i. [REDACTED]
 - ii. [REDACTED]
2. SharkNinja is granted the opportunity to submit additional comments on the content of the Response within at least one week from the date on which the persons referred to in 1. are granted access to the confidential information.
 3. SEB's request to disregard SharkNinja's new arguments is dismissed.

PARTIES' SUBMISSIONS

8. Essentially, SEB submits the following
 - The paragraphs identified in red or redacted in the Response of 29 May 2026 must be held confidential, because they comprise commercial information relating to market data regarding SharkNinja's "Ninja Foodi" models, obtained from data providers asking users to protect the confidentiality of extracted data and they are of the same nature as the data contained in SharkNinja's exhibit CRA-29 that have been held confidential by the Court of Appeal in its order of 22 May 2026.
 - Adequate measures must therefore be taken to ensure that the confidential information should not be used for any other purpose than the present proceedings, not be available to others than SharkNinja's representatives and two of its natural persons; not be available to third parties.
 - In its Statement of Grounds of Appeal, SharkNinja provides new facts, a new exhibit CRA-29 containing market shares of multicookers, as well as new arguments.
 - In first instance, SharkNinja alleged that the accused "Cookeo Infinity" product is competing with the sales of its own multicookers but has shown no consistency in the identification of its own products whose sales would have dropped.
 - In its Application, SharkNinja alleged that the "Cookeo Infinity" product was in competition with "the Ninja Foodi and the Ninja Speedy multi-cookers". In its Reply, it ultimately only referred to "the Ninja Foodi Max multicooker OP500EU and the Ninja Foodi Mini 6-in-1 multicooker 4,7L OP100EU". Now, for the first time in its Grounds of Appeal, SharkNinja newly argues that it is ultimately the "Ninja Foodi models OP300EU / OP300EU, OP350UKMAX, OP500EU/ OP500UK, OP100UK/EU, OP350, OL750UK /OL750EU, OL650UK/EU and OL550UK/EU, i.e. the Ninja Foodi with two lids as well as the Ninja Foodi with the SmartLid" for which sales allegedly declined due to the "Cookeo Infinity".
 - There is no plausible explanation which would explain why SharkNinja did not identify these products as competing products during the first instance proceeding.
9. Essentially, SharkNinja submits the following
 - Access to SharkNinja's confidential information shall be granted to three representatives of SharkNinja, two of whom are from the legal department and one from the commercial department. This already follows from the considerations of fairness and equity according to Art. 42(2) UPCA. Access to the sales data submitted by SharkNinja in its appeal was granted to four representatives of SEB by Court order of 22 May 2026.
 - Both SharkNinja's arguments on Ninja Foodi models and Exhibit CRA 29 are not new arguments within the

meaning of R. 222.2 RoP. Moreover, Exhibit CRA 29 was not available to SharkNinja's representatives during the first instance proceedings and is of relevance for the assessment of the necessity of provisional measures. SharkNinja's Ninja Foodi products include, and have always included, the Ninja Foodi with two lids and the Ninja Foodi with the SmartLid. All of these models were referred to by SharkNinja in its Application when referring to "the Ninja Foodi" in general. SEB itself referred to both the Ninja Foodi with the SmartLid and the Ninja Foodi with two lids in their Objection and argued that only the latter is covered by the Patent. In their Objection, SEB argued that only the Ninja Foodi with two lids would be covered by the patent and was therefore relevant for the assessment of necessity, and that this model no longer appeared to be available in France and Germany. It was in response to these arguments that SharkNinja explained that the Ninja Foodi MAX OP500EU and the Ninja Foodi Mini 6-in-1 OP100EU, both of which have two lids, were still offered in Germany and France.

- SharkNinja is still of the opinion that for products to compete in the market, those competing products do not require that both products realise the asserted patent and have exactly the same features.
- Exhibit CRA 29 includes sales data up to the end of Q1 2026, and so could not have been available prior to 1st April 2026. Insofar as necessity is at issue in the Appeal proceedings, the data in Exhibit CRA 29 is highly relevant for the decision because it provides the most up to date information about the ongoing damage to SharkNinja by sales of the infringing Cookeo Infinity product.
- The submitted sales data serves the purpose further specifying the negative consequences.
- Moreover, it was in preparation for the oral hearing that SharkNinja had informed its representatives that in Q1 2026 market data showed that sales of the Ninja Foodi had dropped after launch of the infringing Cookeo Infinity. This argument was raised by SharkNinja's representatives in the oral hearing before the LD Paris.

GROUNDS

SEB's Confidentiality request

Legal framework

10. Pursuant to R. 262.1(b) RoP, written pleadings and evidence, lodged at the Court and recorded by the Registry, shall be available to the public upon reasoned request to the Registry. Pursuant to R. 262.2 RoP, a party may request that certain information of written pleadings or evidence be kept confidential, in particular, by making documents available to the public in redacted form (see R. 262.2, sentence 4, RoP) and provide specific reasons for such confidentiality.
11. Pursuant to Art. 58 UPCA, the Court may, 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, 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.
12. Pursuant to R. 262A.1 RoP, 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.
13. The classification of information as a trade secret requires that (a) the information is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to

persons within the circles that normally deal with the kind of information in question; (b) the information has commercial value because it is secret; and (c) the information has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret (see Art. 39 (2) TRIPS Agreement). R. 262 RoP and R. 262A RoP refer not only to trade secrets in this sense, but also to other confidential information (cf. Art. 58 UPCA: “for the protection of trade secrets, personal data or other confidential information”, CoA, 1 August 2025, UPC_CoA_70/2025, *Strabag v Swarco Futurit et al.*, para. 17; 29 January 2026, UPC_CoA_930/2025, para. 22, *EOfFlow v Insulet*).

Request I

14. The paragraphs identified in red or redacted in the Response of 29 May 2026 must be held confidential, because they comprise commercial information relating to market data regarding SharkNinja’s “Ninja Foodi” models, obtained from data providers asking users to protect the confidentiality (see CoA, 22 May 2026, UPC_CoA_61/2026, *SharkNinja v SEB*).

Request III

15. Pursuant to R. 262A.6 RoP the number of persons to whom access is restricted shall be no greater than necessary in order to ensure compliance with the rights of the parties to the legal proceedings to an effective remedy and to 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. Whether a particular person may be granted full access under this provision must be determined on the basis of the relevant circumstances of the case, including the role of that person in the proceedings before this Court, the relevance of the confidential information to the performance of that role and the trustworthiness of the person in keeping the information confidential (CoA, 12 February 2025, UPC_CoA_621/2024, *Daedalus v Xiaomi*, para. 12; CoA, 22 May 2026, UPC_CoA_61/2026, *SharkNinja v SEB*).

16. The Court of Appeal considers it necessary and sufficient for three natural persons from SEB to have access to the information.

17. As this information *inter alia* relates to market data concerning SharkNinja, SharkNinja has an interest in checking this data. This could best be done by the product manager named by SharkNinja. As this is not highly confidential information, it is also justified to give this employee access to the market data concerning SharkNinja and other competitors.

18. It follows that additionally two employees from the legal department and IP department shall be members of the confidentiality club.

Request II

19. There is no need to decide on request number II at this stage of the proceedings. The R. 262.2 RoP request will be decided once a R. 262.1 (b) RoP request is made by a member of the public.

Request IV

20. The decision on request IV will be made at a later stage.

Additional time to comment on the confidential information

21. The Court considers a period of five working days after the confidential information has been made available to be reasonable for reviewing the confidential data and developing a response.

Comments on late filed arguments and evidence

22. SharkNinja shall be given the opportunity to comment on SEB's arguments in their Statement of response of 15 May 2026 (paras. 14-53) regarding allegedly late filed arguments and evidence.

ORDER

1. The information redacted or in red in the Statement of response of 29 May 2026 and the redacted passages in SEB's Exhibits marked Confidential is recognized as confidential information.
2. Access to the information redacted or in red in the Statement of response of 29 May 2026 and the redacted passages in SEB's Exhibits marked Confidential is restricted to
 - a. [REDACTED]
 - b. [REDACTED]
 - c. [REDACTED]
 - d. SharkNinja's UPC representatives on the CMS and their internal assistants, insofar as their access to the confidential information is required for their work in these proceedings.
3. The confidential information shall be treated as confidential by the persons named in section 2. It may not be used or disclosed outside these court proceedings unless it has come to the knowledge of the receiving party outside these proceedings. However, this exception only applies if this information was obtained by the receiving party on a non-confidential basis from a source other than SEB or its affiliated companies, provided that this source is not bound by a confidentiality agreement with SEB or its affiliated companies or by any other confidentiality obligation towards them.
4. SharkNinja is ordered to take appropriate measures to ensure that the confidential information remains confidential and is not used outside these proceedings.
5. In the event of a culpable breach of the order, the Court may impose a penalty payment on SharkNinja of up to EURO 250,000 for each instance of such a breach.
6. SharkNinja is given the opportunity to comment SEB's arguments in their Statement of response of 15 May 2026 (paras. 14-53) regarding allegedly late filed arguments and evidence no later than 17 June 2026.
7. SharkNinja is given the opportunity to comment on the information redacted or in red in the Statement of response of 29 May 2026 and the redacted passages in SEB's Exhibits marked Confidential no later than 17 June 2026.

Date:
2026.06.10

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Rian Kalder, legally qualified judge and presiding judge

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Patricia Rombach, legally qualified judge and judge-rapporteur

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Ingeborg Simonsson, legally qualified judge

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Max Tilmann, technically qualified judge

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