



Düsseldorf local division
UPC_CFI_1332/2026

Order

of the Court of First Instance of the Unified Patent Court
issued on 13 July 2026
concerning EP 4 285 308 B8

APPLICANT:

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RESPONDENTS:

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2. **Swissbit Germany AG**, represented by its directors Lars Lust and Chris Schwarze, Bitterfelder Straße 22, 12681 Berlin, Germany

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PATENT APPLICATION:

EUROPEAN PATENT NO. EP 4 285 308 B8

PANEL/CHAMBER:

Panel 1 of the Düsseldorf local division

JUDGES SEATING ON THE PANEL:

This order was issued by Judge Thomas, a legally qualified judge, as presiding judge, Judge Adocker, a legally qualified judge, as judge-rapporteur, and Judge Dr Schumacher, a legally qualified judge.

LANGUAGE OF THE PROCEEDINGS:

German SUBJECT-

MATTER:

R. 262A, 9.1, 333 RoP – Application for confidentiality; application for the court to take note of a summary of the expert's detailed report; application to amend the confidentiality order of 19 June 2026

SUMMARY OF THE PARTIES' SUBMISSIONS AND APPLICATIONS:

On 25 June 2026, the applicant applied, pursuant to Rule 9.1 of the RoP,

- 1.) that the summary finding of infringement on page 32 (paragraph 68) of the detailed report by the expert Grannemann dated 15 June 2026 be brought to the applicant's attention and that the legal and patent attorneys be released from their duty of confidentiality in this respect;
- 2.) in the alternative, to bring the summary finding of infringement referred to in point 1) to the applicant's attention, subject to the condition that the legal and patent attorneys' representatives be released from their duty of confidentiality to the extent that the applicant may use the information exclusively for the purposes of conducting the proceedings, including the conduct of settlement negotiations with the respondents, and may not pass it on to or disclose it to any third parties.

Furthermore, on 6 July 2026, she filed an application 'purely as a precautionary measure' with corresponding content, based on Rule 333 of the RoP. Specifically, this application sought an amendment to the court's confidentiality order of 19 June 2026, to the effect that

- 1.) the access restriction and confidentiality order does not apply to the summary of the infringement findings on page 32 (paragraph 68) of the detailed description by the expert Grannemann dated 15 June 2026, and that, to that extent, the legal and patent attorneys representing the parties are not bound by a duty of confidentiality;
- 2.) in the alternative, that the access restriction and confidentiality order does not relate to the summary finding of infringement set out in point 1), but that the applicant and her legal and patent attorneys may use the information exclusively for the purposes of conducting the proceedings, including the conduct of settlement negotiations with the respondents, and may not pass it on to or disclose it to any third parties.

In their statement of 9 July 2026, the respondents objected to the applicant's aforementioned applications. The [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

The respondents further filed a further application for confidentiality on 9 July 2026 and requested that the following confidentiality measures be ordered:

- | Geheimhaltungsbedürftige Tatsache | Randnummer |
|---------------------------------------|---------------------|
| Argumentation zum Verletzungsergebnis | 3, 5, 6, 10, 11, 14 |

- 3

- V. Persons other than those named in Section II shall be excluded from the oral hearing in accordance with Rule 115 of the RoP, in so far as the information referred to in Section I is to form part of the oral hearing.

In support of their application for confidentiality dated 9 July 2026, the respondents argued that the information highlighted in grey in their statement of 9 July 2026 would allow direct inferences to be drawn regarding the summary findings of the expert's detailed report of 15 June 2026. This information should therefore, until a decision has been made on the legality of the inspection and preservation of evidence order of 27 April 2026, be made available exclusively to the applicant's legal and patent attorneys acting as representatives in the proceedings. The passages highlighted in grey in the statement also implicitly reveal the expert's findings. Granting the applicant access to this information would therefore be tantamount to granting access to the findings of the expert examination themselves. As justification for the argument that the applicant should only be granted access to the expert's findings once a decision has been made on the legality of the order, the grounds for the confidentiality application refer to the reasoning set out in the defendants' statement of 9 July 2026.

GROUND'S FOR THE ORDER:

A. On the (formal) admissibility of the applications:

I. Application dated 25 June 2026

The applicant's first application of 25 June 2026 was based on Rule 9.1 of the RoP. Under this provision, the court may, at any stage of the proceedings, either of its own motion or upon a reasoned application by a party, order procedural measures; for example, it may order a party to take certain steps, answer questions, or provide clarifications or evidence within specified time limits.

As explained, the application, as substantiated by the applicant, was (primarily) aimed at bringing to the applicant's attention the 'summary finding of infringement' contained in the detailed description provided by the expert Grannemann. As the order sought constitutes a procedural measure, the application, based on Rule 9.1 of the RoP, was formally admissible

II. Application dated 6 July 2026

The subsequent application of 6 July 2026, based on Rule 333 of the RoP, was also formally admissible.

Under Rule 333.1 of the RoP, procedural decisions or orders made by the rapporteur or the presiding judge are reviewed by the panel upon a reasoned application by a party. The application, filed 'purely as a precautionary measure' pursuant to Rule 333 of the RoP and pursuing the same objective in substance as the application under Rule 9.1 of the RoP, was introduced with the words 'we request that the court's order of 19 June 2026 be amended to the effect that ...'. The (primary) substantive request, according to which the order restricting access and the confidentiality order should not apply to the summary of the infringement findings on page 32 (paragraph 68) of the detailed description by the expert Grannemann dated 15 June 2026, and that, to that extent, the legal and patent attorneys representing the parties should not be bound by a duty of confidentiality, is to be regarded as an admissible request for a review of the court's order of 19 June

2026, with the aim of securing the issuance of an amended order pursuant to Rule 333.4 of the RoP.

III. Further application for confidentiality

As regards the (further) application for confidentiality by the respondents dated 9 July 2026, based on Rule 262A of the RoP, this is also formally admissible.

It has been demonstrated that this application relates to information contained in the respondents' statement of 9 July 2026. Likewise, it has been explained, in accordance with Rule 262A.2 of the RoP, why the respondents consider it necessary to restrict access to the relevant information pursuant to Article 58 of the UPC Agreement.

B. Regarding the (substantive) validity of the applications:

I. Applications under Rule 9.1 of the RoP and Rule 333 of the RoP

Both the applicant's application under Rule 9.1 of the RoP and the application under Rule 333 of the RoP are unfounded.

In this respect, the Court shares the respondents' view.

It stands to reason that becoming aware of the summary of the expert's detailed report dated 15 June 2026 could entail serious disadvantages for the respondents should their application for review be granted and the inspection and preservation of evidence subsequently be declared inadmissible. In that case, the applicant would have wrongfully gained knowledge of the relevant confidential information, which also includes the summary findings of the expert's detailed report. Such knowledge cannot be undone retrospectively. The fact that the respondents also have a substantial interest in the protection of the summary findings is evident not least from the fact that the detailed description is based on information obtained and seized during searches of premises. There is therefore, at the very least, a substantial risk that even the summary findings contain information which infringes or at least affects the respondents' trade secrets.

This is not offset by any legitimate interest on the part of the applicant.

The applicant has neither sufficiently demonstrated nor is it apparent why this would prevent the 'proper conduct of the proceedings' if a decision on the release of the examination results is only to be made following the oral hearing on the respondents' application for review, scheduled for 25 August 2026.

II. Further application for confidentiality

By contrast, the respondents' (further) application for confidentiality, based on Rule 262A of the RoP, is justified.

The respondents have provided a clear justification that the information highlighted in grey in their statement of 9 July 2026 and listed in the table included therein under point I of the application contains information requiring confidentiality within the meaning of Article 58 of the UPC Agreement, and that

restriction on access to it is necessary.

ORDER:

- I. The information highlighted in grey in the respondents' statement of 9 July 2026 and listed in the table below is classified as confidential pursuant to Article 58 of the UPC Agreement in conjunction with Rule 262A.1 of the RoP:

Geheimhaltungsbedürftige Tatsache	Randnummer
Argumentation zum Verletzungsergebnis	3, 5, 6, 10, 11, 14

- II. Access to the information referred to in Section I shall initially be restricted by the applicant – pending a decision on the respondents' application for review dated 18 June 2026 – to the applicant's legal representatives and patent attorneys authorised to act in the proceedings.
- III. Information classified as confidential in Section I must be treated as such by the persons granted access under Section II and must not be used or disclosed outside these court proceedings, unless it was disclosed to the receiving party outside these proceedings. However, this exception applies only if the information was obtained by the receiving party on a non-confidential basis. These obligations shall continue to apply after the conclusion of the present proceedings, unless otherwise ordered at a later date.
- IV. In the event of a wilful breach of this order, the court may impose a financial penalty for each breach, the amount of which shall be determined having regard to the circumstances of the individual case.
- V. Persons other than those named in Section II shall be excluded from the oral hearing in accordance with Rule 115 of the RoP, in so far as the information referred to in Section I is the subject of the oral hearing.
- VI. The applicant's applications dated 25 June 2026 and 6 July 2026 are dismissed.

Issued on 13 July 2026

Legally qualified judge Thomas, presiding	Digitally signed Thomas Ronny 11 July 2026 09:41:08 +0200 Unified Patent Court Einheitliches Patentgericht Juridiction unifiée du brevet
Legally qualified judge Adocker as judge-rapporteur	Thomas Adocker Digital signed by Thomas Adocker Date: 11 July 2026 15:36:27 +02'00'
Legally qualified judge Dr Schumacher	Digitally signed Schumacher Jule Kathrin 13 July 2026 07:12:29 +0200 Unified Patent Court Einheitliches Patentgericht Juridiction unifiée du brevet
On behalf of the Deputy-Registrar	Digitally signed Frank Hermann Moritz 13 July 2026 11:43:19 +0200 Unified Patent Court Einheitliches Patentgericht Juridiction unifiée du brevet