



Düsseldorf local division
UPC_CFI_226/2024
App_11638/2025

Order
of the Court of First Instance of the Unified Patent Court
issued on 24 July 2026
concerning EP 3 605 534

Applicant:

Vereenigde Octrooibureaux N.V., Carnegieplein 5, 2508 DH The Hague, Netherlands

represented by: Bettina Herrmann V.O. Patents & Trademarks, Rindermarkt
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Claimant:

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represented by: Dr Volkmar Henke, Attorney-at-law, Dr Tilman Müller,
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Also acting: Patent Attorney Dipl.-Ing. Tobias Kaufmann, Patent
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defendant:

1. Optoma Deutschland GmbH, represented by its managing directors, Am Nordpark 3,
41069 Mönchengladbach, Germany

represented by: Dr Andreas Kramer, Attorney-at-law, Powell Gilbert,
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2. Optoma Europe Ltd., represented by its directors, 1 Bourne End Mills, Hemel Hempstead,
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- 3. Optoma Corporation**, represented by its directors, 12F, No. 213, Section 3, Beixin Road, Xindian District, New Taipei City 231, Taiwan, R.O.C.

PATENT AT ISSUE:

European Patent No. EP 3 605 534

JUDICIAL PANEL/CHAMBER:

Panel 1 of the Düsseldorf local division

JUDGES:

This order was issued by Presiding Judge Thomas as the judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: German

SUBJECT: Rule 262(1)(b) of the RoP – Application for access to the case file

REASONS FOR THE ORDER:

BRIEF SUMMARY OF THE FACTS:

1. The applicant, as a member of the public, seeks access to the files in proceedings UPC_CFI_226/2024 (hereinafter: the main proceedings).
2. The main proceedings were concluded at first instance by a decision of the Düsseldorf local division dated 26 September 2024, in which the local division permitted the withdrawal of the claim on the Claimant's application and with the defendant's consent, and declared the proceedings to be terminated.
3. The applicant justifies her request for access to the case file on the grounds that she wishes to better understand why the Claimant considers the patent at issue to be essential to the Opus Audio standard.
4. The parties to the main proceedings were given the opportunity to submit their comments.
5. The claimant made use of this opportunity, whilst opposing the application.
6. In the claimant's view, the application is vague and therefore partially inadmissible. It cannot be granted from the outset in so far as it relates neither to pleadings nor to evidence.
7. In any event, the application is unfounded. The applicant has no overriding interest in inspecting the case file.
8. The applicant is aware that the patent at issue is essential to the Opus Audio Codec standard. The applicant can verify for herself whether this assessment is correct by consulting the publicly available standard documentation. The application for access to the files therefore appears to serve solely to further the applicant's personal knowledge.

9. In any event, the applicant has no legitimate interest in any information going beyond the question of standard essentiality, as this further information is not relevant to the stated purpose of the request for access to the files.
10. Furthermore, the applicant's interest is counterbalanced by a risk to the integrity of the proceedings and thus a public interest in the administration of justice that must be taken into account, as parallel proceedings concerning the patent at issue are currently still pending. The statement of claim in the present proceedings also provides insights into the parallel proceedings currently still pending.
11. Furthermore, the statements regarding the standard essentiality of the patent at issue constitute trade secrets of the Claimant. The Claimant had incurred considerable financial and time-related expenditure in order to ascertain whether and how the patent at issue was infringed by the implementation of the Opus Audio Codec standard. In view of the costs incurred, this information also had considerable financial value.

APPLICATIONS OF THE CLAIMANT:

12. The claimant requests that
 1. that the application for access to the case file
be dismissed; in the alternative:
 2. to grant the applicant access to the file to the extent set out in the statement of claim, excluding all annexes thereto, and to redact the passages in paragraphs 1–174 and 233–249 of the statement of claim;
further in the alternative:
 3. that the applicant be granted access to the files to the extent set out in the statement of claim, excluding all annexes thereto, and that the passages in paragraphs 1–35 and 145–232 of the statement of claim be redacted;
further in the alternative:
 4. to oblige the applicant to treat as confidential any information that comes to her knowledge through access to the file and not to disclose it to other persons. An exception to this obligation shall apply only if the applicant has already become aware of the information in question from another source on a non-confidential basis prior to inspecting the files. A penalty payment, the amount of which is to be determined by the court, may be imposed for each instance of breach of this duty of confidentiality.

REASONS FOR THE ORDER:

13. The applicant's application is admissible to a limited extent and is partially well-founded.
 1. Admissibility of the application
14. Pursuant to Rule 262.1(b) of the RoP, documents and evidence submitted to the Court and registered by the Registry shall be made available to the public upon a reasoned application. The decision is taken by the judge-rapporteur after hearing the parties.

15. As a member of the public, the applicant has made a reasoned application within the meaning of Rule 262.1(b) of the Rules of Procedure. A reasoned application in this sense is one which not only specifies the pleadings and evidence to which access is sought, but also sets out the purpose of the application and explains why access to the documents in question is necessary for that purpose, thereby providing all the information the judge-rapporteur requires to carry out the necessary balancing of interests (UPC_CoA_404/2023, decision of 10 April 2024, para. 44 – Ocado v Auto-store; UPC_CoA_480/2024, decision of 9 January 2025, para. 10 – Abbott v Powell Gilbert; UPC_CoA_10/2026, decision of 24 February 2026, paras. 10 and 19 – Gowling; UPC_CFI_309/2023 (CD Paris), order of 9 June 2025, para. 3.2 – NJOY v. Juul Labs).
16. On a proper interpretation, the applicant's application partially meets these requirements and is therefore admissible to a limited extent.
17. In particular, the application sets out why, in the applicant's view, access to the case file is necessary and for what purpose it is being sought. In this context, the applicant submits that she wishes, on the basis of access to the files, to better understand why the Claimant considers the patent at issue for the Opus Audio Codec standard to be essential. It is obvious that this requires access to the statement of claim.
18. By contrast, the application is inadmissible in so far as the applicant merely seeks, in general terms, 'access to the files' and thus also to exhibits submitted as annexes.
19. In this regard, it must be borne in mind that an application for access to documents and evidence must be specified as precisely as possible. The court cannot be expected to search through the files and, on the basis of the relevance criteria defined by the applicant, select those documents that are to be covered by the application.
20. On the basis of these principles, the application is not sufficiently specific insofar as it goes beyond access to the statement of claim. By merely seeking 'access to the files' and justifying her request on the grounds that she wishes to better understand why the Claimant regards the patent at issue as essential to the Opus Audio Codec standard, the applicant leaves it to the court to select which items of evidence – and thus which annexes – might be relevant to her request. For this reason alone, the application for access to the files, in so far as it also relates to the annexes, must be dismissed as inadmissible from the outset.

2. Merits of the application

21. On the merits of the case, too, the application has only been partially successful.

a. Standard

22. When deciding on an application under Rule 262.1(b) of the RoP, the interests of a member of the public in accessing the requested pleadings and evidence must be balanced against the interests set out in Article 45 of the UPC Agreement. These interests include the protection of confidential information and personal data, as well as the protection of the general interests of the administration of justice and public order. The general interest of the administration of justice encompasses the protection of the integrity of proceedings. Public order may, for example, be jeopardised if an application is abusive or if security interests are at stake (UPC_CoA_404/2023, decision of 10 April 2024, para. 43 – Ocado v Autostore; UPC_CoA_480/2024, para. 10 et seq. – Abbott v. Powell Gilbert;

UPC_CoA_5/2025, decision of 25 April 2025, para. 8 – Juul Labs v NJOY; UPC_CoA_10/2026, decision of 24 February 2026, para. 10 – Gowling; UPC_CFI_342/2024 (LD Munich), Order of 20 December 2024, para. 16 – Phoenix Contact v. I.L.M.E.).

23. Once the court has issued a judgment or an order concluding the proceedings at first instance, the public generally has an interest in accessing the documents and evidence. This enables a better understanding of the decision reached in the context of the arguments put forward by the parties and the evidence relied upon. Furthermore, it enables scrutiny of the court's proceedings, which is important for public confidence in the court (UPC_CoA_404/2023, decision of 10 April 2024, para. 47 – Ocado v Autostore; UPC_CoA_480/2024, decision of 9 January 2025, para. 13 et seq. – Abbott v Powell Gilbert; UPC_CFI_75/2023 (Munich Branch), order of 22 August 2024 – Astellas v Healios; UPC_CFI_255/2023 (Paris Regional Centre), Order of 14 October 2024, para. 17 et seq. – Meril v Edwards; UPC_CFI_135/2024 (LD Düsseldorf), Order of 10 April 2025 – Dolby v Beko).
24. This principle applies regardless of whether:
- an appeal against the decision or order is pending,
 - the order issued relates to an application for provisional measures (Rule 206 of the RoP),
 - the information and evidence are also the subject of other proceedings, for example because they relate to the same patent or patents belonging to the same patent family,
- and
- the first-instance decision addresses all arguments and evidence in the case.

(UPC_CoA_480/2024, decision of 9 January 2025, para. 2 – Abbott v Powell Gilbert)

25. A member of the public may also have a more specific interest in the pleadings and evidence of a particular proceeding than the general interest referred to above. This is particularly the case where the applicant has a direct interest in the subject-matter of the proceedings, such as the validity of a patent which also affects them as a competitor or licensee, or where one of the parties to the proceedings is alleged to have infringed a patent by means of a product that is identical to or similar to a product which has been or is to be placed on the market by the member of the public. Where a member of the public has such a direct and legitimate interest in the subject-matter of a particular proceeding, that interest does not arise only upon the conclusion of the proceeding, but may exist from the outset (UPC_CoA_404/2023, decision of 10 April 2024, para. 53 – Ocado v. Autostore; UPC_CoA_5/2025, decision of 25 April 2025, para. 8 – Juul Labs v NJOY; UPC_CFI_342/2024 (LD Munich), order of 20 December 2024, para. 17 – Phoenix Contact v I.L.M.E.; UPC_CFI_33/2024 (Vienna LD), Order of 12 August 2024 – Swarco v Strabag; UPC_CFI_135/2024 (Düsseldorf LD), Order of 10 April 2025 – Dolby v Beko).

b. Decision in the present case

26. The balancing of interests required on the basis of these principles leads to the conclusion that the applicant is to be granted access to the statement of claim to the extent of the Claimant's first alternative claim.
27. Since the underlying main proceedings have already been concluded, the applicant has a general interest in being granted access to the pleadings and evidence, which outweighs the interests referred to in Article 45 of the UPC Agreement. There are no apparent grounds which, in the context of the balancing of interests, would militate against granting access. In particular, there is no indication that the application was made for abusive reasons. In so far as the Claimant, by contrast, refers to pending parallel proceedings, these have in any event since been concluded at first instance and, according to the case-law of the Court of Appeal, are in any case irrelevant from the outset.
28. As is apparent from the applicant's statement of grounds, the applicant seeks a better understanding of the reasons why the Claimant regards the patent at issue as essential to the Opus Audio Codec standard. There is no need to demonstrate a more concrete, specific interest in the subject-matter of the proceedings once the proceedings have been concluded.
29. None of the parties to the underlying proceedings submitted an application for certain information contained in the pleadings or evidence to be treated as confidential (Rule 262.2 of the RoP). Accordingly, only personal data within the meaning of Regulation (EU) 2016/679 is to be redacted from the pleadings and evidence.
30. Even if one were to regard the Claimant's submissions in its defence to the application for access to the file as an implied application under Rule 262.2 of the RoP, such an application would be unsuccessful. The mere reference to the fact that the Claimant incurred considerable time and financial expenditure in order to ascertain whether the patent at issue is infringed by the implementation of the Opus standard merely describes the usual effort involved in preparing for the proceedings, but does not in itself constitute grounds for classifying certain information as confidential and excluding it from third-party access to the file.
31. As regards the scope of the requested access to the file, it must, however, be borne in mind that the applicant is pursuing a narrowly defined purpose with her application. She merely wishes to understand why the Claimant regards the patent at issue as essential to the Opus standard. To this end, it is sufficient to grant her access to the statement of claim to the extent specified in the operative part.

ORDER:

1. The applicant is granted access to the file to the extent of the statement of claim, whereby
 - a) the passages in paragraphs 1 to 174 and 233 to 249 of the statement of claim and
 - b) the personal data contained in the statement of claim within the meaning of Regulation (EU) 2016/678are to be redacted prior to access being granted, and the annexes are excluded from access to the file.
3. In all other respects, the applicant's application is dismissed.

INSTRUCTIONS TO THE REGISTRY:

Once the time limits for appeal applicable to this order have expired, the applicant is to be granted access to a redacted version of the statement of claim (excluding annexes), whereby paragraphs 1 to 174 and 233 to 249, as well as any personal data within the meaning of Regulation (EU) 2016/678 are to be redacted.

Issued in Düsseldorf on 24 July 2026

NAMES AND SIGNATURES

Presiding Judge Thomas