



Munich local division

UPC_CFI_1746/2026

UPC_CFI_1747/2026

Order
of the Court of First Instance of the Unified Patent Court,
Munich local division
issued on 27 July 2026

APPLICANT

Reinhausen GmbH, represented by the managing directors Dr Nicolas Maier-Scheubeck, Wilfried Breuer and Holger Michalka, Falkensteinstr. 8, 93059 Regensburg, Germany,

represented by:

Tobias Schneider (SVZ536), Dr Detlef Mäder (SSN474), Luther Rechtsanwaltsgesellschaft mbH, Anna-Schneider-Steig 22, 50678 Cologne, Germany,

Dr Marius Fischer, BARDEHLE PAGENBERG Partnerschaft mbB Patent attorneys and Attorneys-at-law, Prinzregentenplatz 7, 81675 Munich.

RESPONDENT

Shanghai Huaming Power Equipment Co., Ltd., No. 977 Tongpu Road, Putuo District, Shanghai, 200333, People's Republic of China,

represented by:

Dr Michael Rüberg, Dr Adrian Steffens, Boehmert & Boehmert Anwalts-gesellschaft mbB, Pettenkoferstraße 22, 80336 Munich.

PATENT AT ISSUE

European Patent No. EP 3 427 283 B1

PANEL/CHAMBER

Second Panel of the Munich local division

JUDGES

This order was issued by the presiding judge, Dr Daniel Voß (judge-rapporteur), the legally qualified judge, Dr Georg Werner, and the legally qualified judge, Thomas Adocker.

ORAL HEARING

20 July 2026

LANGUAGE OF THE PROCEEDINGS

German

SUBJECT

Application for inspection and preservation of evidence, Article 60 of the UPC Agreement, Rules 192 and 199 of the RoP

FACTS

- 1 The applicant is the sole proprietor of European Patent 3 427 283 B1 (Annex ASt 5a; hereinafter 'the patent in question'), which was filed on 8 March 2017 in the German language of the proceedings, claiming the priority of a German patent application (DE 102016104499) dated 11 March 2016. The grant of the patent in question was published on 6 May 2020. No preliminary objection was filed against the patent in question. It is currently in force in Germany, France, Italy and Portugal. The declaration of the application of the derogation under Article 83(3) of the UPC Agreement (opt-out) made on 15 May 2025 in respect of the patent in question was withdrawn by a declaration dated 12 May 2026, and the withdrawal was entered in the register.
- 2 The patent application relates to a selector for a load tap changer and a load tap changer with a load changeover switch and selector. Claim 1, on which the applicant bases its claim, reads as follows:

'Selector (10) for a load tap changer (15) with a load changeover switch (14), comprising

- an insulating plate (11) having a first side (20) and a second, opposite side (30);
- a plurality of fixed contacts (18) extending from the first side (20) through the insulating plate (11) to the second side (30);
- a first moving contact (21) on the first side (20);
- a first terminal (27) connected to the first moving contact (21) and capable of being connected to a first branch (12) of the load switch (14);

characterised by,

- a second moving contact (31) on the second side (30);
- a second terminal (37) connected to the second moving contact (31) and capable of being connected to a second branch (13) of the load switch (14);

wherein

- each moving contact (21, 31) can be selectively connected to any of the fixed contacts (18)."

- 3 The parties are active in the field of electronic and electrical equipment. The respondent, which is based in the People's Republic of China, had a stand at the 'CWIEME' (Coil Winding, Insulation and Electrical Manufacturing Exhibition) trade fair, a specialist exhibition for coil winding, insulation and electrical manufacturing, held in Berlin from 19 to 21 May 2026. Among other things, it exhibited a load tap changer there, which the respondent refers to as the 'DET-24kV'.
- 4 On 19 May 2026, the claimant, in preparation for a possible action on the merits, applied for an order for an inspection and the preservation of evidence at the respondent's exhibition stand.
- 5 On 20 May 2026, the panel issued the following order (hereinafter: 'the order'):

The following order for inspection and preservation of evidence is issued without prior hearing of the respondent:

1. The applicant is authorised to inspect a step switch which is located on site at the 'CWIEME' trade fair, taking place from 19 May 2026 to 21 May in Berlin (Messe Berlin, South Entrance, Messedamm 22, 14055 Berlin, Germany), at the respondent's exhibition stand (expected to be stand 27E40), and which is described as follows:







by an expert, an assistant and a bailiff to carry out an inspection and, in particular,

- a) dismantling the tap changer into its functional components,
- b) notwithstanding paragraph 1(a), to remove the respective Maltese wheel on the front and rear of the insulating plate of the selector switch present in the step switch, in order to expose the underlying order, including any suspected moving and fixed contacts,
- c) to carry out electrical measurements on the selector's components and wiring using a multimeter, in particular to measure the conductivity between the ends of fixed contacts situated on opposite sides of the insulating plate, as well as to measure the conductivity between terminals and the respective moving contacts,
- d) to photograph and/or film the tap changer and, where applicable, the parts disassembled and/or measured in accordance with points 1(a), (b) and/or (c), including the associated process of disassembly and/or measurement,
- e) to take photographs of all technical, promotional and commercial equipment, documents and materials relating to the tap changer and located at the respondent's exhibition stand (e.g. leaflets, catalogues, advertising boards, display stands, screens, partition walls), including photographs of the respondent's stand as a whole.

2. The bailiff shall take one copy of each item of movable technical, promotional and commercial documentation and materials (e.g. leaflets or catalogues) relating to a step switch as depicted in paragraph 1 of this operative part and located at the defendant's stand at the 'CWIEME' trade fair, which is taking place from 19 May 2026 to 21 May in Berlin (Messe Berlin, South Entrance, Messedamm 22, 14055 Berlin, Germany), at the respondent's exhibition stand (expected to be stand 27E40), with the documents to be held in safekeeping by the expert appointed in paragraph 5.

Advertising boards, display stands and other components of the exhibition stand are excluded from the seizure.

3. Should an on-site inspection as referred to in paragraph 1 not be possible, the bailiff shall display a step switch, as illustrated in paragraph 1 of this operative part, at the defendant's stand during the 'CWIEME' trade fair, which takes place from 19 May 2026 to 21 May in Berlin (Messe Berlin, South Entrance, Messedamm 22, 14055 Berlin, Germany), at the respondent's exhibition stand (expected to be Stand 27E40), and then have it inspected at another location by an expert and an assistant as provided for in paragraph 1.
4. The expert referred to in paragraph 5 is instructed to draw up, within six weeks of the completion of the measures set out in paragraphs 1, 2 and, where applicable, 3, a detailed description of the aforementioned step switch and to submit it to the local division; this description shall include a detailed account of the features enabling an assessment of whether the step switch infringes the patent in question.
5. The following person is appointed as the expert to carry out the aforementioned measures:

Dr Gunnar Baumgärtel
Patent Attorney, European Patent and Trademark Attorney
Maikowski & Ninnemann Patent Attorneys Partnership mbB Kurfürstendamm
54–55
10707 Berlin

Should he be unavailable, he may be replaced by a European patent attorney practising at the same firm.

6. The following person is appointed as an assistant to support the expert in accordance with paragraph 5:

Dr Piet Schönherr
Patent Attorney, European Patent and Trademark Attorney
Maikowski & Ninnemann Patent Attorneys Partnership mbB Kurfürstendamm
54-55
10707 Berlin

Should he be unavailable, he may be replaced by a European patent attorney practising at the same firm.

The assistant referred to in this paragraph shall carry out the measures under the guidance of the expert appointed and responsible for implementing this order in accordance with paragraph 5, acting as an assistant on the expert's behalf.

7. Furthermore, the locally competent bailiff is appointed as a further assistant,

in the event of enforcement on 20 May 2026, Mr OGV Austen; in the event of enforcement on 21 May 2026, Mr OGV Schnitzer.

Should the bailiff be unable to carry out the inspection and/or the preservation of evidence, he may be replaced by a locally competent bailiff to be appointed by the applicant.

8. In addition to the expert, the assistant and the bailiff, the following representatives of the applicant are permitted to be present whilst the measures are being carried out:

- a) Dr Detlef Mäder, Attorney-at-law, Luther Rechtsanwaltsgesellschaft mbH, Anna-Schneider-Steig 22, 50678 Cologne, as the applicant's legal representative and authorised representative in the proceedings,
- b) Tobias Schneider, Attorney-at-law, Luther Rechtsanwaltsgesellschaft mbH, Anna-Schneider-Steig 22, 50678 Cologne, as the applicant's legal representative, authorised representative and addressee for service,
- c) Patent Attorney Dr Marius Fischer, BARDEHLE PAGENBERG Partnerschaft mbB Patentanwälte Attorney-at-laws, Prinzregentenplatz 7, 81675 Munich, as the patent attorney acting in this matter.

9. During the execution of the inspection and preservation of evidence measures against the respondent, no officers, employees or other staff of the applicant, with the exception of the legal representatives named in paragraph 8, may be present and/or participate therein.

10. In order to safeguard any trade secrets of the respondent that may come to light during the inspection and/or the preservation of evidence, the expert, the assistants and the bailiff are instructed, both vis-à-vis the applicant and vis-à-vis third parties – subject to the court's authorisation of the report in accordance with paragraph 4 and subject to the respondent's own authorisation – to maintain confidentiality regarding the findings arising from the inspection and the preservation of evidence.
11. The respondent is ordered to cooperate in the execution of the measures for inspection and preservation of evidence in accordance with this order and, upon their request, to permit the expert, the assistant and the bailiff
 - a) to allow them, as well as any persons authorised to be present under this order, to enter all of the respondent's exhibition stands at the 'CWIEME' trade fair, which is taking place from 19 May 2026 to 21 May 2026 in Berlin (Messe Berlin, South Entrance, Messedamm 22, 14055 Berlin, Germany), in particular exhibition stand 27E40, in order to carry out the inspection and the preservation of evidence,
 - b) to grant unrestricted and unimpeded access at the aforementioned trade fair to the step switch depicted in Annex ASt 0 at the respondent's stands (in particular stand 27E40),
 - c) at the aforementioned trade fair, to grant access to all technical, promotional and commercial documents and materials relating to the step switch depicted in Annex ASt 0 and located at the respondent's exhibition stands (in particular stand 27E40) (e.g. brochures, catalogues, advertising boards, display stands, screens).
12. The representatives of the applicant referred to in paragraph 8 shall be granted access to the description immediately after its completion and submission to the court in accordance with paragraph 4, that is to say, before the court has ruled on the release of the description, whereby the information contained therein must not be disclosed to the applicant, subject to release by the court and/or by the respondent and/or further decisions by the court.
13. It is ordered that the description referred to in paragraph 4 shall be disclosed in full to the applicant if the respondent

fails, within four weeks or within such other period as the Court may determine in its discretion, from the date on which the description referred to in paragraph 4 was submitted to the Registry of the local division, to comment on any confidentiality interests it may have and to file an application for confidentiality within that period.

The respondent is free to instruct a representative admitted to practise before the Unified Patent Court to represent its interests.

14. In any event, the use of the description (paragraph 4) is limited to main proceedings brought by the applicant against the respondent.
15. The applicant shall bear the costs of ordering the inspection and preservation of evidence and of preparing the description, including the costs of the expert, the assistants and the bailiff, subject to reimbursement by the respondent in any proceedings for the assessment of costs in the main proceedings.

The applicant is ordered to pay the expert and, where applicable, the assistants an advance on costs totalling EUR 25,000.00, unless the expert waives the advance prior to the inspection and preservation of evidence.
16. The order for the inspection and preservation of evidence is immediately enforceable without the provision of security.
17. In the event of a wilful breach of this order, the court may impose a penalty payment on either party for each breach, the amount of which the court may determine having regard to the circumstances of the individual case.
18. The measures for inspection and preservation of evidence shall be set aside on the respondent's application if the applicant does not, within a period of 31 calendar days or 20 working days, whichever is longer, after the description referred to in paragraph 4 of the applicant's application has been disclosed or the court has finally decided not to grant the applicant access to the description, has brought an action on the merits against the respondent.

19. This order is to be served by the bailiff, in cooperation with one of the applicant's representatives referred to in paragraph 8(a) or (b), together with a copy of the application for this order, including annexes, as well as the notice regarding provisional measures and instructions for accessing the proceedings (generated via the court's CMS), without delay at the time of enforcement.

20. In all other respects, the applicant's application is dismissed.

- 6 The order for the preservation of evidence and inspection was served on the respondent on 20 May 2026 at the trade fair. In addition, the step switch subject to the preservation of evidence and inspection, which was on display at the trade fair, was seized.
- 7 In a document received on 19 June 2026, the applicant seeks to have the order of 20 May 2026 amended.

APPLICATIONS BY THE PARTIES

- 8 The respondent originally applied for

I. Paragraph 10 of the order be amended as marked in red below:

*The expert, the assistants, **the applicant's representatives referred to in paragraph 8** and the bailiff are instructed, in order to safeguard any trade secrets of the respondent that may come to light during the inspection and/or the preservation of evidence, to maintain confidentiality regarding the findings of the inspection and the evidence gathered, both vis-à-vis the applicant **and its employees** and vis-à-vis third parties – subject to the court's authorisation of the report in accordance with paragraph 4 and subject to the respondent's own authorisation – to maintain confidentiality regarding the findings arising from the inspection and the preservation of evidence.*

II. Paragraph 12 of the order is amended as marked in red below:

*The applicant's representatives referred to in paragraph 8 shall be granted access to the description immediately after its completion and submission to the court in accordance with paragraph 4, that is, before the court has ruled on the release of the description, whereby the information contained therein must not be disclosed to the applicant, **its employees or third parties**, subject to release by the court and/or by the respondent and/or further decisions of the court.*

III. The order is supplemented as follows:

The expert is instructed, upon completion of the expert report and in the event that an action on the merits is brought, to deliver the item referred to in paragraph 1 to the court hearing the main proceedings at the applicant's expense.

The expert is instructed, upon completion of the expert report and in the event that no action is brought in the main proceedings, to send the item referred to in paragraph 1 to the respondent at the applicant's expense.

The expert is instructed, upon completion of the expert report, to send the documents referred to in paragraph 2 to the respondent at the applicant's expense, provided that he has made copies of them.

IV. The oral hearing shall be conducted by videoconference.

V. In the event that no application is brought on the merits, the applicant shall bear the costs of the proceedings. In the event that an application is brought on the merits, the decision on costs shall be reserved for the proceedings on the merits.

- 9 At the oral hearing, the respondent stated that the application under III. would be withdrawn if the applicant were to give a binding undertaking that no communication had taken place since the site inspection between the applicant and its representatives, on the one hand, and the expert, on the other, and if the order of 20 May 2026 were amended to the effect that the applicant, its representatives and all other persons acting on the applicant's behalf are obliged not to communicate with the expert regarding the subject matter to be examined or the expert report to be prepared, and that the expert is not permitted to carry out any further examinations of the product, but that the product is to remain in its current condition, unless the court appoints the expert in any subsequent proceedings on the merits and orders specific further examinations.
- 10 The applicant agreed to this at the oral hearing and had previously stated that she had not spoken to the expert or made any enquiries until the oral hearing; she is not in any contact with the expert.
- 11 In view of the above, the respondent maintains the applications set out in I., II. and V.

12 The applicant therefore requests that

that the respondent's applications I and II of 19 June 2026 be dismissed and that the order for the inspection and preservation of evidence of 20 May 2026 be confirmed in its entirety.

POINTS OF DISPUTE BETWEEN THE PARTIES

- 13 Whilst the respondent considers the conduct of the preservation of evidence and inspection to be unjustified on the merits, as in its view no infringement has taken place, it challenges the court order not as such, but only with regard to certain aspects of the conduct of the preservation of evidence and inspection.
- 14 The respondent takes the view that the applicant's representatives and their staff are not currently subject to any court-imposed duty of confidentiality regarding information that comes to their knowledge in the course of the inspection and preservation of evidence. There is an acute gap in protection. It is consistent with the practice of the first instance of the Unified Patent Court that the applicant is subject to confidentiality obligations which form an integral part of the confidentiality regime. There is no need for a specific demonstration of confidentiality interests, because the order of 20 May 2026 should already have been issued with corresponding confidentiality measures, irrespective of whether confidentiality interests actually existed. The order should be amended on legal grounds alone. If, in the absence of a confidentiality order in an ex parte ruling, the defendant were obliged to set out its confidentiality interests retrospectively, this would undermine the protection afforded to the defendant. Notwithstanding this, there are confidentiality interests because the step switch was partially dismantled at the trade fair, revealing its internal workings, which would otherwise not be visible to the public.
- 15 The applicant is of the view that the respondent's arguments regarding confidentiality orders vis-à-vis the applicant's representatives are unsubstantiated, as they refer solely to other proceedings without addressing the respondent's confidentiality interests. Furthermore, the respondent's requested confidentiality measures are unnecessary, as they already follow from general procedural principles and the order of 20 May 2026. There is no need for legal protection in the first place. In any event, the applications are unfounded.

REASONS FOR THE ORDER

- 16 The application for a review of the order of 20 May 2026 pursuant to Rule 197.3 of the RoP is, in so far as it is still pending, admissible, but is only partially successful on the merits.

A

- 17 The application for review of the order is admissible.
- 18 Under Rule 197.3 of the RoP, the application for review of the order for the preservation of evidence must be lodged 30 days after the measure has been carried out. The order was served and the inspection took place on 20 May 2026. The respondent lodged the application for review with
19 June 2026, and was therefore lodged within the time limit.
- 19 The respondent does not lack the necessary standing to bring proceedings with regard to her applications for the supplementation of confidentiality measures (applications I and II). It cannot be inferred from the order, without further interpretation and examination, that it already guarantees the confidentiality protection sought by the respondent. In this respect, the respondent's standing to bring proceedings cannot be disregarded. Whether she is in fact entitled to the requested amendment is a question of the merits of the case.
- 20 Nor is the admissibility of the application for review precluded by the fact that it relates to the amendment of the order with regard to individual confidentiality measures and not to the conditions for a preservation and inspection order as such. This is because the confidentiality measures are set out in paragraphs 10, 12 to 14 of the order and, in principle, form part of the subject matter of an order for the preservation of evidence and inspection. Accordingly, the Rules of Procedure also deal with these matters in general terms; see Rule 196.1, second sentence, of the RoP and Rule 197.3, third sentence, of the RoP. This justifies making them the subject of an application for review, or at least dealing with them in the context of a review procedure pursuant to Rule 197.3 of the RoP.

B

- 21 The respondent's request for examination, in so far as it is still pending, is successful on the merits.

I.

- 22 The applications under I. and II. concerning the confidentiality measures are well-founded.

1.

- 23 The applications under I. and II. are not automatically dismissed merely because the order already contains confidentiality measures corresponding to the applications. This is in fact not the case.
- 24 Paragraph 10 of the order imposes on the persons named therein an obligation to maintain any trade secrets that might become apparent during the inspection and/or the preservation of evidence. The applicants' representatives are not among the persons named in paragraph 10 of the order. Nor can the provision be interpreted in this way.
- 25 Contrary to the applicant's view, the requested confidentiality obligation on its representatives does not arise from the obligation to keep the content of the description of the contested embodiment confidential and to use it only in proceedings on the merits (paragraphs 4, 12 and 14 of the order). The information that may come to light in the course of the preservation of evidence and the inspection is not necessarily identical to the information contained in the description referred to in paragraph 4 of the order. In particular, the examination of the contested embodiment may reveal technical details which are irrelevant to the question of patent infringement but which nevertheless come to the attention of the applicant's representatives. This information is not protected by paragraphs 4, 12 and 14 of the order.
- 26 For the above reasons, it is also insufficient to rely solely on the confidentiality interests which the respondent may invoke in the course of the disclosure of the report pursuant to Rule 13.
- 27 As regards the mention of the applicant's employees alongside the applicant itself, this is indeed merely of a declaratory nature. However, the duty of confidentiality under paragraph 13 of the Order does not, as yet, cover any statements made to third parties. Nor are such statements covered by the provision in paragraph 14 of the Order that the report may only be used in proceedings on the merits. The inclusion of third parties constitutes a restriction on the use of information in terms of persons, whereas paragraph 14 of the order relates to a restriction in terms of subject matter. It cannot be entirely ruled out that the restriction on the use of the report to proceedings on the merits does not preclude disclosure to third parties.

2.

- 28 The confidentiality measures sought in the applications under I. and II. then arise from the protection of confidential information to be ensured by the court.

a)

- 29 Under Article 58 of the UPC Agreement, in conjunction with Rules 262 and 262A of the RoP, the Court has the option (discretion) to order confidentiality measures to protect confidential information where the circumstances so warrant. Accordingly, in order to protect trade secrets, personal data or other confidential information of a party to the proceedings or a third party, or to prevent the misuse of evidence, the Court may order that the taking and use of evidence in the proceedings before it be restricted or declared inadmissible, or that access to such evidence be restricted to specific persons.
- 30 However, the Convention contains special provisions for proceedings relating to the preservation of evidence and inspections. Accordingly, pursuant to Article 60(1) of the UPC Agreement, the court may, at the request of the applicant who has submitted all reasonably available evidence to substantiate the claim that the patent has been infringed or is at risk of being infringed, order, even before proceedings on the merits are instituted, swift and effective provisional measures to preserve evidence relevant to the alleged infringement, provided that the protection of confidential information is ensured.
- 31 In accordance with these principles, it is incumbent upon the court to ensure the protection of confidential information. In particular, where measures for the preservation of evidence and inspection are ordered without hearing the defendant in accordance with Article 60(5) of the UPC Agreement and Rule 197.1 of the RoP, confidentiality measures must be ordered as a matter of course – unless, in very exceptional cases, it is manifest that the defendant cannot have any legitimate interests in confidentiality – without the need for specific interests in confidentiality to be put forward. This is because the latter is not possible due to the ex parte nature of the order.

b)

- 32 In the present case, the respondent's confidentiality interests were not ruled out from the outset at the time of the order. The preservation of evidence and inspection concerned a technical device (a step switch) for which it could not, in principle, be ruled out that it possessed technical properties or features unknown to the general public and which the respondent treated as confidential information. These could, in particular, have been properties and characteristics which are irrelevant to the question of patent use—the decisive issue in the present proceedings—and in the determination of which the applicant could, in principle, have no interest.
- 33 Any confidentiality of information relating to the technical properties and features of the tap changer under investigation had not already been lost as a result of the product being exhibited at the trade fair stand. It is already apparent from the photographs of the trade fair stand that the object on display was situated behind Plexiglas and, furthermore, had a

type of housing that did not permit an unobstructed view of all the internal details of the step switch.

- 34 Accordingly, the adjudicating panel also ordered confidentiality measures. However, it inadvertently failed to oblige the applicants' representatives to maintain confidentiality regarding information that would become apparent during the inspection and/or the preservation of evidence itself. There is no other explanation for why the other parties involved in the preservation of evidence and the inspection are bound by confidentiality, as is the applicant with regard to the report to be drawn up by the expert. Consequently, the order should have been issued with the confidentiality measures now requested by the applicant.

c)

- 35 The fact that the evidence-preservation and inspection proceedings are now at the review stage does not alter the previously established requirement to order confidentiality measures.

aa)

- 36 The confidentiality measures sought cannot be omitted on the grounds that they would be futile and that any confidential information is no longer confidential. Even the applicant does not claim that its representatives disclosed to it any information from the inspection or preservation of evidence that might be confidential. Consequently, the fact that the respondent waited until the expiry of the 30-day period for lodging the application for review does not conflict with any interests in confidentiality.

- 37 In so far as the applicant argues that the inspected item was on public display, it has already been explained that the step switch on display was not accessible to the public without restriction.

bb)

- 38 Nor, however, was the respondent obliged to now specifically identify confidential information and to put forward corresponding confidentiality interests.
- 39 This follows from the fact that, in the event of a variation or revocation of an ex parte order pursuant to Rule 197.6, sentence 3 of the RoP requires those persons to whom confidential information has been disclosed to continue to treat the information as confidential. The examination procedure does not provide for a mechanism whereby the defendant must now specifically assert the confidentiality of information and corresponding confidentiality interests, and the court must examine these. Rather, the confidentiality measures ordered in the order under review remain in force without any separate examination.

- 40 This is also consistent with the purpose of the Rules. Precisely because the preservation of evidence and inspection may bring to light information that is not relevant to proving patent use – and in which the applicant therefore has no interest in having disclosed – such information should not be disclosed. It would be contrary to the balance of interests and, moreover, contrary to the principles of procedural economy if the defendant, who is unaware of what information the applicant has already obtained, were now obliged to set out all conceivable confidential information and the specific confidentiality interests relating thereto.
- 41 Such an approach does not prejudice the applicant's legal position or otherwise infringe any of its interests. In so far as information relating to the use of the patent is concerned, this will be included in the report to be drawn up by the expert. Paragraphs 12 and 13 of the order provide for a separate mechanism for the disclosure of this report, in the course of which the respondent may also assert confidentiality interests. There is no risk that the applicant will be denied access to information she requires to prove patent infringement.

d)

- 42 The scope of the confidentiality measures sought does not give rise to any concerns. It is both appropriate and necessary to ensure the confidentiality of the information that comes to light during the preservation of evidence and the inspection. Even though the reference to the applicant's employees is merely declaratory in nature, its inclusion in the order is harmless.

II.

- 43 Following the withdrawal of the original application under III., the order dated 20 May 2026 merely needed to be supplemented to the extent set out in the operative part, on the basis of the parties' concurring statements.
- 44 However, the Chamber refrained from including in the order the statement by the applicant's representative that no communication had yet taken place with the expert regarding the subject matter of the investigation, as this constitutes an assurance relating to the past, which cannot form the basis of an order.
- 45 Furthermore, the court refrained from including in the operative part the possibility of a follow-up examination in the present inspection proceedings, which was also mentioned by the applicant's representative during the oral hearing. On the one hand, the respondent did not concede this in return for the withdrawal of the application under III. Secondly, a follow-up examination is already effectively ruled out in the present proceedings because, pursuant to Rule 198.1 of the RoP, the main proceedings must in any event be concluded within

a non-extendable (cf. Rule 9.4 of the RoP) period of 31 calendar days or 20 working days – whichever is longer – from the disclosure of the report; otherwise, the measures for the preservation of evidence and inspection will be lifted. Consequently, a follow-up investigation will always take the form of one conducted within the framework of main proceedings.

III.

- 46 The application under V. is not subject to a ruling within the framework of an order for the preservation of evidence and inspection. With the exception of the provision on costs set out in paragraph 15 of the order, according to which the costs of the preservation of evidence and inspection are to be borne by the applicant, no decision on costs is required. Rule 189.2 of the RoP applies; that is to say, the decision on costs is reserved for the main proceedings.

ORDER

- I. Paragraph 10 of the order of 20 May 2026 is amended as marked in red below:

The expert, the assistants, the applicant's representatives referred to in paragraph 8 and the bailiff are instructed, in order to safeguard any trade secrets of the respondent that may come to light during the inspection and/or the preservation of evidence, to maintain confidentiality regarding the findings of the inspection and the evidence gathered, both vis-à-vis the applicant and its employees and vis-à-vis third parties – subject to the court's authorisation of the report in accordance with paragraph 4 and subject to authorisation by the respondent itself – to maintain confidentiality regarding the findings arising from the inspection and the preservation of evidence.

- II. Paragraph 12 of the order of 20 May 2026 is amended as marked in red below:

The applicant's representatives referred to in paragraph 8 shall be granted access to the description immediately after its completion and submission to the court in accordance with paragraph 4, that is to say, prior to the court's decision on the release of the description, whereby the information contained therein must not be disclosed to the applicant, its employees or third parties, subject to authorisation by the court and/or by the respondent and/or further decisions of the court.

- III. Paragraph 10 of the order of 20 May 2026 is supplemented by the following subparagraph on the basis of a joint declaration by the parties:

The applicant, its representatives and all other persons acting on the applicant's behalf are obliged not to communicate with the expert regarding the subject matter to be examined in accordance with paragraph 1 of this order or the report to be drawn up in accordance with paragraph 4 of this order. The expert shall not carry out any follow-up examinations on the subject matter to be examined pursuant to paragraph 1 of this order. The subject matter shall remain in the condition in which it is found upon completion of the report referred to in paragraph 4 of this order, unless the court appoints the expert in any proceedings on the merits and orders specific follow-up examinations.

IV. In all other respects, the further applications are dismissed and the order of 20 May 2026 is upheld.

Dr Daniel Voß (presiding judge)	
Dr Georg Werner (Legally qualified judge)	
Thomas Adocker (Legally qualified judge)	
On behalf of the Deputy-Registrar	