



Düsseldorf local division
UPC_CFI_226/2024
App_57167/2024

Order
of the Court of First Instance of the Unified Patent Court
issued on 27 July 2026
concerning EP 3 605 534

Applicant:

Lars-Oliver Eggersdorfer, Boehmert & Boehmert Anwaltspartnerschaft mbB, Pettenkoferstraße 22, 80336 Munich, Germany

Claimant:

Dolby International AB, represented by its Board of Directors, 77 Sir John Rogerson's Quay Block C Grand, Canal Docklands, Dublin, D02 VK60, Ireland

represented by: Dr Volkmar Henke, Attorney-at-law, and Dr Tilman Müller, Attorney-at-law, Pagenberg Partnerschaft mbB, Bohnenstraße 4, 20457 Hamburg, Germany

Also acting: Patent Attorney Dipl.-Ing. Tobias Kaufmann, Patent Attorney Dr.-Ing. Julian Renner, Pagenberg Partnerschaft mbB, Bohnenstraße 4, 20457 Hamburg, Germany

Electronic service address: mueller@bardehle.de

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, Königsallee 2b, 40212 Düsseldorf, Germany

Email address: andreas.kramer@powellgilbert.com

2. **Optoma Europe Ltd.**, represented by its directors, 1 Bourne End Mills, Hemel Hempstead, Hertfordshire, HP1 2UJ, United Kingdom

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 his request for access to the case file, in particular, on the grounds that, as an Attorney-at-law dealing with UPC proceedings, he has a professional interest in the main proceedings, particularly insofar as these concern FRAND issues in connection with audio coding. Access to the case file would enable him to expand his knowledge of this subject matter. To gain such an understanding, knowledge of the entire file – that is, the statement of claim including its annexes, as well as the court orders – is indispensable. Should the court grant access to the file on the basis of the applicant's personal interest, the applicant agrees to treat the files as confidential.
4. The parties to the main proceedings were given the opportunity to submit their comments.
5. The parties made use of this opportunity.
6. In the claimant's view, the applicant has failed to adequately explain why access to the specified documents is necessary. Access to the statement of claim, insofar as it does not deal with the FRAND defence, is clearly neither appropriate nor necessary to satisfy the interest in expanding knowledge on FRAND issues in the context of audio coding. In view of the interest asserted, access to the case file could, from the outset, only be considered for those passages of the statement of claim that dealt with the FRAND defence at all. No such passages exist, as the FRAND defence must, as a rule, first be raised by the defendant. Insofar as the statement of claim describes out-of-court contact between [REDACTED] and the defendant, this is in any event confidential.

7. In any event, the balancing of interests also militates against granting access to the case file.
8. 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.
9. Furthermore, pursuant to Rule 262.2 of the RoP, the parties may request that certain information be classified as confidential and treated accordingly. The statements regarding the out-of-court contact between the defendant and [REDACTED] (Statement of Claim, paras. 25–35) constitute confidential information within the meaning of Rule 262.2 of the RoP. In this respect, confidentiality is in line with commercial practice, is also upheld by the Claimant and the pool owner [REDACTED], is generally in the interests of both parties, and therefore forms at least an implied basis for discussions regarding a possible licence agreement. Furthermore, in the present case, the alleged interest is limited to gaining further knowledge regarding the FRAND defence. Consequently, only the confidential statements concerning out-of-court contacts (if any) are remotely connected to this. In the alternative, access to the file should therefore in any event be restricted to a version of the statement of claim in which the details regarding out-of-court contact with the defendants in paragraphs 25–35 have been redacted. Furthermore, Annexes BP-V1 to BP-V5 concerning out-of-court contact with the defendants should be excluded from access to the file.
10. In any event, the applicant should be required to maintain confidentiality, and it should be ordered that the information be treated as confidential not only vis-à-vis the public but also vis-à-vis everyone.
11. The defendants objected to the inspection of the files.
12. They appealed to the fact that the statement of claim contained confidential information relating to the parties' FRAND negotiations, in particular in paragraphs 25–35 and in the associated Annexes BP-V1 to BP-V5. Furthermore, Rule 262.1(b) of the RoP is not consistent with Article 10(1), third sentence, of the UPC Agreement in so far as access to the parties' pleadings is sought. The provision must therefore be interpreted narrowly. Moreover, the applicant lacks a legally protectable interest. The applicant clearly has no interest of its own in the FRAND licensing of audio codecs. This may, at most, apply to its clients, on whose behalf, however, it has not been appointed. Finally, a balancing of interests dictates that the confidentiality interests of the parties, including the defendant, take precedence. This applies in particular to negotiations conducted in confidence.
13. Reference is also made to the arguments set out in the pleadings.

APPLICATIONS OF THE CLAIMANT:

14. The claimant requests that
 1. that the application for access to the case file be dismissed;
 - in the alternative:
 2. for the protection of confidential information within the meaning of Rule 262.2 of the RoP, to classify Annexes BP-V1 to BP-V5 and paragraphs 25–35 of the statement of claim as confidential and to exclude third parties from inspecting the file in this respect.

further in the alternative:

to order the applicant to treat as confidential any information that comes to his knowledge through access to the files 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:

15. The applicant's application is admissible and partially well-founded.

1. Admissibility of the application

16. 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 shall be taken by the judge-rapporteur after hearing the parties.
17. 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 documents 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 Autostore; 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).
18. On a proper interpretation, the applicant's application meets these requirements and is therefore admissible.
19. 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 has argued that, as an Attorney-at-law specialising in UPC proceedings, he has a professional interest in the main proceedings, particularly insofar as these concern FRAND issues relating to audio coding. Access to the case file would enable him to expand his knowledge of this subject matter. For such an understanding, knowledge of the entire case file – that is, the statement of claim including its annexes, as well as the court orders – is indispensable.

2. Merits of the application

20. On the merits, the application is successful only to the extent set out in the operative part.

a. Standard

21. 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.).

22. 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 pleadings 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).

23. 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)

24. 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 (Munich LD), 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 (LD Düsseldorf), order of 10 April 2025 – Dolby v Beko).

b. Decision in the present case

25. 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 pleadings and annexes to the extent set out in the operative part.
26. As 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 is no need to demonstrate a more concrete, specific interest in the subject matter of the proceedings once the proceedings have been concluded.
27. 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 are therefore, according to the case-law of the Court of Appeal, irrelevant from the outset.
28. However, on the claimant's application, paragraphs 25 to 35 of the statement of claim and Annexes BP-V1 to BP-V5 were to be classified as confidential in accordance with Rule 262.2 of the RoP and were therefore to be excluded from the applicant's access to the file. The claimant has plausibly explained why the information contained therein concerning the out-of-court correspondence between [REDACTED] and the defendant constitutes information requiring confidentiality and must be excluded from third-party access to the file.
29. Personal data within the meaning of Regulation (EU) 2016/679 contained in the statement of claim and the annexes made available to the applicant must be redacted.
30. The confidentiality order is based on the outcome of the balancing of interests. In this context, the Chamber has taken into account that the applicant did not merely offer such an order of his own accord. Rather, such an order is also justified because the applicant justifies his application for access to the file primarily on the grounds of his personal interest in further education. Against this background, there is no reason to permit him to disclose the information obtained in the course of the application for access to the file.
31. In so far as the applicant seeks access not only to the pleadings and annexes but also to the court's orders, these are already required by law to be published (Rule 262.1 (a) RoP) and are therefore, from the outset, not a permissible subject of an application under R.262.1 (b) RoP.
32. As regards the practical implementation of access to the files, the applicant is to be provided, for the time being, only with the statement of claim, excluding the annexes.
33. Redacting personal data involves a certain amount of staff and time, which makes it impossible to provide all the annexes promptly.

34. Upon receipt of the statement of claim, the claimant may inform the court registry, after having read the pleadings, which specific annexes are still of interest to them. In this respect, it can be assumed that the applicant is able to identify all annexes on the basis of the statement of claim and that individual annexes are already available to them or can be easily obtained from other sources (see also UPC_CFI_208/2024 (LD Munich), order of 30 July 2025 – Renault SAS v Avago).

ORDER:

1. The information contained in the statement of claim of 10 May 2024 filed in case UPC_CFI_226/2024, at paragraphs 25 to 35, and in Annexes BP-V1 to BP-V5, relating to out-of-court correspondence between the defendants and [REDACTED] is classified as confidential (Rule 262.2 of the RoP).
2. The applicant is granted access to the following pleadings and evidence:
 - D170655VLU03 Complaint - Dolby dd 10 May 2024_signed.pdf (with the exception of paragraphs 25 to 35)
 - Exhibit BP-P 1_Statement by Defendant 3 EN.pdf
 - Exhibit BP-P 2_Excerpt from the commercial register DE.pdf
 - Exhibit BP-P 3_Defendant 1's website and legal notice DE.pdf
 - Exhibit BP-P 4_Terms and Conditions Defendant 2 DE.pdf
 - Exhibit BP-P 5_Website of Defendant 3 EN.pdf
 - Exhibit BP-P 6_Screenshots of the website pool EN.pdf
 - Exhibit BP-P 7_List of patents (pool) EN.pdf
 - Exhibit BP-P 8_Opus Royalties EN.pdf
 - Exhibit BP-P 9_Android TV website DE.pdf
 - Exhibit BP-P 10_Developer Android audio support EN.pdf
 - Exhibit BP-P 11_Technical Specifications N3551K DE.pdf
 - Exhibit BP-P 12 Technical Specifications for additional models DE.pdf
 - Exhibit BP-P 13_Defendant 1's website: infringing products DE.pdf
 - Exhibit BP-P 14_Defendant 1's website – link to seller (German).pdf
 - Exhibit BP-P 15_Austrian website EN.pdf
 - Exhibit BP-P 16_French, Dutch and Italian Optoma websites DE.pdf
 - Exhibit BP-P 17_Defendant 3's website EN.pdf
 - Exhibit BP-T 1_Patent specification EN.pdf
 - Exhibit BP-T 2_Excerpts from the register (DE-F-NL-IT).pdf
 - Exhibit BP-T 3_Claim Chart DE.pdf
 - Exhibit BP-T 4_Opus Standard EN.pdf

3. In all other respects, the application for access to the case file is dismissed.
4. Any personal data within the meaning of Regulation (EU) 2016/678 contained in the document referred to in paragraph 2 and in the evidence referred to therein must be redacted.
5. The applicant is obliged to treat the information obtained through access to the files as confidential and not to disclose it to other persons. An exception to this obligation applies only if the applicant has already become aware of the information in question from another source on a non-confidential basis prior to accessing the files.

For each instance of a breach of this duty of confidentiality, a penalty payment of an amount to be determined by the court may be imposed.

6. Due to the manpower and time required to redact personal data, the claimant is initially to be provided only with the (partially redacted) statement of claim without annexes. Upon receipt of the statement of claim, the applicant may request the annexes to the statement of claim of which they still require by email to the law firm (contact_dusseldorf.loc@unifi-edpatentcourt.org). In doing so, the annexes must be specifically identified.

INSTRUCTIONS TO THE LAW FIRM:

The claimant is to be granted access to the pleading referred to in point 2 of the above order (partially redacted statement of claim) and to the specified annexes from the proceedings UPC_CFI_226/2024.

Initially, only the (partially redacted) statement of claim, without annexes, is to be provided. Upon specific request by the applicant, the annexes still required at that time are to be forwarded subsequently.

Personal data within the meaning of Regulation (EU) 2016/678 contained in the statement of claim and the annexes must be redacted.

Issued in Düsseldorf on 27 July 2026

NAMES AND SIGNATURES

Presiding Judge Thomas

