



UPC Court of Appeal

UPC-CoA-42/2026

**Order**  
**issued on 14 October 2026**  
**concerning an application to protect confidential information from the other party**  
**(R. 262A RoP)**

APPELLANT (AND CLAIMANT BEFORE THE COURT OF FIRST INSTANCE)

**Fives ECL**, Ronchin, France

(hereinafter “Fives”)

represented by Konstantin Schallmoser, attorney-at-law, and other attorneys-at-law of the law firm Bonabry Partnerschaft von Rechtsanwälten, Hamburg, Germany

RESPONDENT (AND DEFENDANT AT THE COURT OF FIRST INSTANCE)

**REEL GmbH**, Veitshöchheim, Germany

(hereinafter “REEL”)

represented by Dr Benjamin Schröer, attorney-at-law, and other attorneys-at-law of the law firm Hogan Lovells Cadwalader International LLP, Munich, Germany, as well as other attorneys-at-law of the law firm Jones Day, Paris, France

PATENT AT ISSUE

EP 1 740 740

LANGUAGE OF THE APPEAL PROCEEDINGS

English

PANEL AND JUDGE

Panel 2

Ingeborg Simonsson, legally qualified judge and judge-rapporteur

IMPUGNED DECISION OF THE COURT OF FIRST INSTANCE

Date: 11 February 2026, Hamburg Local Division,  
Case number of the Court of First Instance: UPC\_CFI\_274/2023

### SUMMARY OF FACTS

1. On 17 July 2026, the Court of Appeal issued a panel order (dated 16 July) concerning (insofar as relevant here) confidentiality pursuant to R. 262A RoP, and a time extension for REEL to lodge its Statement of response. The order replaced a provisional order issued by the judge-rapporteur on 17 June 2026, where only the representatives of REEL were given access to the unredacted versions of the Statement of grounds of appeal and exhibits.
2. On 8 October 2026, REEL submitted its Statement of response containing a confidentiality request pursuant to R. 262.2 and 262A RoP.

### CONFIDENTIALITY REQUEST

3. REEL has requested as follows (insofar as relevant):

VIII. Access to the information highlighted in violet in this Statement of Response as well as the Exhibits HLC Appeal 3, 5, 6, 7, 8, 9, 10 marked “strictly confidential” is limited to the following individuals:

1. Fives’ UPC Representatives and its assistants, including experts and its team members;
2. The following individuals from the Fives’ Group:

- a)
- b)
- c)
- d)
- e)
- f)
- g)
- h)

- IX. Individuals who have access to the confidential information pursuant to item VIII are obliged not to disclose the confidential information to others beyond the individuals listed in item VIII and not to use the confidential information for purposes beyond the present proceedings. These obligations stay in effect beyond the conclusion of the present proceedings. They do not apply if and to the extent an individual listed in item VIII has learned of the confidential information outside the present proceedings, provided that it was obtained on a non-confidential basis from a source other than REEL and its affiliates and that the source is not bound by a confidentiality obligation in relation to Defendant or its affiliates.
- X. In case of a culpable violation of the obligations pursuant to item IX, the Court may order a penalty of up to EUR 250,000 per violation against Five, the specific amount being determined on the basis of the circumstances of the case.

#### GROUND

4. Pursuant to R. 262A.4 RoP, the Court shall invite written comments from the representatives of the other parties prior to making any order.
5. Fives shall be provided the opportunity to comment on REEL's Confidentiality request.

#### ORDER

- I. Fives is invited to comment on REEL's confidentiality request, no later than **20 October 2026**.
- II. It is provisionally ordered, pending the decision on the confidentiality request, that access to the information highlighted in violet in the Statement of Response as well as Exhibits HLC Appeal 3, 5, 6, 7, 8, 9, 10 marked "strictly confidential" shall be treated as confidential and be restricted to the legal representatives of Fives.
- III. The representatives of Fives may disclose the information to their experts and team members who are actively involved in the respective proceedings, including other lawyers, patent attorneys and support staff, provided that the representatives respectively ensure that each such person complies with the provisions of this order.
- IV. The confidential Information shall be treated as such by the persons referred to above under II and III and shall not be used or disclosed outside of these court proceedings, except to the extent that it has come to the knowledge of the receiving party outside of these proceedings, provided that it has been obtained by the receiving party on a non-confidential basis from a source other than the parties or its affiliates, provided that such source is not bound by a confidentiality agreement with or other obligation of secrecy with the parties or its affiliates. This duty continues after the termination of these proceedings.
- V. In the event of a culpable breach of this order, the Court may impose a periodic penalty payment for each violation on Fives, with the amount determined based on the circumstances of the individual breach.

Issued on 14 October 2026

 Digitally signed  
by Åsa Ingeborg  
Simonsson  
Date: 2026.10.14  
12:03:03 +02'00'

Ingeborg Simonsson, legally qualified judge and judge-rapporteur