



UPC Court of Appeal

UPC-CoA-42/2026

ORDER
issued on 26 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

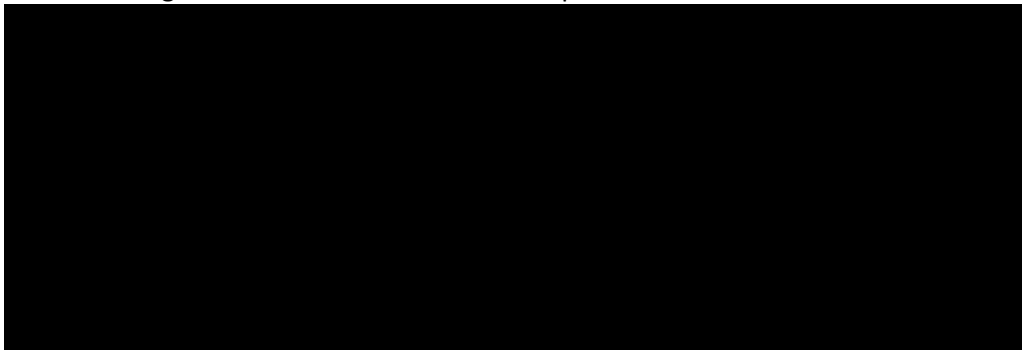
1. On 17 July 2026, the Court of Appeal issued a panel order (dated 16 July) concerning (insofar as relevant here) confidentiality pursuant to R. 262A RoP, and a time extension for REEL to lodge its Statement of response. The order replaced a provisional order issued by the judge-rapporteur on 17 June 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.
3. On 14 October 2026, and pursuant to R. 262A.4 RoP, the Court of Appeal issued an order in which Fives was provided with the opportunity to comment on REEL's confidentiality request.
4. In its reply, Fives indicated that it has no objections to the confidentiality order requested by REEL on 8 October 2026.

CONFIDENTIALITY REQUEST

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

VIII. Access to the information highlighted in violet in its 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:



- 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 REEL 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 Fives, the specific amount being

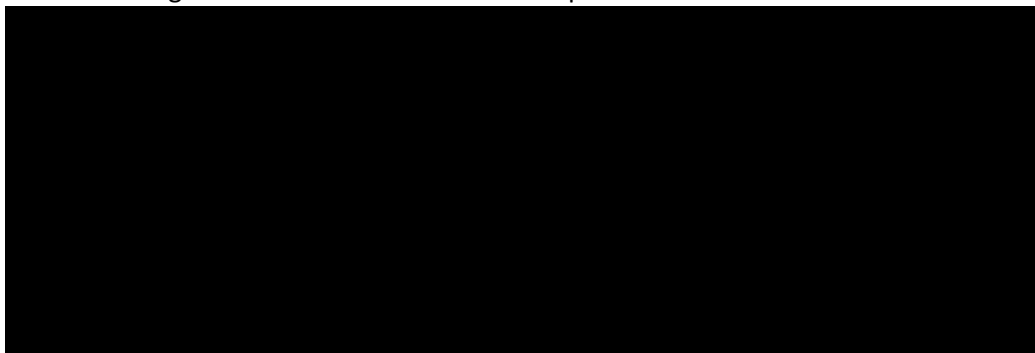
determined on the basis of the circumstances of the case.

GROUND

6. Pursuant to Art. 58 UPCA, the Court may, to protect the trade secrets, personal data, or other confidential information of a party to the proceedings or of a third party, or to prevent an abuse of evidence, order that the collection and use of evidence in proceedings before it be restricted or prohibited or that access to such evidence be restricted to specific persons.
7. Pursuant to R. 262A.1 RoP, a party may make an Application to the Court for an order that certain information contained in its pleadings or the collection and use of evidence in proceedings may be restricted or prohibited or that access to such information or evidence be restricted to specific persons.
8. Pursuant to R. 262A.6 RoP the number of persons to whom access is restricted shall be no greater than necessary in order to ensure compliance with the rights of the parties to the legal proceedings to an effective remedy and to fair trial, and shall include, at least, one natural person from each party and the respective lawyers or other representatives of those parties to the legal proceedings. Whether a particular person may be granted full access under this provision must be determined on the basis of the relevant circumstances of the case, including the role of that person in the proceedings before this Court, the relevance of the confidential information to the performance of that role and the trustworthiness of the person in keeping the information confidential (CoA, 12 February 2025, UPC_CoA_621/2024, Daedalus v Xiaomi, para. 12; CoA, 22 May 2026, UPC_CoA_61/2026, SharkNinja v SEB).

ORDER

9. The information highlighted in violet in the Statement of response as well as in Exhibits HLC Appeal 3, 5, 6, 7, 8, 9, 10 marked "strictly confidential" shall be treated as confidential information.
10. Access to this information shall be limited to the following individuals:
 3. Fives' UPC Representatives and its assistants, including experts and its team members;
 4. The following individuals from the Fives' Group:



11. The confidential Information shall be treated as such by the persons referred to above 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 or other obligation of secrecy with REEL or its affiliates. This duty continues after the termination of these proceedings.
12. 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 26 October 2026

 Digitally signed
by Åsa Ingeborg
Simonsson
Date: 2026.10.26
13:23:03 +01'00'

Ingeborg Simonsson, legally qualified judge and judge-rapporteur