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Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Düsseldorf local division
UPC_CFI_672/2026
UPC_CFI_2175/2026

Procedural order
of the Court of First Instance of the Unified Patent Court
ssued on 26 October 2026
concerning EP 1 934 794 B1

Claimant:

CA, Inc., legally represented by the Board of Directors, 1320 Ridder Park Drive, San Jose, California 95131, USA

represented by: Dr Bernd Allekotte, Attorney-at-law, Jascha Weggartner and all Attorneys-at-law admitted to practise in the Federal Republic of Germany at the law firm Grünecker PartmbB, Leopoldstraße 4, 80802 Munich, Germany

Patent Attorney Dr Moritz Höffe and all European patent attorneys at Grünecker PartG mbB who possess the necessary qualifications in accordance with Article 48(2) of the UPC Agreement, Leopoldstraße 4, 80802 Munich, Germany

Electronic service address: allekotte@grunecker.de

defendant:

1. **Deutsche Telekom AG,** represented by its Executive Board, Friedrich-Ebert-Allee 140, 53113 Bonn, Germany

2. **T-Systems International GmbH**, represented by its management, Hahnstraße 43 d, 60528 Frankfurt am Main, Germany

3. **Telekom Deutschland GmbH**, represented by its management, Landgrabenweg 149, 53227 Bonn, Germany

represented by: Klaus Haft, Attorney-at-law; Dr Tobias Hahn, Attorney-at-law; Mar Conde Nogueira, European Patent Attorney Bum-joon Jang, Hoyng ROKH Monegier, Steinstraße 20, 40212 Düsseldorf, Germany

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Email address:klaus.haft@hoyngrokh.com PATENT AT

ISSUE:

EUROPEAN PATENT NO. EP 1 934 794 B1

DECISION-MAKING PANEL/CHAMBER:

Panel 1 of the Düsseldorf local division

JUDGES INVOLVED:

This order was issued by Judge Thomas, legally qualified judge, acting as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: German

SUBJECT MATTER: Rule 262.2, 262A of the RoP – Protection of confidential information

BRIEF SUMMARY OF THE FACTS:

1. The parties are involved in infringement proceedings before the Düsseldorf local division concerning European Patent EP 1 934 794 B1.

2. Together with their statement of defence, the defendants filed an application for confidentiality based on Rules 262.2 and 262A of the RoP in a document dated 16 June 2026. Thereupon, on 15 July 2026, the judge-rapporteur issued the following procedural order, rejecting the remaining parts of the application:

    1. The information highlighted in grey in the statement of defence dated 16 June 2026, including Annexes B 13 and B 14, and highlighted in grey, is classified as requiring confidentiality:

Rz./Anlage	Beschreibung
Rz. 290, 300, 302, 303, 330, 349, 350 Anlage B 14 (Ziffer VIII.2., VIII.3., VIII.4.)	Umsatzzahlen
Rz. 289, 294, 298, 303, 305, 306, 307, 308, 309, 313, 315, 316, 322 Anlage B 14 (Ziffer VIII.4., VIII.5., VIII.6., VIII.7., VIII.8., VIII.11.)	Physische und virtuelle Infrastruktur und Folgen der Vollstreckung
Rz. 239, 240, 244, 245, 246, 248 Anlage B 13 (Ziffer 11, 14-18) Anlage B 14 (Ziffer VIII.9)	Unternehmensinternen Verfügbarkeit von technischen und kaufmännischen Informationen betreffend die angegriffene Ausführungsform und der interne Aufwand bei dessen Ermittlung

2. The information referred to in paragraph 1 must be treated as strictly confidential by all persons who, by virtue of their involvement in the present legal proceedings (as a party, intervener, Attorney-at-law, witness, expert witness, court official or in any other capacity), become aware of it. It must not be used or disclosed outside these court proceedings, unless it has come to the knowledge of the receiving party outside these proceedings, provided that it was obtained by the receiving party on a non-confidential basis from a source other than the parties or their affiliated undertakings, and provided that such source is not bound by a confidentiality agreement with the parties or their affiliated undertakings or by any other duty of confidentiality towards them. This obligation shall continue to apply even after the conclusion of these proceedings.

3. In the event of a wilful breach of this order, the court may impose a penalty payment for each instance of breach, the amount of which shall be determined in accordance with the circumstances of the individual case.

3. By a document dated 19 October 2026, the defendants, together with their rejoinder in the infringement proceedings, again filed a confidentiality application based on Rules 262.2 and 262A of the RoP and, in this context, also requested a restriction on the group of persons authorised to access the information on the Claimant's side.

4. On the basis of this application, the legally qualified judge Dr Schumacher, acting on behalf of the judge-rapporteur, issued a provisional confidentiality order on 20 October 2026 and gave the Claimant the opportunity to submit comments.

5. The claimant made use of this opportunity in a document dated 26 October 2026 and raised no objections to the classification as confidential of the information additionally specified in the application for protection of confidential information. At the same time, it stated that it had no objections to the persons named by the defendants, in addition to the legal and patent attorneys and their assistants, being granted access to this further confidential information.

6. However, the claimant requested clarification that the restriction of access to this group of persons, as now sought, relates exclusively to the confidential information newly introduced by the application for protection of trade secrets dated 19 October 2026. The order for the protection of confidential information dated 15 July 2026 had already contained information on the internal availability within the company of technical and commercial information relating to the contested embodiment, as well as on the internal effort involved in ascertaining it. A restriction of access to a specific group of persons had neither been applied for nor ordered. According to the defendant's own submissions, the information now additionally designated as confidential would, in part, provide further detail on the information already before the court. Insofar as the information now designated overlaps with information already disclosed, it could not therefore be retrospectively subject to the restriction on access now sought. Rather, such a restriction could only cover information that had not yet been disclosed.

7. Reference is also made to the pleadings of the parties.

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REASONS FOR THE ORDER:

8. The application seeking the protection of trade secrets and other confidential information is admissible and is granted to the extent set out in the operative part.

9. Since the claimant has raised no objections to the classification as confidential of the information additionally specified in the defendants' application for protection of trade secrets, and since the claimant has no reservations regarding the fact that (only) the persons named by the defendants on the Claimant's side, in addition to the legal and patent attorneys acting as representatives, including their assistants, are granted access to this further confidential information, reference may be made to the procedural order of 15 July 2026 to avoid repetition.

10. However, the claimant has rightly pointed out that the restriction of access now sought, to the group of persons designated by the defendants, can only apply to information newly introduced into the proceedings. No grounds have been put forward, nor are any apparent, that would justify retrospectively restricting access to information already disclosed pursuant to the order of 15 July 2026 to specific individuals on the Claimant's side. The clarifying note sought by the Claimant has therefore been incorporated into the present procedural order.

11. There was no reason to allow an appeal, which none of the parties had requested. The present procedural order is consistent with the case law of the Court of Appeal.

ORDER:

1. The information, detailed in the table below and contained in the rejoinder of 19 October 2026, including Annexes B 17 and B 20, is classified as confidential:

Rz./Anlage	Beschreibung
Rz. 162, 170-175, 177-180 der Duplik Anlage B 17 (Ziffer 11-19)	Unternehmensinternen Verfügbarkeit von technischen und kaufmännischen Informationen betreffend die angegriffene Ausführungsform und der interne Aufwand bei dessen Ermittlung (s. Anordnung des Gerichts vom 29. Juni 2026)
Rz. 224 der Duplik Anlage B 20 (Ziffer 10 Nr. 2) und 3))	Migrationsdauer von bestimmten Kunden auf die [redacted]
Rz. 228 der Duplik Anlage B 20 (Ziffer 10 Nr. 4))	Wirtschaftliche Bedeutung und Wachstum der [redacted]

2. On the Claimant's side, the following persons shall be granted access to the information requiring confidentiality:

   a. the representatives (solicitors and patent attorneys) acting for the Claimant in these proceedings, including their assistants;

   b. [redacted] Director and Managing IP Counsel, [redacted]

   c. [redacted] Senior IP Counsel, [redacted]

   d. [redacted] Senior IP Counsel, [redacted]

   The above restriction on the group of persons authorised to access the information relates solely to information newly introduced into the proceedings by the copy dated 19 October 2026, including Annexes B 17 and B 20, and the corresponding application for protection of confidential information.

   Information already introduced into the present proceedings prior to this is not covered by the above restriction. For such information, the orders already set out in the procedural order of 15 July 2026 remain in force.

3. The information referred to in paragraph 1 must be treated as strictly confidential by all persons who, by virtue of their involvement in the present legal proceedings (as a party, intervener, lawyer, witness, expert, court official or in any other capacity), become aware of it. It must not be used or disclosed outside these court proceedings, unless it has come to the knowledge of the receiving party outside these proceedings, provided that it was obtained by the receiving party on a non-confidential basis from a source other than the parties or their affiliated companies and

provided that such source is not bound by a confidentiality agreement with the parties or their affiliated companies or by any other duty of confidentiality towards them. This obligation shall continue to apply even after the conclusion of these proceedings.

4. In the event of a wilful breach of this order, the court may impose a penalty payment for each instance of breach, to be determined in accordance with the circumstances of the individual case.

Issued in Düsseldorf on 26 October 2026 NAMES
AND SIGNATURES
Presiding Judge Thomas