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Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

UPC – Court of Appeal

UPC-CoA-189/2026

Order

of the Court of Appeal of the Unified Patent Court
dated 17 November 2026
concerning an application for a discretionary review
by the Court of Appeal pursuant to Rule 220.3 of the RoP

HEADNOTE:

A fundamental point of law, the examination of which is necessary to ensure the uniform application of the law, is raised only if the point of law is in doubt.

KEYWORDS:

- Application for discretionary review, Rule 220.3 of the RoP
- Fundamental point of law
- Access to files by a law firm pursuant to Rule 262.1(b) of the RoP – Inadmissibility of disclosing the entire file to clients

APPLICANT (AND APPLICANT BEFORE THE COURT OF FIRST INSTANCE)

VOSSIUS & PARTNER Patent Attorneys and Attorney-at-laws mbB, Munich,

Germany (hereinafter: the applicant)

represented by Dr Georg Andreas Rauh, Attorney-at-law, and other representatives of the firm VOSSIUS & Partner Patentanwälte Rechtsanwälte mbB, Munich, Germany

FIRST RESPONDENT (AND CLAIMANT BEFORE THE COURT OF FIRST INSTANCE)

Huawei Technologies Co. Ltd, Longgang District, Shenzhen, China

(hereinafter: 'Huawei')

represented by Dr Tobias J. Hessel, Attorney-at-law, and other representatives of the law firm Clifford Chance, Düsseldorf, Germany

SECOND RESPONDENT (AND DEFENDANT BEFORE THE COURT OF FIRST INSTANCE)

1. **Netgear Deutschland GmbH,** Munich, Germany
2. **Netgear Inc.,** San Jose, CA, USA
3. **Netgear International Limited,** Cork, Ireland

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represented by Henning Meskes, Attorney-at-law, and other representatives of the law firm Freshfields Bruckhaus Deringer Rechtsanwälte und Steuerberater PartG mbB, Düsseldorf, Germany

PATENT AT ISSUE

EP 3 611 989

DECIDING JUDGES

Panel 2
Patricia Rombach, standing judge

CONTESTED DECISION OF THE COURT OF FIRST INSTANCE

Decision of the Munich local division of the Court fo First Instance of the Unified Patent Court on 6 October 2026 (served on 7 October 2026) concerning the application for access to the register (Rule 262.1(b) of the RoP).

LANGUAGE OF THE PROCEEDINGS

German

FACTS

1. On 7 July 2026, Vossius applied to the Munich local division (hereinafter: the local division) for access to the files of the concluded infringement proceedings UPC-CFI-9/2023 pursuant to Rule 262.1(b) of the RoP.

2. By decision of 24 August 2026, the judge-rapporteur of the Munich local division granted the application for access to the files in part and prohibited Vossius, on pain of a penalty payment of up to EUR 500,000 for each individual instance of culpable non-compliance, from publishing the entire contents of the files as well as complete pleadings and evidence. In the judge-rapporteur's view, an abstract risk of publication arose from the fact that Vossius had not provided an explicit written undertaking not to make the documents accessible to the general public.

3. On 8 September 2026, Vossius lodged an application for review of this decision pursuant to Rule 333 of the RoP.

4. By decision of 6 October 2026, uploaded to the CMS on 7 October 2026, the panel of the Munich local division upheld the judge-rapporteur's decision of 24 August 2026, subject to the proviso that the following be inserted in paragraph III of the judge-rapporteur's decision: 'and/or to disclose them to third parties, e.g. clients'. The panel dismissed the further application for review. The local division refused to grant leave to appeal.

5. Vossius has challenged this by lodging an application for a discretionary review on 22 October 2026 in accordance with Rule 220.3 of the RoP.

APPLICATIONS BY THE PARTIES

6. Vossius requests, in so far as is relevant here, that the appeal against the contested decision be allowed.

ARGUMENTS OF THE PARTIES

7. Vossius essentially argues that the contested decision raises a question of law of fundamental importance, the clarification of which is necessary to ensure the uniform application and interpretation of the Rules of Procedure. Furthermore, the decision is based on an erroneous application of Rule 262.1(b) of the RoP and the principles developed by the Court of Appeal in this regard. The contested decision concerns the as yet unresolved question of whether, and under what conditions, a member of the public – in particular a law firm – may be prohibited from disclosing non-confidential procedural documents, obtained by way of access to the file pursuant to Rule 262.1(b) of the RoP, to specific third parties in the context of specific legal advice provided by a lawyer. Contrary to the view of the panel, the question had not been clarified by the Court of Appeal's decision of 19 December 2025 (UPC-CoA-523-2024). The subject matter of that decision was the intended provision of procedural documents on a commercial patent litigation intelligence platform to an unlimited number of (potential) subscribers. The facts of the present case differ significantly from this. Vossius is seeking access to the files for the purposes of professional development and legal advice. Neither a general nor a systematic publication of the case documents to an indeterminate group of persons is intended or sought. Rather, the sole concern is the use of the information obtained through access to the case files for the purposes of legal advice and the possibility that this may necessitate the confidential disclosure of individual documents to specific persons within the context of specific client relationships. Unlike in the case of making documents available on a commercial information platform, such disclosure is not made to a fundamentally open and therefore indeterminate group of subscribers, but to individually identified persons for a specific advisory purpose. The circumvention of individual judicial control over access to the files, which was criticised by the Court of Appeal, cannot therefore be readily applied to the present case. The Court of Appeal did not have to address the question of whether, and under what conditions, such limited disclosure is permissible in the aforementioned decision. Furthermore, the order, in its current form, remains too vague and thus disproportionately hinders the proper practice of the legal and patent attorneys working at Vossius; therefore, should the order not be set aside, it would at least be necessary to clarify that the prohibition does not extend to summaries of the information contained in the entire file and to disclosures made within the context of client-solicitor relationships.

REASONS:

8. The application for a discretionary review is admissible but is unsuccessful on the merits.

Legal framework

9. An appeal shall be allowed if the contested decision of the Court of First Instance (CFI) is manifestly erroneous or raises a fundamental point of law, and its review is necessary to ensure the uniform application of the law or to fulfil one of the other purposes of allowing an appeal (UPC Court of Appeal, 6 September 2024, UPC-CoA-489/2024, para. 4, *Motorola v Ericsson*; 1 September 2025, UPC-CoA-805/2025, *Centripetal v Keysight*;
19 May 2026, paras. 8 and 11, UPC-CoA-67/2026, *ASC v Xiaomi,* para. 10).

10. In an application for a discretionary review pursuant to Rule 220(3) of the RoP, the applicant must set out the grounds for the application, for example, that the contested decision of the CFI is manifestly erroneous or raises a fundamental point of law relevant to the outcome of the proceedings, the examination of which is necessary to ensure the uniform application of the law (see *Motorola v Ericsson*, para. 4). In the latter case, the applicant must demonstrate that there are divergent views amongst the courts, or set out the reasons why clarification of the point of law is necessary for other reasons

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Grounds for leave to appeal on a fundamental point of law?

11. Vossius argues, without success, that the contested decision raises a question of law of fundamental importance, the clarification of which is necessary to ensure the uniform application and interpretation of the Rules of Procedure.

12. In Vossius's view, the contested decision concerns the as yet unresolved question of whether, and under what conditions, a member of the public – in particular a law firm – may be prohibited from disclosing non-confidential procedural documents obtained by way of access to the files pursuant to
Rule 262.1(b) of the RoP, to specific third parties in the context of specific legal advice provided by a solicitor.

13. The ground for leave to appeal asserted by Vossius does not exist.

14. A fundamental point of law, the examination of which is necessary to ensure the uniform application of the law, is raised only if the point of law is in doubt. This cannot be assumed in the present case.

15. Subject to the conditions laid down in the UPC Agreement and the Rules of Procedure, the register maintained by the law firm is accessible to the public (Article 10(1), third sentence, UPC Agreement).

16. Pursuant to Article 45 of the UPC Agreement, hearings are public unless the Court decides, where necessary, to hold them in camera in the interests of one of the parties or other affected persons, or in the general interest of the administration of justice or public order.

17. Without prejudice to the articles and rules specified in Rule 262.1 of the RoP, which provide for the protection of confidential information, pursuant to Rule 262.1(b) of the RoP, documents and evidence filed with the Court and recorded by the Registry shall be made available to the public upon a reasoned application addressed to the Registry; the decision shall be taken by the judge-rapporteur after hearing the parties.

18. The Court of Appeal clarified the applicable principles in the *Ocado* case (see Court of Appeal, decision of 10 April 2024, UPC-CoA-404/2023); there is no need to repeat them here.

19. It has also already been clarified that a law firm falls within the group of persons entitled to access pursuant to
Rule 262.1(b) of the RoP (UPC Court of Appeal, 9 January 2025, UPC-CoA-480/2024, *Abbott v Powell Gilbert*).

20. As the Court of Appeal has already held, the decision under Rule 262.1(b) of the RoP is made on the basis of a case-by-case assessment by the court, in which the purpose of the inspection and the identity of the applicant are decisive (UPC Court of Appeal, 19 December 2025, UPC-CoA-523/2024, para. 25, *Docket Navigator v Sumi Agro, Syngenta*). Since this individual judicial review would be circumvented if the pleadings and evidence were disclosed to a commercial internet platform for the purpose of passing the documents on to an indeterminate group of persons, the Court of Appeal rejected a corresponding application for access to the file (*Docket Navigator/Sumi Agro, Syngenta,* para. 27). It is clear from the decision that the court may not delegate control over access to third parties.

21. The local division was correct in assuming that the disclosure of documents and evidence envisaged by Vossius would result in an unmanageable number of unknown third parties having access to the

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is undoubtedly incompatible with the principles established in *Docket Navigator v Sumi Agro, Syngenta*.

22. No special circumstances arise here from the fact that Vossius is a law firm. Whilst it is obvious that the firm has an interest in sharing the information obtained from the file with its clients in the course of its professional activities, The local division has merely prohibited Vossius from publishing the entire contents of the file, as well as complete documents and evidence, and/or passing them on to third parties, such as clients. Insofar as the disclosure of the complete file is necessary within the context of a client-solicitor relationship, it is reasonable to expect Vossius to submit a corresponding application on behalf of the respective client, who must be named. There is no legitimate interest in keeping the client's name confidential.

23. In so far as Vossius contends that the submission of applications for access to files by a law firm also serves, in individual cases, the legitimate interests of the specific client base in not having to identify themselves directly in the context of such applications – which could potentially result in subsequent patent infringement claims by the patent holder – Vossius has not demonstrated that it asserted such an interest at the Court of First Instance. Irrespective of this, such an interest does not, as a rule, outweigh the interest in ensuring that the court may not delegate access control to third parties.

Manifest error

24. Vossius does not contend that the contested decision is based on a manifest error.

25. Irrespective of this, the local division's decision is not open to criticism for the reasons set out above (see paragraph 20 above). As Vossius did not provide a solicitor's assurance that the documents would not be made accessible to the general public and, in particular, to clients, the local division was entitled to ensure, by threatening to impose a penalty payment, that such unrestricted disclosure did not take place.

26. Vossius argues, without success, that the order, in its current form, is too vague and thus disproportionately hinders the proper professional practice of the solicitors and patent attorneys working at Vossius. The grounds of the contested decision, which must be taken into account when interpreting the operative part, make it clear: "The recognised use of the file contents for internal professional development and the provision of advice to clients remains permitted, but the file contents may not be disclosed to clients." Against this background, summaries of the file contents are likewise prohibited. These, too, would constitute an impermissible circumvention of the court's access control.

ORDER

The application for a discretionary review is dismissed.

Issued
on 17 November 2026

Patricia Rombach, standing judge