



Central Division
Paris Seat

ORDER

of the Court of First Instance of the Unified Patent Court
Central division (Paris seat)
issued on 29 July 2024
concerning the application RoP262.1(b) No. App_35673/2024
lodged in the proceedings UPC_CFI_263/2023

HEADNOTES:

KEYWORDS:

REFERENCE CODE ECLI:

APPLICANT:

Mathys & Squire LLP - The Shard, 32 London Bridge Street, London, SE1 9SG, UK

RESPONDENTS:

BITZER Electronics A/S - Kærvej 77 - 6400 - Sønderborg - DK

represented by Tilman Pfrang, Meissner Bolte

Carrier Corporation - 13995 Pasteur Blvd. - FL 33418 - Palm Beach Gardens - US

represented by Gregory Lees

PATENT AT ISSUE:

European patent n° EP 3 414 708

PANEL:

Presiding judge	François Thomas
Judge-rapporteur	Paolo Catallozzi
Technically qualified judge	Ulrike Keltsch

DECIDING JUDGE:

This order has been issued by the judge-rapporteur Paolo Catallozzi

SUMMARY OF FACTS AND PARTIES' REQUESTS:

1. On 5 June 2024 the applicant lodged an application, pursuant to Rule 262 (1) (b) of the Rules of Procedure ('RoP'), registered as No. App_33486/2024, seeking access to all written pleadings and evidence in the case at hand.
2. The Applicant relies upon the following: (i) the general interest of the public in obtaining access to the Court files in a proceeding which intended to be a public adjudication of a dispute between the parties; (ii) the fact that the proceedings concern the validity or otherwise of a patent monopoly enforceable against the public at large; (iii) the existence of parallel opposition proceedings before the European Patent Office concerning the validity of the patent; (iv) the fact that according to the "Opt-Out" page of the Unified Patent Court ('UPC')'s public Registry website, the patent is the subject of an opt-out from the exclusive competence of the Court pursuant to Article 83 (3) of the Unified Patent Court Agreement ('UPCA') and hence the present proceedings raise questions relating to the competence of the Court over opted-out patents and/or the validity of opt-outs filed with the Court; (v) the fact that the applicant is an intellectual property firm which handles inter alia the filing of opt-outs from the 'UPC''s competence and the prosecution and litigation of patents.
3. The respondents, consulted by the judge-rapporteur, did not submit any comment.

GROUND FOR THE ORDER:

4. Art. 262 (1) (b) 'RoP' states that 'written pleadings and evidence, lodged at the Court and recorded by the Registry shall be available to the public upon reasoned request to the Registry; ...'.
5. When a request to make written pleadings and evidence available to a member of the public is made pursuant to Rule 262 (1) (b) 'RoP', the interests of a member of the public of getting access to the written pleadings and evidence must be weighed against the interests mentioned in Article 45 'UPCA'. These interests include the protection of confidential information and personal data ('the interest of one of the parties or other affected persons') but also the general interest of justice, which includes the protection of the integrity of proceedings, and the public order (see, order of the Court of Appeal issued on 10 April 2024, case UPC_CoA_404/2023).
6. The protection of the integrity of proceedings ensures that the parties are able to bring forward their arguments and evidence and that this is decided upon by the Court in an impartial and

independent manner, without influence and interference from external parties in the public domain. The interest of integrity of proceedings usually only plays a role during the course of the proceedings.

7. Having this in mind, it must be considered that the current proceedings have come to an end that the interests opposing the publication of the proceedings, as outlined in Article 45 'UPCA', do not seem substantial enough to override the requester's interest in gaining access to the related documents and evidence. A review of the files does not indicate any interest from the parties – which, in fact, did not object the application – or third parties in keeping these documents and evidence confidential, nor are there any confidentiality issues stemming from the need to safeguard the general interest of justice or public order.
8. It follows that applicant's interest deserves protection and granting access to the sought pleadings and evidence does not appear to be disproportionate.

ORDER

The judge-rapporteur,

grants the application and, therefore, grants access to all written pleadings and evidence mentioned in the application.

Issued on 29 July 2024.

The presiding judge and judge-rapporteur

Paolo Catallozzi

ORDER DETAILS

Order no. ORD_37073/2024 in ACTION NUMBER: ACT_555899/2023

UPC number: UPC_CFI_263/2023

Action type: Revocation Action

Related proceeding no. Application No.: 35673/2024

Application Type: APPLICATION_ROP262_1_b