



Düsseldorf local division
UPC_CFI_457/2023

procedural order
of the Court of First Instance of the Unified Patent Court local division
Düsseldorf
issued on 30 July 2024
concerning EP 3 490 258 B1

Guiding principle:

Unless otherwise ordered by the court, the intervener is treated as a party in accordance with R. 315.4 RoP. Just like a party, it therefore has the option of submitting an application for the protection of confidential information (R. 262A RoP) with regard to the information contained in the documents submitted by it.

Keywords:

Protection of secrecy; parties; interveners; access restriction

Plaintiff:

Dolby International AB, represented by its EMEA Finance Director Susan Way, 77 Sir John Rogerson's Quay, Block C, Grand Canal Docklands, Dublin, D02 VK60, Ireland,

represented by: Attorney Dr Volkmar Henke, Attorney Dr Tilman Müller,
Bardehle Pagenberg Partnerschaft mbB, Bohnenstraße 4, 20457
Hamburg,

Patent attorney Dr Georg Anetsberger, patent attorney Dr
Johannes Möller, Bardehle Pagenberg Partnerschaft mbB,
Prinzregenten- platz 7, 81675 Munich,

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Access Advance LLC, represented by its CEO Peter Moller, 100 Cambridge Street Suite 21400,
Boston, MA 02114,

represented by: Attorney Dr Volkmar Henke, Attorney Dr Tilman Müller,
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defendant :

1. **HP Deutschland GmbH**, represented by its managing directors, Mr Adrian Müller and Mr Peter Kleiner, Herrenberger Straße 140, 71034 Böblingen, Germany,
2. **HP Inc.**, represented by its managing directors, 1501 Page Mill Road, Palo Alto, California 94304, U.S.A,
3. **HP International SARL**, represented by its managing directors, Route du Nant-d'Avril 150, 1217 Meyrin, Switzerland,
4. **HP Austria GmbH**, represented by its managing directors, Technologiestrassen 5, 1120 Vienna, Austria,
5. **HP France SAS**, represented by its Managing Directors, Meudon Campus Bât. 1, 14 Rue de la Verrerie, 92190 Meudon, France,
6. **HP Belgium SPRL**, represented by its Managing Directors, Hermeslaan 1a, B-1831 Diegem (H.P. Inc.), Belgium,

7. **HP Inc Danmark ApS**, represented by its managing directors, Engholm Parkvej 8, 3433 Allerød, Denmark,
8. **HP Finland Oy**, represented by its managing directors, Piispankalliontie, 02200, Espoo, Finland,
9. **HP Italy S.r.l.**, represented by its Managing Directors, Via Carlo Donat Cattin, 5 - 20063 Cernusco sul Naviglio (MI),
10. **Hewlett-Packard Nederland BV**, represented by its managing directors, Startbaan 16, 1187 XR Amstelveen, The Netherlands,
11. **HP PPS Sverige AB**, represented by its managing directors, Gustav III:s Boulevard 30, 169 73 Solna, Sweden,
12. **HPCP - Computing and Printing Portugal, Unipessoal, Lda**, represented by its directors, Building D. Sancho I, Quinta da Fonte, Porto Salvo, 2770-071 Paço de Arcos, Lisbon, Oeiras, Portugal,
13. **Hewlett-Packard d.o.o.**, represented by its managing directors, Tivolska cesta 48, 1000 Ljubljana, Slovenia,
14. **Hewlett-Packard Luxembourg SCA**, represented by its Managing Directors, Vegacenter, 75 Parc d'Activités, Capellen, L-8308 Capellen, Luxembourg,
15. **HP Inc Bulgaria EOOD**, represented by its Managing Directors, Mladost Region, Business Park Sofia, Building 10, Sofia 1766, Bulgaria,

Defendants 1) to 15) represented by: Dr Frank-Erich Hufnagel, lawyer

lawyer Dr Nina Bayerl, lawyer Dr Stephan Dorn,
lawyer Dr Sabrina Biedermann, lawyer Eva Acker,
lawyer Vanessa Werlin, Freshfields Bruckhaus
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reshfields.com STREITPATENT:

European Patent No. EP 3 490 258 B1

ADJUDICATING BODY/CHAMBER:

Judges of the Düsseldorf local division:

This Order was issued by presiding judge Thomas as judge-rapporteur. LANGUAGE OF THE PROCEEDINGS:

German

SUBJECT: R. 262A RoP - Protection of confidential information

BRIEF DESCRIPTION OF THE FACTS:

The plaintiff is suing the defendants for infringement of the European bundle patent EP 3 490 258. It has contributed its HEVC-essential patent portfolio, including the patent in dispute, to a patent pool managed by Access Advance LLC (hereinafter: Access Advance).

In a document dated 20 June 2024, Access Advance intervened in the proceedings on behalf of the plaintiff.

The Düsseldorf local division granted leave to intervene by Order dated 26 June 2024 (ORD_37232/2024) and gave the intervener the opportunity to submit a statement in intervention.

The intervener has made use of this option. At the same time, it filed an application for protection of confidential information (R. 262A RoP) with regard to the annexes submitted with the statement in intervention.

REASONS FOR THE ORDER:

The application for the protection of trade secrets and other confidential information is admissible and is successful on the merits.

I.

There are no objections to the admissibility of the application.

1.

Article 9(1) and (2)(a) of Directive (EU) 2016/943 provides that, in judicial proceedings, access to documents containing trade secrets or alleged trade secrets submitted by the parties or third parties may, on application, be restricted in whole or in part to a limited number of persons. The protection of confidential information is provided for in Article 58 of the UPCA and implemented in Rule 262A of the Rules of Procedure of the Unified Patent Court (see UPC_CFI_54/2023 (LK Hamburg), order of 3 November 2023, OR. 03 November 2023, ORD_577703/2023 - Avago Technologies International v. Tesla Germany; UPC_CFI_463/2023 (LK Düsseldorf), Order of 11 March 2024, ORD_8550/2024 - 10x Genomics v. Curio Bioscience).

2.

The formal requirements standardised by R. 262A.2 and .3 RoP have been complied with. The representatives of the plaintiff and the defendant were also heard before the protective order was issued, as required by R. 262A.4 RoP. They made use of the opportunity granted to them to comment.

3.

Unless otherwise ordered by the court, the intervener is treated as a party in accordance with R. 315.4 RoP (UPC_CFI_457/2023 (LK Düsseldorf), Order of 22 July 2024,

ORD_25519/2024 - Dolby International v. HP). Just like a party, he therefore has the option of filing an application for protection of confidential information with regard to the information contained in the documents submitted by him.

II.

Neither the plaintiff nor the defendant has denied in detail that the information classified as confidential by the intervener constitutes trade secrets or at least other confidential information. It can therefore be assumed that the information in question requires protection.

There is also no dispute with regard to the group of authorised users, which is why no further explanation is required in this respect.

ORDER:

- I. The licence agreements submitted by the intervener in paper form, as shown in the table below, are classified as confidential:

Anlagen	Beschreibung
BP-Liz 1 bis BP-Liz 25	Lizenzverträge, die einer Vertraulichkeitsverpflichtung zwischen der Streithelferin und der jeweiligen Dritten unterliegen

- II. Access to the information classified as confidential under Section I. shall be restricted on the part of the parties to the following persons:

1. the authorised representatives of the plaintiff and the defendant;

2. following employees of the **plaintiff:**

[...]

3. following employees of the **defendant:**

[...]

- III. The information classified as confidential under Section I. shall be treated as confidential by the persons named under Section II. It may not be used or disclosed outside these court proceedings unless it has come to the knowledge of the receiving party outside these proceedings. However, this exception only applies if this information was obtained by the receiving party on a non-confidential basis from a source other than the intervener or its affiliated companies, provided that this source is not bound by a confidentiality agreement with the intervener or its affiliated companies or by any other obligation of secrecy towards them.

This obligation also applies to the plaintiff and the defendant.

The aforementioned persons are also obliged to maintain confidentiality vis-à-vis the plaintiff or the defendant with regard to the information contained in the unredacted versions of the aforementioned documents.

The obligation to maintain confidentiality continues to apply even after the proceedings have been concluded.

- IV. In the event of culpable non-compliance with this Order, the court may impose a penalty payment to be determined according to the circumstances of the individual case for each case of non-compliance.
- V. It is assumed that the plaintiff and the defendants, in accordance with the intervener's submissions, waive service of the unprocessed annexes BP-Liz 1 to BP-Liz 25 in paper form.
- VI. The intervener is ordered to immediately transmit the unredacted attachments BP-Liz 1 to BP-Liz 25 to the parties in electronic form.

ORDER DETAILS:

to ORD_42107/2024 concerning the main file reference ACT_590145/2023

UPC number: UPC_CFI_457/2023

Type of proceedings: Action for infringement

Issued in Düsseldorf on 30 July 2024 NAMES

AND SIGNATURES

Presiding judge Thomas

**Ronny
Thomas** Digitally signed by
Ronny Thomas Date:
2024.07.30
19:33:49 +02'00'