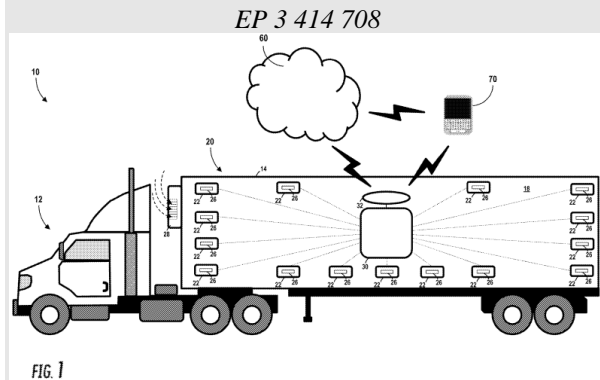


**UPC CFI, Central Division Paris, 29 July 2024,
Mathys & Squire v Bitzer and Carrier Corporation**



**Claim 1 of EP '708 maintained as amended by
auxiliary request II**

PATENT LAW – PROCEDURAL LAW

**Access to all written pleadings and evidence granted
([Rule 262 RoP](#), [Article 45 UPCA](#))**

- **The interest of integrity of proceedings usually only plays a role during the course of the proceedings. 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.**

Source: [Unified Patent Court](#)

**UPC Court of First Instance,
Central Division Paris Seat, 29 July 2024
(Catalozzi)**

ORDER

of the Court of First Instance of the Unified Patent Court
Central division (Paris seat)
issued on 29 July 2024

concerning the application [RoP 262.1\(b\)](#) No.
App_35673/2024 lodged in the proceedings
UPC_CFI_263/2023

APPLICANT:

Mathys & Squire - - 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, Dehns

PATENT AT ISSUE:

European patent n° [EP 3 414 708](#)

PANEL:

Presiding judge François Thomas
Judge-rapporteur Paolo Catalozzi

Technically qualified judge Ulrike Keltsch

DECIDING JUDGE:

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

**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 Catalozzi

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
