

UPC CFI, Local Division Düsseldorf, 12 February 2025, Ona v Apple



PATENT LAW – PROCEDURAL LAW

Procedural order specifying confidential information
([R. 262 RoP](#))

Source: [Unified Patent Court](#)

UPC Court of First Instance

Local Division Düsseldorf, 12 February 2025

(Thomas)

Lokalkammer Düsseldorf

UPC_CFI_99/2024

Procedural Order

of the Court of First Instance of the Unified Patent Court
issued on 12 February 2025

concerning [EP 2 263 098 B1](#)

CLAIMANT

Ona Patents SL, represented by its CEO Raúl Díaz Morales, Carrer de Calàbria 149 En. 1, 08015 Barcelona, Spain,

represented by: Attorney-at-law Dr Christof Augenstein, Attorney-at-law Dr Benedikt Walesch, Attorney-at-law Dr Melissa Lutz, Kather Augenstein Rechtsanwälte PartGmbH, Bahnstraße 16, 40212 Düsseldorf, Germany,
Electronic address for service:

augenstein@katheraugenstein.com

DEFENDANTS

1. Apple Inc., represented by its CEO Tim Cook, One Apple Park Way, Cupertino, CA 95014, USA,

2. Apple Distribution International Ltd., represented by its Directors Cathy Kearny, Michael O’Sullivan and Peter Denwood, Hollyhill Industrial Estate, Hollyhill, Cork, T23 YK84, Republic of Ireland,

3. Apple Retail Germany B.V. & Co. KG, represented by its personally liable partner Apple Holding B.V., represented by its CEO Alexander Niemczyk, Michael Joseph Boyd und Peter Ronald Denwood, Maximilianstraße 54, 80538 Munich, Germany,

4. Apple GmbH, represented by its CEOs Michael Joseph Boyd und Peter Ronald Denwood, Katharinen-von-Bora-Str. 3, 80333 Munich, Germany,

5. Apple Retail France EURL, represented by its CEOs Peter Ronald Denwood und Éamonn Clancy, 3-5 rue Saint Georges, 75009 Paris, France,

All Defendants represented by:

Attorney-at-law Prof Dr Tilman Müller-Stoy, Attorney-at-law Dr Tobias Wuttke, Bardehle Pagenberg Partnerschaft mbB, Prinzregentenplatz 7, 81675 Munich, Germany,

Electronic address for service: mueller-stoy@bardehle.com

PATENT IN SUIT:

European Patent No. EP [2 263 098 B1](#)

PANEL/DIVISION:

Panel of the Local Division in Düsseldorf

DECIDING JUDGES:

This Order was made by Presiding Judge Thomas acting as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT OF THE PROCEEDINGS: [R. 262A RoP](#)

– Application to protect confidential information

GROUNDINGS OF THIS ORDER:

This Order follows the confidentiality regime already implemented by the [Order of 30 August 2024 \(App 43001/2024\)](#). Reference is therefore made to the reasons set out therein.

ORDER:

I. The information set out in detail below and contained in the unredacted version of the Rejoinder to the Reply to the Statement of defense as filed on 27 January 2024 and highlighted in grey, as well as Exhibits BP 28-BP 32, is classified as confidential within the meaning of [Art. 58 UPCA](#) in conjunction with [R. 262.2 RoP](#):

Names of witnesses	<p>p. 6 (list of exhibits)</p> <p>p. 31 (heading D.I.)</p> <p>mn. 75</p> <p>mn. 80-83</p> <p>p. 42, fn. 12</p> <p>mn. 110</p> <p>mn. 118</p> <p>mn. 124</p> <p>mn. 126</p> <p>mn. 180</p> <p>Exhibit BP 29</p> <p>Exhibit BP 30</p> <p>Exhibit BP 31</p>
Functionality of Apple products	<p>p. 3 (table of content)</p> <p>mn. 64-65</p> <p>mn. 68</p> <p>mn. 70</p> <p>mn. 72-74</p> <p>mn. 79-82</p> <p>p. 42, fn. 12</p> <p>mn. 107</p> <p>mn. 110</p> <p>mn. 118</p>

	mn. 122-128 incl. right section of Ill 9. on "accused embodiment" mn. 137 right section of Ill. 12 on "accused embodiment" mn. 138 mn. 145 - 147 mn. 171 Exhibit BP 28 Exhibit BP 28a Exhibit BP 29 Exhibit BP 30 Exhibit BP 31 Exhibit BP 32
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The same applies to the following information listed in detail below and contained in the unredacted version of the Reply to the Defense to the Counterclaim and the Defense to the Application to Amend:

Names of witnesses	mn. 321
Functionality of Apple products	mn. 299 mn. 320 Exhibit BP 28 Exhibit BP 28a

II. Access to the information classified as confidential in Section I above shall be limited,

on the part of the Claimant, to the following persons:

1. the following representatives of the Claimant:

- Attorney-at-law Dr Christof Augenstein,
- Attorney-at-law Dr Benedikt Walesch,
- Attorney-at-law Dr Melissa Lutz

and other members of their team actively involved in the present proceedings, including other lawyers, patent attorneys and support staff.

2. the following natural person of the Claimant:

- Mr Raúl Díaz Morales, CEO of the Claimant.

II. The information classified as confidential in Section I above shall be treated as such by the Claimant's representatives and their teams and by the natural person named in Section I. above until further notice and shall not be used or disclosed outside of these court proceedings, except to the extent that it has come to the knowledge of the receiving party outside of these proceedings, provided that the receiving party has obtained it on a non-confidential basis from a source other than the Defendants or their affiliates, provided that such source is not bound by a confidentiality agreement or other obligation of secrecy with the Defendants or their affiliates.

III. In the event of a culpable breach of this Order, the Court may impose a penalty payment for each breach, to be determined having regard to the circumstances of each case.

IV. If the Claimant's representatives named in paragraph I.1. above make use of the possibility to grant access to confidential information to other members of their team,

they are responsible for ensuring that their team maintains the confidentiality of the information. In the event of a culpable breach of the confidentiality obligations, Dr Christoph Augenstein, Dr Benedikt Walesch and Dr Melissa Lutz would therefore be liable. This also applies to any breach of the duty of confidentiality by any member of their team to whom they have granted access.

DETAILS OF THE ORDER:

App_4511/2025, App_4513/2025 and App_4514/2025 related to the main proceedings ACT_11910/2024, CC_40010/2024 and App_59586/2024

UPC-Number: UPC_CFI_99/2024 and UPC_CFI_392/2024

Subject of the Proceedings: Infringement action and Counterclaim for revocation

Issued in Düsseldorf on 12 February 2025

Names and Signatures

Presiding Judge Thomas
