



UPC Court of Appeal
UPC_CoA_150/2025
APL_8326/2025
App_8327/2025

DECISION

of the Court of Appeal of the Unified Patent Court

issued on 14 April 2025

concerning public access to the register (R.262.1(b) RoP)

KEYWORDS:

- Public access to written pleadings and evidence, R.262.1(b) RoP

APPELLANT / APPLICANT BEFORE THE COURT OF FIRST INSTANCE

STADAPHARM GmbH, Stadastraße 2-18, 61118 Bad Vilbel, Germany
(hereinafter: Stadapharm)

represented by: Dr. Jan Phillip Rektorschek, attorney at law, Taylor Wessing, Munich, Germany, and other representatives from that firm

RESPONDENTS / CLAIMANTS IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE

1. **ACCORD HEALTHCARE B.V.**, Winthontlaan 200, 3526 KV, Utrecht, Netherlands
 2. **ACCORD HEALTHCARE S.L.U.**, Edificio Este, Planta 6, World Trade Center, Moll de Barcelona S/N, 08039 Barcelona, Spain
 3. **ACCORD HEALTHCARE LIMITED**, Sage House, 319 Pinner Road, North Harrow, HA1 4HF Middlesex, United Kingdom
- (hereinafter jointly referred to as: Accord)

all represented by: Dr. Wim Maas, Taylor Wessing, Eindhoven, The Netherlands

RESPONDENT / DEFENDANT IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE

Novartis AG, Lichtstrasse 35, 4056 Basel, Switzerland
(hereinafter: Novartis)

represented by: Dr. Gregory Bacon, Bristows (Ireland) LLP, Dublin, Ireland

PATENT AT ISSUE

EP 2 501 384

LANGUAGE OF THE PROCEEDINGS

English

PANEL AND DECIDING JUDGES

Panel 2:

Rian Kalden, presiding judge and judge-rapporteur

Ingeborg Simonsson, legally qualified judge

Patricia Rombach, legally qualified judge

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

- ORD_68703/2025 (App_68658/2024, UPC_CFI_698/2024) in the main proceedings concerning a declaration of non-infringement, ACT_61148/2024, UPC_CFI_698/2024, issued by the Milan Central Division on 3 February 2025.

POINT AT ISSUE

Public access to written pleadings and evidence (R.262.1(b) RoP)

SUMMARY OF FACTS

1. Stadapharm applied under R. 262.1(b) RoP to be given access to the following documents: *Statement of claim DNI – Pleading – German (including translation)* and *Annexes from TW01 to TW36*, lodged in the proceedings concerning a declaration of non-infringement (ACT_61148/2024, UPC_CFI_698/2024) between Accord as claimant and Novartis as defendant.
2. Novartis objected to the request, arguing that the general interest does not apply, as the main proceeding had not yet been concluded. Novartis also objected to the specific interest and raised concerns about the confidentiality and data protection of certain documents to be accessed under EU Regulation 2016/679.
3. Accord did not object to the request.
4. The Milan Local Division dismissed the request, in essence because Stadapharm had not demonstrated an interest in accessing the files pending the main proceedings.
5. Stadapharm lodged an appeal against this order.
6. Following an application by Accord for withdrawal of the main proceedings, in its final order of 1 April 2025, the Milan Central Division allowed the withdrawal (ORD_15380/2025, App_15343/2025, UPC_CFI_698/2024).

INDICATION OF THE PARTIES' REQUESTS

7. Stadapharm requests the Court of Appeal to set aside the impugned order and grant the file inspection as requested before the Court of First Instance.
8. Accord did not comment on Stadapharm's request for access and, when summoned to an oral hearing, referred to the decision of the Court of Appeal.

9. Novartis initially objected to the request for access, but after Accord's withdrawal of the main case, it informed the Court that "given the closure of the DNI Action, Novartis no longer objects to Stadapharm's request for access to documents in these proceedings, which for the avoidance of doubt relates to Accords' Statement of Claim and Exhibits only". Regarding the confidentiality, Novartis specified that "in the current circumstances, Novartis does not consider that any parts of Accords' Statement of Claim or its Exhibits need to be kept confidential, save for the requirement for the redaction of personal data, including names, email addresses and signatures of the parties' employees and counsels, from any documents provided to Stadapharm".

REASONS

10. Since the main proceeding was withdrawn and the proceedings have thus come to an end, Accord has not objected to the request, and Novartis agreed to the request for access to documents, there is no reason to deny access to the requested documents. Moreover, Novartis does not consider that the documents to be inspected require confidentiality except for the redaction of personal data.
11. The Court of Appeal, therefore, allows the request concerning public access to the register (R.262.1(b) RoP) with regard to the statement of claim and annexes from TW01 to TW36, as redacted in accordance with EU Regulation 2016/679.

DECISION

- I. The impugned order of the Milan Central Division is reversed.
- II. Access to the following documents, redacted in accordance with EU Regulation 2016/679, is granted to Stadapharm:
 - Statement of claim DNI – Pleading – German – (including translation)
 - Annexes from TW01 to TW36 – Exhibit – English

Issued on 14 April 2025

Rian Kalden, presiding judge and judge-rapporteur

Ingeborg Simonsson, legally qualified judge

Patricia Rombach, legally qualified judge