



**MILANO LOCAL DIVISION**

**UPC CFI n. 287/2023 - Application n. 584786/2023**

**ORDER**  
**issued on 1 December 2023**

KEYWORDS

Rule 262.1(b) RoP request (granted).

REFERENCE CODE ECLI not

provided

APPLICANT

“A”

X, rue de ....., 75008 Paris - France

RELEVANT PROCEEDING PARTIES

**PROGRESS MASCHINEN & AUTOMATION AG**

Julius-Durst-Strasse 100, 39042, Brixen, Italy, represented by Florian Robl, PhD, European Patent Litigators, Patentanwälte Torggler & Hofmann GmbH & Co KG, Wilhelm-Greil-Straße 16, 6020 Innsbruck, Austria

**AWM S.R.L.**

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**SCHNELL S.P.A.**

via Sandro Rupoli, 2, zona Ind. San Liberio 61036 Colli al Metauro (PU), Italy

PATENT AT ISSUE

European patent n. EP2726230

DECIDING JUDGE

This is an order by the judge-rapporteur Pierluigi Perrotti

SUBJECT-MATTER OF THE PROCEEDINGS request

under rule 262.1(b) RoP

SUMMARY OF THE FACTS

In relation to case n. 565453/2023 / UPC CFI n. 287/2023, on 1.11.2023 “A” lodged a request to the Registry under rule 262.1(b) RoP for having access to a copy of the application for preserving evidence and inspection filed on 23.8.2023 and of the corresponding order issued on 25.9.2023.

He argued that as a representative before the UPC, he was interested to see how the claim for an order for inspection pursuant to rule 199 RoP filed in the Milan Local Division was worded and argued, particularly since it seemed to be the first of this kind for the UPC and that would have been be of public interest for such argument to be made available for public scrutiny and discussion.

A preliminary order was delivered on 2.11.2023 inviting the parties to submit their comments and/or observations to the request, including any request pursuant to rule 262.2 RoP. Following this order, Progress Maschinen & Automation AG has lodged on the same date - 2.11.2023 - a document that was clearly referred to another proceeding, pending before the Munich Local Division.

In application of the general principle of fairness, considering what appeared to be - most likely - a factual error and considering also that the request under rule 262 RoP did not include any reason of urgency, with a second preliminary order - issued on 17.11.2023 - the parties were once again invited to submit their comments and or observations to this request, including any request pursuant to rule 262.2 RoP, within 23.11.2023.

Progress Maschinen & Automation AG filed a short note, dated 2.11.2023, declaring that *“Claimant has no objection to the application of Mr “A” provided that the name of the witness is redacted, and the written witness statement (enclosure C) is not disclosed.”*

GROUND FOR THE ORDER

In accordance with Rule 262.1(b) RoP, the judge-rapporteur is to decide on this kind of request, after consulting the parties.

The order issued on 25.9.2023 in relation to Act n. 565453/2023 - UPC CFI n. 287/2023 is already published on the UPC website, in accordance with Rule 262.1(a) RoP. Consequently, there is no need to adjudicate on the application in this respect.

Considering the full consent of the claimant, the request to have access to the application for preserving evidence and inspection filed on 23.8.2023 is granted.

It does not appear necessary to make the document confidential in the interest of other affected persons, or in the general interest of justice or public order. Therefore, the applicant shall be given access to the application for preserving evidence and inspection, after redaction of personal data within the meaning of Regulation EU n. 2016/679, with particular reference to the name of the witness and the contact details of all the experts, as mentioned in the application. Accordingly, Progress Maschinen & Automation AG is required to lodge a redacted version of its application.

The request of “A” is not extended to the Claimant’s exhibits, so the Court does not need to adopt any decision on this specific ground.

#### LEAVE FOR APPEAL

This order fits completely the parties’ request and submission. Therefore, leave to appeal shall not be granted.

#### **ORDER**

- “A” shall be given access to the application for preserving evidence and inspection lodged by Progress Maschinen & Automation AG on 23.8.2023 in Act n. 565453/2023 - UPC CFI n. 287/2023, after redaction of personal data within the meaning of Regulation EU n. 2016/679;
- there is no need to adjudicate on the request for access to the order delivered by the UPC Court of First Instance - Milano Local Division on 25.9.2023.

Milano, 4 December 2023.

the judge rapporteur  
*dott. Pierluigi Perrotti*

application n. 584786/2023 UPC CFI n. 287/2023

DECISION DETAILS

order on application n. 584786/2023

application type: application rule 262.1(b) RoP

main proceeding: Act. 565453/2023

UPC number: UPC CFI n. 287/2023