



Düsseldorf Local
Chamber
UPC_CFI_885/2025

**Order
of the Court of First Instance of the Unified Patent Court issued
on May 4, 2026
concerning EP 2 983 86A B1**

PETITIONER:

OTEC Präzisionsfinish GmbH, represented by its managing directors Helmut and Nico Gegenheimer and Soran Jota, Heinrich-Hertz-Straße 24, 75334 Straubenhardt Conweiler, Germany

represented by:

Attorney Klaus Haft, Attorney Joscha Torweihe, Attorney Antonia Wilhelm, HOYNG ROKH MONEGIER, Steinstraße 20, 40212 Düsseldorf and Theatinerstr. 7 / Entrance Maffeigasse, 80333 Munich, Germany

European Patent Attorney Steffen Lenz, Lichti Patentanwälte Partnerschaft mbB, Bergwaldstraße 1, 76227 Karlsruhe, Germany

Electronic service address:

klaus.haft@hoyngrokh.com

RESPONDENT:

STEROS GPA INNOVATIVE S.L., Calle Maracaibo 1, Nau 2, 08030, Barcelona, Spain

represented by:

Attorney Dr. Peter Koch, PENFORCE, Gabelsbergerstraße 9, 80333 Munich, Germany

Electronic service address:

peter.koch@penforce.eu

PATENT APPLICATION:

EUROPEAN PATENT NO. EP 2 983 864 B1

DECISION-MAKING BODY/CHAMBER:

Panel of the Düsseldorf Regional Chamber

JUDGES:

This decision was rendered by Presiding Judge Thomas as rapporteur, Judge Dr. Schumacher, who is qualified in law, and Judge Dr. Schober, who is qualified in law.

LANGUAGE OF THE PROCEEDINGS: German

SUBJECT MATTER: Art. 60(8) EPGÜ, 198.1, 199.2 Verfo — Motion to set aside an order for inspection and preservation of evidence

SUMMARY OF THE FACTS:

1. On September 22, 2025, the petitioner filed a motion for an order of inspection and preservation of evidence at the respondent's trade fair booth in advance of an intended main action.
2. On September 22, 2025, the Düsseldorf Local Chamber ordered the following without prior hearing of the respondent:

„I. The petitioner is permitted to have a “DLyte PRO500 Automated Cell” in working order at the respondent's trade fair booth at the EMO Hannover 2025 trade fair, which takes place from September 22, 2025, to September 26, 2025, at the exhibition grounds, Hermes Allee, 30521 Hanover, Germany, and

1. put the “DLyte PRO500 Automated Cell” into operation, whereby the respondent is instructed to enter any necessary passwords;
2. for the purpose and duration of the measurements of the motion sequence and rotational speed of the workpiece holder of the “DLyte PRO500 Automated Cell,” to attach a smartphone to the workpiece holder;
3. to make appropriate settings on the “DLyte PRO500 Automated Cell” to prevent distortion of the measurement results, in particular by deactivating the container's vibration unit;
4. select and activate a program on the “DLyte PRO500 Automated Cell” that sets the workpiece holder in motion for the purpose of measurement;
5. if provided by the “DLyte PRO500 Automated Cell,” configure and start a program that sets the workpiece holder in motion for the purpose of measurement;
6. Perform the measurement while the “DLyte PRO500 Automated Cell” is in operation;
7. repeat the measurement process as often as necessary until a sufficient measurement of the rotational speed and the motion sequence of the workpiece holder of the “DLyte PRO500 Automated Cell” has been obtained.

II. Should an on-site inspection pursuant to Section I not be possible, the applicant is permitted to provide one copy each of a “DLyte PRO500 Automated Cell” and all technical, promotional, and

commercial documents relating to the “DLyte PRO500 Automated Cell”—one copy of each—during the EMO Hannover 2025 trade fair, which takes place from September 22, 2025, through September 26, 2025, at the exhibition grounds, Hermes Allee, 30521 Hanover, Germany, and then have it inspected by an expert as described in Section I.

- III. The expert shall, within a period of two weeks following the completion of the measures specified in Sections I and II, prepare a detailed description of the “DLyte PRO500 Automated Cell” and submit it to the Chamber, which shall contain a detailed description of the features of the “DLyte PRO500 Automated Cell” relevant for assessing an infringement of the patent in suit.
- IV. The description prepared in accordance with Section III and all other results of the inspection and preservation of evidence may only be used in main proceedings against the respondent.
- V. The following person is appointed as an expert to carry out the aforementioned measures:

Patent Attorney Stephan Freischem, Salierring 47-53, 50677 Cologne.

He may be replaced by a European patent attorney working in the same law firm.

- VI. To assist the expert, bailiff Boxhorn is appointed as the expert’s assistant.

In the event that the bailiff is unable to carry out the inspection and the measures to preserve evidence, he may be replaced by a locally competent bailiff to be appointed by the petitioner.
- VII. In the interest of protecting the respondent’s trade secrets, which may come to light during the inspection and preservation of evidence, the expert and the bailiff are instructed to maintain confidentiality both toward the petitioner personally and toward third parties.
- VIII. During the execution of this order, in addition to the expert and the bailiff, the following representatives of the applicant shall be permitted to be present:
 - 1. Attorney Joscha Torweihe, EPG representative and the applicant’s designated legal representative in this matter from the law firm Hoyng ROKH Monegier, Steinstraße 20, 40212 Düsseldorf, or another attorney from the law firm Hoyng ROKH Monegier should Mr. Torweihe be unavailable;
 - 2. Mr. Steffen Lenz, patent attorney, EPG representative and patent attorney involved in this matter from the patent law firm Lichti, Bergwaldstraße 1, 76227 Karlsruhe, may be present during the measures requested under Section I, or another patent attorney from the patent law firm Lichti, should Mr. Lenz be unavailable.

Representative bodies, employees, or other staff members of the applicant may not be present during the execution of this order with regard to the inspection and preservation of evidence.

- IX. The respondent is ordered to cooperate in the execution of the measures for inspection and preservation of evidence pursuant to this order and, upon request, to grant the bailiff and the expert
1. to allow them, as well as the persons authorized to be present pursuant to Section VIII, to enter the respondent's exhibition booth at the EMO Hannover 2025 trade fair, which will take place from September 22, 2025, through September 26, 2025, at the exhibition grounds, Hermes Allee, 30521 Hanover, Germany, in order to carry out the inspection and preservation of evidence pursuant to this order;
 2. to grant unrestricted access to the "DLyte PRO500 Automated Cell," including the entry of passwords;
 3. to grant access to a part of the "DLyte PRO500 Automated Cell";
 4. to put the "DLyte PRO500 Automated Cell" into operation and set it to various operating modes;

and to instruct its managing directors and employees to comply with the requests of the bailiff or the expert.

- X. The persons involved in conducting the inspection and preserving evidence, and in particular the bailiff, the expert, and the applicant's legal representatives, are obligated to keep confidential from both third parties and the applicant any facts that come to their knowledge in the course of executing the entire order.

Furthermore, until the Unified Patent Court issues a release order, the aforementioned persons may not provide the applicant or third parties with access to the "DLyte PRO500 Automated Cell," any seized documents and products, or the detailed description to be prepared by the expert.

- XI. The respondent shall be requested to comment on any confidentiality interests it may have after the expert tasked with carrying out this order has submitted the detailed description to be prepared in accordance with Section III. The aforementioned representatives of the applicant, who were permitted to be present during the inspection and preservation of evidence, are to be heard. Only thereafter shall the court decide whether and to what extent the detailed description is to be personally disclosed to the applicant and whether the duty of confidentiality for the applicant's representatives is to be lifted.

- XII. The applicant is obligated to bear the costs of the inspection and preservation of evidence, including the preparation of the detailed description. The applicant is required to pay the expert a reasonable advance on costs, to be determined by the expert, prior to the commencement of the inspection, unless the expert waives such an advance.

- XIII. In the event of a culpable violation of this order, the court may impose a penalty payment on each party for each violation, the amount of which the court may determine taking into account the circumstances of the individual case.
- XIV. The measures for inspection and preservation of evidence shall be revoked upon the respondent's motion or shall otherwise lapse if the petitioner, within a period of no more than 31 calendar days or 20 business days, whichever is longer, after the written description of the applicant to be prepared pursuant to Section III has been disclosed or the court has decided by a final decision not to grant access to this description, files a lawsuit against the respondent.
- XV. This order shall be served in person by one of the applicant's representatives named in Section VIII, together with a copy of the application for this order, including the exhibits and other documents on which the application is based prior to or at the time of enforcement of this order, as well as the notice regarding provisional measures and instructions for access to the proceedings, without delay at the time of enforcement of the measures.

Service of these documents shall be effected by the bailiff in cooperation with the applicant's legal representative present at the inspection and preservation of evidence pursuant to Section VIII.1.

- XVI. In all other respects, the application for inspection and preservation of evidence is denied.

- 3. The order was executed on September 24, 2025, at the respondent's exhibition booth on the grounds of the Hannover Messe, Hall 11, Booth E38.
- 4. The expert commissioned by the Düsseldorf Local Chamber to conduct the inspection and preservation of evidence prepared the detailed description requested of him on October 8, 2025.
- 5. In a procedural order dated October 30, 2025, the presiding judge requested the respondent to assert any confidentiality interests by November 13, 2025.
- 6. Since the respondent did not avail itself of this opportunity, the reporting judge ordered on November 17, 2025, the release of the unredacted version of the detailed description prepared by the expert, including the annexes, and the confidentiality order to be found under Section X. of the order dated September 22, 2025, with respect to the facts contained in the expert's written description, including the annexes, in relation to the petitioner. At the same time, the reporting judge informed the petitioner that the measures for inspection and preservation of evidence pursuant to Section XIV of the order of September 22, 2025, shall be revoked upon the respondent's request or shall otherwise cease to be in effect if the applicant has not filed a lawsuit against the respondent within a period of no more than 31 calendar days or 20 business days, whichever is longer, after the written description to be prepared by the applicant has been disclosed.

7. In a brief filed on February 4, 2026, the respondent submitted a “Motion to Set Aside the Duty to Inspect and Preserve Evidence, and to Determine Liability for Compensation.”

MOTIONS OF THE PETITIONER:

8. The respondent requests:
 - I. The measures for inspection and preservation of evidence ordered by the decision of the EPG (Düsseldorf Regional Court) with Ref. No. UPC_CFI_885/2025, issued on September 22, 2025, concerning European Patent EP 2 983 864 B1, be set aside;
 - II. in the alternative (to I.), be declared null and void.
 - III. The applicant is ordered to (1) return to the respondent all evidence obtained as a result of the implementation of the ordered measures—regardless of its form—and (2) destroy any copies thereof, in particular
 - a. the English-language brochure DLyte PRO500 “Precise metal surface finishing for mass production”;
 - b. the expert’s written report dated October 8, 2025, including all attachments.
 - IV. The plaintiff is ordered to pay the defendant reasonable compensation for damages incurred as a result of these measures in the amount of EUR 11,390.00.
 - V. The plaintiff shall bear the costs of the proceedings.
9. The applicant contested the respondent’s claims for compensation, return, and destruction in a written submission dated April 2, 2026.

FACTS AND LEGAL ISSUES:

10. In the applicant’s view, the revocation of the ordered measures for inspection and preservation of evidence pursuant to Art. 60(9) EPGÜ, R. 198.2, 199.2, 354.2 EPGVerfO in conjunction with Art. 7(4) of the Enforcement Directive (see Recital 22), gives rise to an obligation on the part of the applicant to provide appropriate compensation to the respondent for the damage incurred as a result of these measures.
11. To determine the specific amount of compensation, a separate proceeding (Rule 125 VerfO) “may” be initiated. Nevertheless, it is within the court’s discretion to set the corresponding costs immediately. For reasons of procedural economy, the respondent considers it appropriate to decide on the motion for costs at this stage.
12. On this basis, the respondent calculates its claimed costs as follows:

a) Kosten der Vertretung durch Rechtsanwälte:

Rechtsanwalt Dr. Peter Koch: 10 Arbeitsstunden à 480,00 €

(für Beratung, Analyse zu besichtigende Vorrichtung; Abgleich Patentverletzung; Durchsicht und Analyse Gutachten; Beratung zu Rechtsbestands)

RA-GESAMT = EUR 4.800,00

b) Kosten der Vertretung durch Patentanwälte:

Patentanwalt Marc Wachenhausen: 12 Arbeitsstunden à 445,00 €

für Besprechungen mit der Antragsgegnerin; Bewertung der Technologie der angegriffenen Ausführungsform; Analyse Gutachten; Besprechungen mit vertretendem RA; Bewertung Schutzbereich und Rechtsbestand)

PA-GESAMT = EUR 5.340,00

c) Auslagen:

Übersetzungskosten: 1.250,00 € (Antragsschrift)

Auslagen -GESAMT= EUR 1.250,00

GESAMTKOSTEN = EUR 11.390,00

13. In the petitioner's view, the respondent has not incurred any damages eligible for compensation under R. 198.2 VerfO or Art. 60(9) EPGÜ. The claimed attorney's fees do not constitute damages in this sense. Furthermore, the amount claimed by the petitioner is also not comprehensible.
14. Insofar as the respondent demands the return of all evidence obtained as well as the destruction of copies, this request is unfounded simply because there is no legal basis for it. Furthermore, the petitioner has not substantiated its request in this regard.

GROUNDINGS FOR THE ORDER:

15. The order for revocation is based on Art. 60(8) EPGÜ, R. 198.1, R. 199.2 VerfO.
16. Pursuant to Art. 60(8) EPGÜ, the court shall ensure that the measures for the preservation of evidence are revoked or otherwise rendered ineffective upon the respondent's motion, without prejudice to any claims for damages, if the applicant does not, within a period — not exceeding 31 calendar days or 20 working days, whichever is longer — files a lawsuit with the court that leads to a decision on the merits.
17. Rule 198.1 of the VerfO, which applies mutatis mutandis pursuant to Rule 199.2 VerfO applies mutatis mutandis to the ordering of an inspection, specifies that an order for the preservation of evidence, upon the respondent's motion, shall be revoked or otherwise set aside, without prejudice to any claims for damages, if the petitioner does not file a lawsuit with the court within a period of 31 calendar days or 20 business days —whichever period is longer—from the date specified in the court order, taking due account of the date by which

the report pursuant to R. 196.4 VerfO is to be submitted, initiates the main proceedings in the matter before the court.

18. The conditions for setting aside the order pursuant to these provisions are met.
19. Pursuant to Section IVX of the order dated September 22, 2025, and Section III of the order dated
On November 17, 2025, the period specified in Rule 198.1 of the Rules of Procedure began to run upon the disclosure of the detailed description. This disclosure took place with the release order dated November 17, 2025.
20. The period of 31 calendar days or 20 working days thus expired on December 18, 2026, without the applicant having filed a main action.
21. On this basis, the order pursuant to R. 198.1, 199.2 VerfO was to be set aside. The order for the return and destruction or deletion of the detailed description as well as the prospectus mentioned in the operative part serves to remedy the consequences. It essentially follows the respondent's motion and is also based on the aforementioned provisions.
22. Insofar as the respondent, in its motion to set aside, simultaneously seeks payment of reasonable compensation, such a claim may find its basis in Art. 60(9) EPGÜ in conjunction with 198.2 VerfO. Accordingly, in the event of the revocation of an order for the preservation of evidence, the court may order the applicant to pay the respondent reasonable compensation for all damages incurred as a result of these measures. However, the applicant has failed to specify such damages. Insofar as she instead refers in this context to the costs she allegedly incurred in the course of the evidence preservation proceedings, these are costs that must be asserted in the context of a cost assessment proceeding pursuant to R. 151 et seq. VerfO, but not damages in the aforementioned sense. The Chamber has rendered the preliminary decision on costs necessary as the basis for such a cost assessment proceeding in this decision, in accordance with Rule 118.6 of the Rules of Procedure.

ORDER:

- I. The order for inspection and preservation of evidence dated September 22, 2025, is set aside.
- II. The petitioner and her legal and patent attorney representatives are ordered to return all evidence obtained as a result of the implementation of the ordered measures—regardless of its form—to the respondent and to destroy any copies, including all copies in their possession and all copies of the English-language brochure “DLyte PRO500 Precise metal surface finishing for mass production” obtained in the course of the preservation of evidence and inspection, as well as to irrevocably delete all digital copies of the aforementioned detailed description.
- III. The costs of the proceedings for the preservation of evidence and inspection shall be borne by the applicant.
- IV. In all other respects, the motion to set aside is denied.

Issued on May 4, 2026 NAMES
AND SIGNATURES

<p>Presiding Judge Thomas</p>	<p>Ronny Thomas Digitally signed voby Ronny Thomas Dan 04/30/2026 2:26:53 PM +02:00</p>
<p>Legally qualified judge Dr. Schumacher</p>	<p>Jule Kathri sch at at Digitally signed von Jule Kathrin Schumacher Datum: 04/30/2026 14:38:00 +02:00</p>
<p>Legally qualified judge Dr. Schober</p>	<p>Walte r Schob Digitally signed by Walter Schober Datum: May 1, 2026 07:53:20 +02:00</p>
<p>for the Assistant Registrar</p>	<p>LAURA CHANTAL DANIEL Digitally signed von LAURA CHANTAL DANIEL Datum: 205/02/04 07:25 +02:00</p>