

Order (R. 262.1 (b) RoP)
(replacing the Order of the same day cf R. 353 RoP Order)
of the Court of First Instance of the Unified Patent Court
Local Division Brussels
Issued on 4 May 2026
Concerning EP 3 401 335 B1

HEADNOTES

1. Although R. 262.1(b) UPCA does not explicitly allow for different approaches based on the nature of the proceedings, Article 45 UPCA states that proceedings may be kept confidential in the interest of one of the parties or in the general interest of justice.
2. Taking into consideration the specifics of the case, the interests of the parties involved and the general interests of justice and/or the integrity of the proceedings, access should only be granted to the redacted submissions leading to the orders and the review decisions in proceedings related to orders to preserve evidence/for inspection or review decisions related to such orders where no proceedings on the merits were subsequently introduced.
3. Allowing access to information, subject to an (agreed upon) EEO-regime, for which a request for destruction/return was pending but did not need to be adjudicated as the action was withdrawn, would contravene the general interest of justice (Article 45 UPCA) and/or the integrity of the proceedings.

KEYWORDS

Public Access to the Register (R. 262.1(b) RoP) - Orders to Preserve Evidence - Order for inspection

APPLICANTS:

SIMMONS & SIMMONS LLP

Represented by: O.V. Lamme
M.J. Timmerman

Hereafter referred to as: Applicant

IN THE PROCEEDINGS (UPC_CFI_407/2025 AND UPC_CFI_408/2025) BETWEEN

As Claimants/Applicants

GENENTECH INC.

F. HOFFMANN – LA ROCHE AG

Represented by: Rutger Kleemans, Freshfields LLP, Strawinskylaan 10 – 1077 XZ
Amsterdam (The Netherlands),

Co-Represented by: Nerissa Teeuwen (Freshfields LLP)
Hereafter referred to as: GENENTECH & ROCHE

AS DEFENDANTS:

ORGANON HEIST B.V.
NV ORGANON

Represented by: Judith Krens, Pinsent Masons Netherlands LLP (The Netherlands),
Gelrestraat 42-44 - 1079MZ - Amsterdam (The Netherlands)

Co-Represented by: Vural Ergisi (Pinsent Masons Netherlands LLP)
Alasdhair McDonald (Pinsent Masons Netherlands LLP)
Emily Flood (Pinsent Masons Netherlands LLP)

Hereafter referred to as: ORGANON

Both GENENTECH & ROCHE and ORGANON referred to hereafter as “*Respondents*”

LANGUAGE OF THE PROCEEDINGS: ENGLISH

SUBJECT MATTER OF THE PROCEEDINGS: Application for copies of written pleadings and evidence
(R.262.1 (b) RoP)

PANEL/LOCAL DIVISION

The Panel (LD Brussel) consists of the following judges:

Presiding Judge – Judge-Rapporteur / Legally Qualified Judge: Samuel Granata
Legally Qualified Judge: Petri Rinkinen
Legally Qualified Judge: Rute Lopes

DECIDING JUDGES:

This order is issued by the Mr. Samuel Granata (Judge-Rapporteur).

REFERENCES

For convenience, the Judge-Rapporteur will use the following abbreviations:

Actions	UPC_CFI_407/2025 (action related to order to preserve evidence) and UPC_CFI_408/2025 (action related to order for inspection) initiated by application dated
Applicant	SIMMONS & SIMMONS LLP
EEO	External eyes only
GENENTECH & ROCHE	GENENTECH INC. and F. HOFFMANN – LA ROCHE AG (claimants in the Actions)
ORGANON	ORGANON HEIST B.V. and NV ORGANON (defendants in the Actions)
Orders	The granted orders to Preserve Evidence (UPC_CFI_407/2025) and For Inspection (UPC_CFI_408/2025) issued on 30 May 2025
CMS	Court Management System
Request	The R. 262.1.(a) RoP request submitted on 3 April 2026 subject of this order
Requested Information	The information/documents subject of the Request and “ <i>identified</i> ” yellow-highlighting these documents in the screen-shots of the CMS (on p. 3 through 10 of the Request) and listed under §2 of this order.
Respondents	GENENTECH & ROCHE and ORGANON
Review Decisions	R. 197.3. RoP (review) decisions issued on 12 November 2025 in the Actions

I. REQUEST AND PROCEDURAL BACKGROUND

- On 3 April 2026, the Applicant requests that the Judge-Rapporteur make the written pleadings and evidence filed by the parties in relation to the Actions available, subject to the redaction of confidential information where appropriate. The Applicant provides the following reasons (3.2.-3.4. Request):

“The Applicant, as a member of the public, has a general interest that written pleadings and evidence of this Action are made available. Access to the written pleadings and evidence allows for a better understanding by the Applicant of the decisions rendered in the Action, in view of the arguments brought forward by the parties and the evidence relied upon.”

In particular, there is an interest in how the UPC and the parties to the proceedings using the UPC as a venue for evidence preservation and inspection measures, argue and assess requests for these measures and how the arguments are structured and presented, so as to allow the Applicant (and its employees) to develop their interests as UPC practitioners.

Access to these documents will further contribute to the Applicant’s professional development as a UPC practitioner and to the broader understanding of UPC practice and procedure.

- The Applicant provides screenshots from the CMS (8 pages in its Request) and highlights (in yellow) the relevant documents. The Requested information is listed hereunder:

	Document	Date
1	Order	12/02/2026
2	Exhibit Claimant	11/02/2026
3	Application Document Claimant	11/02/2026
4	Exhibit Document Claimant	30/01/2026
5	Application Document Claimant	30/01/2026
6	Other Document Defendant	10/12/2025
7	Further Pleadings	01/12/2025
8	Order	17/10/2025
9	Order	14/10/2025
10	R. 262 RoP	18/09/2025
11	R. 9 RoP	18/09/2025
12	2025 09 17 – conf. Request Organon R. 9 Application (R.262(2) RoP R.262A(1) (Signed)	17/09/2025
13	2025 09 17 – conf. Request Organon R. 9 Application (R.262(2) RoP R.262A(1) (Signed)	17/09/2025
14	Exhibit PM-001 – BE Bailiff report (NL and ENG) – Confidential RoP R.262A(1)	17/09/2025
15	Exhibit PM-002 – NL Bailiff report (NL and ENG) – Confidential RoP R.262A(1)	17/09/2025
16	2025 09 17 – Application destruction seized evidence (R. 9 RoP)(Confidential Signed)	17/09/2025
17	Exhibit PM-004 – Document 2 - Confidential RoP R.262A(1)	17/09/2025
18	Exhibit PM-005 Document 3 - Confidential RoP R.262A(1)	17/09/2025
19	Exhibit PM-003 – Document 1 - Confidential RoP R.262A(1)	17/09/2025

20	R. 197 (4) RoP	03/09/2025
21	Roche – Genentech – Further Written Comments in Review Request	29/08/2025
22	2025 08 20 – confidentiality request Organon re. Comments (Art. 58 R. 262(2) and R. 262A(1) (signed)	21/08/2026
23	2025 08 20 - Annex 1 – Witness Statement Eric Ceresa (Confidential)	20/08/2025
24	2025 08 20 - Organon further written comments Request for Review (CONFIDENTIAL – SIGNED)	20/08/2025
25	2025 08 20 - Roche Genentech Comments to Application (Redacted Version)	20/08/2025
26	2025 08 20 - Organon further written comments Request for Review (CONFIDENTIAL – SIGNED)	20/08/2025
27	2025 08 20 - Annex 1 – Witness Statement Eric Ceresa (Confidential)	20/08/2025
28	2025 08 20 - Roche Genentech Comments to Application (Redacted Version)	20/08/2025
29	2025 08 12 Comments Organon in App_33913-2025 and 22918-2025 (signed)	12/08/2025
30	2025 08 12 Comments Organon in App_33913-2025 and 22918-2025 (signed)	12/08/2025
31	R.262°	11/08/2025
32	2025 08 08 Application for Confidentiality of R. 9 RoP-application and exhibits (Signed)	08/08/2025
33	Exhibit PM-001 – BE Bailiff report (NL and ENG) – Confidential RoP R.262A(1)	08/08/2025
34	Exhibit PM-005 Document 3 - Confidential RoP R.262A(1)	08/08/2025
35	Exhibit PM-002 – NL Bailiff report (NL and ENG) – Confidential RoP R.262A(1)	08/08/2025
36	2025 08 08 Confidentiality Request Organon (Art. 58 R. 262(2) and R. 262A(1) (Confidential - signed)	08/08/2025
37	Exhibit PM-004 – Document 2 - Confidential RoP R.262A(1)	08/08/2025
38	Exhibit PM-003 – Document 1 - Confidential RoP R.262A(1)	08/08/2025
39	Written Comments	04/08/2025
40	Written Comments	04/08/2025
41	2025 08 01 – Comments on Confidentiality Order (Signed)	01/08/2025
42	Preliminary Order	01/08/2025
43	Exhibit PM-004 – Document 2 - Confidential RoP R.262A(1)	29/07/2025
44	Exhibit PM-001 – BE Bailiff report (NL and ENG) – Confidential RoP R.262A(1)	29/07/2025
45	2025 07 29 Confidentiality Request Organon (Art. 58 R. 262(2) and R. 262A(1) (Confidential - signed)	29/07/2025
46	Exhibit PM-003 – Document 1 - Confidential RoP R.262A(1)	29/07/2025
47	Exhibit PM-002 – NL Bailiff report (NL and ENG) – Confidential RoP R.262A(1)	29/07/2025
48	Exhibit PM-005 Document 3 - Confidential RoP R.262A(1)	29/07/2025
49	Staying Procedure	28/07/2025
50	Staying Procedure	28/07/2025
51	Comments Application for Review	28/07/2025
52	Request for Scheduling Oral Hearing	25/07/2025
53	Exhibit 2 – EMA Procedural Advice for users of centralized procedure	25/07/2025
54	Request to Review Orders 23121/2025 and 23125/2025	25/07/2025
55	Exhibit 1 – Expert Opinion of Dr Uwe Gottschalk	25/07/2025
56	Exhibit 1.1. – cv of Dr. Uwe Gottschalk	25/07/2025
57	Exhibit FS35 – Seized Document “plan”	23/07/2025
58	Exhibit FS34 – Bailiff report Heist	23/07/2025
59	Application for Preliminary Payments and Remedy Request	23/07/2025
60	Exhibit FS33 – Bailiff report Oss	23/07/2025
61	Headnotes - Keywords	20/07/2025
62	Request for Clarification Deadline initiation merits proceedings	17/07/2025
62	FS31	23/06/2025
63	Brief re sharing of documents with experts	23/06/2025

64	FS32	23/06/2025
65	Summon Oral Hearing	10/06/2025
66	Oral Hearing R.194.1.c. 23/05/2025	26/05/2025
67	Oral Hearing R.194.1.c. 23/05/2025	26/05/2025
68	FS29	23/05/2024
69	Brief 23 May 2025	23/05/2025
70	FS30	22/05/2025
71	Brief re ex parte hearing attendees and request	18/05/2025
72	FS28	18/05/2025
73	Brief	18/05/2025
74	R. 194 (1)(c)RoP	15/05/2025
75	FS04	06/05/2025
76	FS26A	06/05/2025
77	FS27A	06/05/2025
78	FS25D	06/05/2025
79	FS22	06/05/2025
80	FS11	06/05/2025
81	FS25C	06/05/2025
82	FS18	06/05/2025
83	FS19	06/05/2025
84	FS23A	06/05/2025
85	FS08A	06/05/2025
86	FS21	06/05/2025
87	FS06	06/05/2025
88	FS15	06/05/2025
89	FS05	06/05/2025
90	FS12	06/05/2025
91	FS07	06/05/2025
92	FS01	06/05/2025
93	FS23B	06/05/2025
94	FS17	06/05/2025
95	FS14	06/05/2025
96	FS25A	06/05/2025
97	FS03	06/05/2025
98	FS27B	06/05/2025
99	FS13	06/05/2025
100	FS20	06/05/2025
101	FS08B	06/05/2025
102	FS10	06/05/2025
103	FS25B	06/05/2025
104	FS26B	06/05/2025
105	FS24	06/05/2025
106	FS16	06/05/2025
107	Application	06/05/2025
108	FS02	06/05/2025
109	FS09	06/05/2025

3. The Judge-Rapporteur set out a procedural agenda, allowing Respondents to submit their final comments on 23 April 2026.

4. GENENTECH & ROCHE requests as follows:

5.1 Dismissal of Applicant's request

43. (...)Roche respectfully requests that the Court dismiss the Access Request in its entirety.

44. In the alternative, if the Court were minded to grant access to any part of the Requested Information, Roche respectfully requests that:

- a) access be limited strictly to documents that qualify as "written pleadings and evidence" within the meaning of Rule 262.1(b) RoP;
- b) access be limited to redacted versions of such documents, ensuring that all confidential information, trade secrets, and personal data are excluded; and
- c) leave to appeal be granted, in the event access to any submissions or evidence is ordered.

5.2 Conditional request

45. In the event the Court decides to grant the Access Request in whole or in part, Roche hereby conditionally requests the Court to afford Roche a period of no less than fourteen days following such decision to review the relevant documents and submit confidentiality requests under Rule 262.2 RoP, together with proposed redacted versions of the documents concerned.

46. This conditional request is reasonable and does not cause any prejudice to the Applicant. The Applicant's stated purpose is professional development, which by its nature does not involve any urgency. There is no upcoming deadline in related proceedings, no parallel litigation, and no other circumstance requiring immediate access to the materials. In contrast, the volume of the Requested Information is substantial and the preparation of appropriately redacted versions is a time-consuming exercise – the cost and burden of which, as the Court of Appeal has confirmed, cannot be recovered through an award of costs in access proceedings.

47. Consequently, procedural fairness and efficiency require that Roche be afforded adequate time to protect its legitimate confidentiality interests.

5. ORGANON requests as follows:

24. The Applicant's request is to be denied. If allowed, access should be limited to the documents listed in paragraph 15 above (this should be read as paragraph 16 – clerical mistake), in redacted form, where available, and without exhibits.

25. If the Court were to grant further access to the case file in the Action, such access should only be limited to documents in relation to a specified point of law to which the Applicant could have an interest as a UPC practitioner. Such access should, again, be restricted to documents without annexes thereto, where available in redacted form.

In paragraph 16 the following documents are listed:

- the application for the Action of 6 May 2025;
- the application for review of 25 July 2025;
- the comments submitted by GENENTECH & ROCHE on 4 August 2025;

- the comments submitted by ORGANON on 20 August 2025; and
- the comments submitted by GENENTECH & ROCHE on 29 August 2025.

III. PARTIES' POSITION AND ARGUMENTS

6. The Applicant argues as follows:

- The Request is reasoned in the sense of R. 262.1 (b) RoP
- Confidentiality is protected as it requests only access to redacted documents.
- There is a general interest in access (and this to allow a better understanding of the decision rendered). Even if no decision is rendered (settlement) the same applies and this to get insight in the handling of the dispute by the Court.
- The balancing of the interest in the Request should weigh in favour of granting access to the proceedings. The Applicant argues that:
 - A. The request is not abusive
 - B. Security interests are not at stake
 - C. Protecting of the integrity of the proceedings is no longer an issue
 - D. The protection of confidential information is acknowledged and respected
 - E. The protection of personal data is acknowledged and respected
- Applicant's Request fulfils the requirements of a reasoned request. In this line of arguments the Applicant holds that the Request is sufficiently specific and not ambiguous.
- Applicant has an interest in access to all written submissions including exhibits.
- It would be impracticable and impossible to provide a more limited selection. Here the Applicant mainly argues that as it no access to the documents and as such cannot assess the relevance of such documents.
- The Applicant's interest is sufficient and supported by case law.
- No other interest weigh against granting access to the submissions and exhibits.
- The Respondents' interests in protecting confidential information are sufficiently protected.
- The Applicant's Request does not constitute scoping activity
- The nature of evidence proceedings does not preclude granting access.

7. GENENTECH & ROCHE argues first that the nature of the Actions demands that the principle of public access should be limited.

Further, GENENTECH & ROCHE argues that the Request do not fulfil the requirements to be met. This argumentation is structured as follows:

- the requested documents do not qualify as "*written pleadings and evidence*". Under this line of argument the following documents are assessed (1) Court orders decisions fall under R. 262.1(a) RoP and not R. 262.1(b) RoP (2) Details of ex-parte hearings, (3) administrative documents, receipts, cover sheets and Registry communication, and (4) communication between parties and the Court.
- the documents are in their nature out of scope of access requests. Under this line of arguments GENENTECH & ROCHE the following documents are assessed (1) communications relating to settlement and closure of proceedings, (2) seized material and bailiff reports (3) materials subject to R. 262A RoP confidentiality orders.
- the request is not reasoned by indicating that the documents to which access is sought are not only sufficiently specified, but the request neither specifies the purpose of the

request and explains why access to the identified documents is necessary for that purpose. As such the JR cannot perform the required balanced of interests.

- the stated purpose does not justify the breadth of the Request.
- the balancing of interest weighs decidedly against granting the Request, particularly given the breadth of the request, the absence of adequate reasoning and the sensitive nature of the materials sought.

8. ORGANON argues that the Request should be denied in its entirety.

If not, it can only be allowed for a very limited number of documents and such access must protect ORGANON's confidential information. This is broken down to following arguments:

- Applicant's interest in a better understanding of the decisions rendered (par. 3.2 of the Request) does not outweigh ORGANON's interest in protecting its confidential information and could only allow access to very few specific documents. The specific documents to understand the Review Decisions are the following:
 - the application for the Action of 6 May 2025;
 - the application for review of 25 July 2025;
 - the comments submitted by GENETECH-ROCHE on 4 August 2025;
 - the comments submitted by Organon on 20 August 2025; and
 - the comments submitted by GENETECH-ROCHE on 29 August 2025.
- Applicant's interest in how the UPC and the parties assess and argue requests for inspection and preservation of evidence (3.3) and its interest in a broader understanding of UPC practice and procedure (3.4) is not sufficiently reasoned to warrant access

II. LEGAL FRAMEWORK AND GUIDELINES CoA UPC

9. The legal framework relevant for assessing the Request comprises, besides the extensive confidentiality warranties with regard to an order to preserve evidence and for inspection (R. 194.5 RoP, R. 196.1. RoP, 197.4 RoP and R. 199.1. Rop), (i.a.) is the following:

Art. 45 UPCA:

"The proceedings shall be open to the public unless the Court decides to make them confidential, to the extent necessary, in the interest of one of the parties or other affected persons, or in the general interest of justice or public order."

R. 262.1 RoP:

1. Without prejudice to Articles 58 and 60(1) of the Agreement and subject to Rules 190.1, 194.5, 196.1, 197.4, 199.1, 207.7, 209.4, 315.2 and 365.2, and following, where applicable, redaction of personal data within the meaning of Regulation (EU) 2016/679 and confidential information according to paragraph 2

(a) decisions and orders made by the Court shall be published,

(b) 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; the decision is taken by the judge-rapporteur after consulting the parties.

2. (...)

10. Both parties refer extensively to the relevant decision of the UPC Court of Appeal, issued on 10 April 2024 (UPC_CoA_404/2023), hereafter referred to as "*Ocado v Autostore*", specifically to § 43 and 44:

43. When a request to make written pleadings and evidence available to a member of the public is made pursuant to R.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 Art. 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 are not limited thereto. The general interest of justice and public order also have to be taken into account. The general interest of justice includes the protection of the integrity of proceedings. Public order is at stake e.g. when a request is abusive or security interests are at stake.

44. To allow the judge-rapporteur to balance all the interests set forth in Art. 45 UPCA, the applicant of a R.262.1(b) RoP request must set out the reasons why he has an interest to obtain access to the written pleadings and evidence. It follows that "reasoned request" in R.262.1(b) RoP means a request that not only states which written pleadings and evidence the applicant wishes to obtain, but also specifies the purpose of the request and explains why access to the specified documents is necessary for that purpose, thus providing all the information that is necessary for the judge-rapporteur to make the required balance of interests mentioned in Art. 45 UPCA. This includes but is not limited to an assessment whether the request is abusive or not. Nor are the reasons only relevant when determining whether there is a need to keep information confidential.

11. Art. 10 and 45 UPCA lay down the general principle that the register is public and proceedings are open to the public, unless the balance of interests involved is such that they are kept confidential which means that such access by the public is to be denied (*Ocado v Autostore* § 39-41). Therefore, restricting access is the exception and granting access is the general rule.
12. In order to enable the Judge-Rapporteur to weigh up the interests set out in Art. 45 UPCA, the R. 262.1(b) RoP applicant must provide reasons for granting access. This reasoned request provides the Judge-Rapporteur with the relevant information (i.e. the reasons for requesting access and the relevant documents), enabling him to weigh the interest in gaining access to the case file against the interests mentioned in Art. 45 UPCA, and assess the following questions/issues:
- Is the request abusive (related to general interest of justice)?
 - Are there security interests at stake (related to public order)?
 - Is the integrity of the proceedings protected (related to general interest of justice)?
 - Should confidential information be protected?
 - Should personal data be protected?
13. Furthermore, when considering the aforementioned interests the UPC Court of Appeal stated that the public (law firms being part of the public – cf. UPC Court of Appeal, 22 December 2025, *Insulet v EOFlow* (UPC-COA-0000886/2025), §. 10.) has generally an interest in written

pleadings and evidence being made available. This allows for a better understanding of the decision, in view of the arguments brought forward by the parties and the evidence relied upon (see headnote *Ocado v Autostore*).

14. In a recent decision the LD Munich (UPC_CFI_1234/2025 dated 26 March 2026) stated that “for the training and advisory interest of a law firm justifying third-party access to the file under R. 262.1 (b) RoP, an abstract assessment is required” and further that “an applicant does not need to specifically set out and justify which information it seeks to obtain and why it is significant or necessary for its training and advisory purpose”. An appeal is pending (UPC-CoA-53/2026).

III. GROUNDS

15. Under II.A., and before going into the more specific objections formulated by the Respondents and weighing up the interests against these objections, the Judge-Rapporteur will set off the guidelines and general principles articulated by UPC Court of Appeal against:
- the procedural background of the Actions, and
 - the nature of the Actions (being an action to preserve evidence/for inspection)
16. After delimiting the general right to access, if necessary, the Judge-Rapporteur will consider the specific objections raised by the Respondents and further weigh up the respective interests (under II.B.).

III.A. Setting off the legal framework and guidelines regarding a R. 262.1.(b) RoP application against the specific procedural background and the nature of an order to preserve evidence/for inspection

III.A.1. Procedural background of the Action

17. The Judge-Rapporteur refers to the procedural background in the Review Decisions, cited below for convenience:
1. *GENENTECH & ROCHE filed their Applications on 6 May 2025 against the following defendants:*
 - *Defendant 1: ORGANON US*
 - *Defendant 2: ORGANON BE*
 - *Defendant 3: ORGANON NL*
 - *Defendant 4: HENLIUS*
 2. *On 15 May 2025, the Judge-Rapporteur issued procedural orders summoning GENENTECH & ROCHE to an oral hearing by video conference on 23 May 2025 (see §4).*
 3. *In a letter dated 18 May 2025, GENENTECH & ROCHE informed the Court that ORGANON US had initiated invalidity proceedings on 7 May 2025 against GENENTECH*

regarding BE 335 in the Netherlands (before the District Court in The Hague). GENENTECH & ROCHE introduced the writ of summons as an additional exhibit (FS28). This was followed by a letter dated 22 May 2025, in which GENENTECH & ROCHE introduced an additional request to allow them to use the outcome of the Orders in the aforementioned parallel proceedings in the Netherlands (see §26).

4. During the oral hearing of 23 May 2025, the Judge-Rapporteur discussed (i.a.) the following issues:

- Additional information related to R. 194.2(c) RoP.
- Actual plan of execution of the order to preserve evidence/for inspection on two locations.

Further, the Judge-Rapporteur requested an additional exhibit (a copy of CN 057). Applicants uploaded this additional exhibit in the CMS.

5. On 30 May 2025, the Court issued the Orders.

6. The Orders were executed on 27 June 2025 in Heist-op-den-Berg (Belgium) (for ORGANON BE) and Oss (The Netherlands) (for ORGANON NL).

7. On 25 July 2025, ORGANON introduced their Applications for Review.

8. On 28 July 2025, the Court issued provisional procedural orders, including one that scheduled the round of written submissions. Although the Court proposed a semi-virtual hearing on 4 September 2025, to be held in the physical presence of the president of the LD Brussels and the representatives of the parties, indicating that a physical hearing in the presence of the full panel could only be organised for October or November 2025, the parties requested a physical hearing. The subsequent procedural order set the oral hearing for 21 October 2025.

9. Following the execution of the Orders and/or Applications for Review, a number of applications and proceedings were introduced. The pending workflows on 25 August 2025 are summarised below:

UPC_CFI	Application/Action Cms (Old)	Subject Matter
UPC_CFI_407/2025	Act_21478/2025	Order to preserve evidence introduced by GENENTECH & ROCHE on 6 May 2025 Order (Ord_23125/2025) issued on 30 May 2024 and executed 27 June 2025
	App_33545/2025	Application for Penalty Payment and Remedy Request introduced by GENENTECH & ROCHE on 23 July 2025
	App_(no number)	Application for confidentiality introduced by GENENTECH & ROCHE on 24 July 2025
	App_33781/2025	Application for review (order to preserve evidence) introduced by ORGANON on 28 July 2025
	App_33913/2025	Application for protection of Confidential Information introduced by ORGANON on 29 July 2025
	App_34515/2025	R. 262A RoP confidentiality introduced by ORGANON on 8 August 2025
	App_34496/2025	Generic Application ((linked with App_34515) (Confidentiality Request)) introduced by ORGANON on 8 August 2025
	App_35260/2025	Confidentiality request linked to App_33781 introduced by ORGANON on 21 August 2025
UPC_CFI_408/2025	Act_21486/2025	Order of Inspection introduced by GENENTECH & ROCHE on 6 May 2025

		<i>Order (Ord_23121/2025) issued on 30 May 2024 and executed on 27 June 2025</i>
	<i>App_33550/2025</i>	<i>Application for Penalty Payment and Remedy Request introduced by GENENTECH & ROCHE on 23 July 2025</i>
	<i>App_(no number)</i>	<i>Application for confidentiality introduced by GENENTECH & ROCHE on 24 July 2025</i>
	<i>App_33676/2025</i>	<i>Request for Review (order for inspection) introduced by ORGANON on 28 July 2025</i>
	<i>App_33918/2025</i>	<i>Application for protection of Confidential Information introduced by ORGANON on 29 July 2025</i>
	<i>App_34505/2025</i>	<i>R. 262A RoP confidentiality introduced by ORGANON on 8 August 2025</i>
	<i>App_34498/2025</i>	<i>Generic Application (linked with App_34505 (Confidentiality Request) introduced by ORGANON on 8 August 2025</i>
	<i>App_35271/2025</i>	<i>Confidentiality request linked to App_33676 introduced by ORGANON on 21 August 2025</i>

10. *By procedural orders (Ord_35442/2025 and Ord_35443/2025), dated 25 August 2025, the Court decided to stay the proceedings in the above-mentioned applications (workflows), except for the Review Proceedings, until a final decision has been issued in the Review Proceedings.*
11. *On 17 September 2025, ORGANON introduced additional R. 9 RoP applications (App_36857/2025 and App_36859/2025) with the following main request:*
A. Order that counsel for Roche is to destroy all physical copies and (permanently) delete all digital copies of the Seized Documents and Bailiff Reports in their possession and to maintain strict confidentiality of such documents up to the moment of such deletion and destruction
- Based on the parties' comments, the Court ordered, in its preliminary procedural orders dated 30 September 2025, that the proceedings in App_36857/2025 and App_36859/2025 be stayed, in line with the orders in Ord_35442/2025 and Ord_35443/2024, dated 25 August 2025, and this, specifically, until a final decision has been issued in the Review Proceedings.*
12. *On 20 October 2025, the Court received a R. 9 RoP application requesting the replacement of an exhibit that had been filed incorrectly (see §37-38).*
13. *On 21 October 2025, the Review procedure was pleaded before the LD Brussels. (...)*
18. The Review Decisions mention further requests relating to the execution of the orders and/or the information gathered in executing the Orders (see § 83 and 84 Review Decisions):
83. *When outlining the procedural background, the Court provided an overview of the pending applications. As a new CMS (new) was introduced on 26 September 2025 that does not follow the workflow-setup of the CMS (old), it seems opportune, from a procedural efficiency point of view, to streamline these pending applications/procedures.*
84. *Issues and requests relating to the execution of orders will be grouped together (even if they form part of applications regarding confidentiality, which have no direct bearing on a confidentiality assessment). In practice, this means that requests in the following workflows (old CMS) will be dealt with in a single subsequent order:*

UPC_CFI	Application	Subject Matter
UPC_CFI_407/2025 UPC_CFI_408/2025	App_33545/2025 App_33550/2025	<p>Application for Penalty Payment and Remedy Request introduced by GENENTECH & ROCHE on 23 July 2025</p> <p><u>Request:</u></p> <ol style="list-style-type: none"> impose the periodic penalty payments provided for in term (vi) of the Order, i.e. the cumulative maximum of € 5,000,000 for every hour of non-compliance; and to order (ORGANON BE and ORGANON NL) to provide access to, or produce, the evidence covered by the Order and reiterated under 5.1 of this application that [...], and to impose new periodic penalty payments of €400,000 per hour of continued noncompliance, up to a cumulative maximum of €10,000,000, or such other amount as the Court deems appropriate to ensure effective enforcement of its Order.
UPC_CFI_407/2025 UPC_CFI_408/2025	App_33781/2025 App_33676/2025	<p>Application for review (order to preserve evidence) introduced by ORGANON on 28 July 2025</p> <p><u>Request:</u></p> <ol style="list-style-type: none"> For the reasons set out above and in the Exhibits to this review, (ORGANON) requests that the Order is set aside in its entirety, any and all documents are returned to (ORGANON) and copies destroyed, and that the documents and their details shall not be passed to (GENENTECH & ROCHE) or used or referred to in any litigation. Alternatively, (ORGANON) requests that the Order is modified and that the bailiff is ordered to immediately return and/or destroy all copies of any documents which the Court deems to have been obtained illegitimately or which are considered to be irrelevant in establishing the (GENENTECH & ROCHE)'s allegation of there being an imminent threat of (ORGANON) infringing the Patent.
UPC_CFI_407/2025 UPC_CFI_408/2025	App_33913/2025 App_33918/2025	<p>Application for protection of Confidential Information introduced by ORGANON on 29 July 2025</p> <p><u>Request:</u></p> <p>Primarily:</p> <p>Order that <u>none</u> of</p> <ol style="list-style-type: none"> The NL Bailiff and BE Bailiff report; and The Seized Documents The expert report(s) (to the extent that they were drafted) <p>can be made accessible to Claimants or used in legal proceedings, such in accordance with Art. 58 UPCA and R. 262A.1 RoP; and order that within 2 business days, any and all of a., b. and/or c. above, as far as already obtained by outside legal counsel for the Claimants, is to be permanently destroyed and, in case of digital copies, permanently deleted;</p>
UPC_CFI_407/2025 UPC_CFI_408/2025	App_36857/2025 App_36859/2025	<p>Generic Application (for the destruction and deletion of confidential information) introduced on 17 September 2025</p> <p><u>Request:</u></p>

		<p>A. Order that counsel for (GENENTECH & ROCHE) is to destroy all physical copies and (permanently) delete all digital copies of the Seized Documents and Bailiff Reports in their possession and to maintain strict confidentiality of such documents up to the moment of such deletion and destruction;</p>
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In order to assess the requests made in the aforementioned workflows, the Court sets the following dates for additional and/or concluding written comments: (...)

- 85. *Issues and requests relating to the assessment of the applications based on R. 262A RoP, and specifically to the confidential nature of the seized documents and the level of confidence (including the establishment of a confidentiality circle), will be grouped together but will be put on hold (stayed) until the orders mentioned in §84 are issued and parties are given the opportunity to comment as to be determined in a separate procedural order.*
- 86. *Parties are informed that up till then (issuance of definite order as referred to in §85), access to the preserved/gathered information/evidence is limited to the representatives of the parties and the appointed experts.*
- 19. In its Review Decisions, the Court only assessed the requests relating to the review.
- 20. Ultimately, the Actions were withdrawn, after which a decision was issued on 4 Februarys follows:
 - 1. *Allows the withdrawal of the pending proceedings under UPC_CFI_407/2025 and UPC_CFI_408/2025.*
 - 2. *Declares the proceedings under UPC_CFI_407/2025 and UPC_CFI_408/2025 closed (R. 265.2(a) RoP).*

III.A.2. General Purpose of an order to preserve evidence/for inspection and articulation thereof in the Orders and Review Decisions

(i) Purpose of an order to preserve evidence/for inspection

- 21. In its Review Decisions the Court referred to “*The general purpose of an order to preserve evidence/for inspection*” (see headnote 4) as follows:
 - a) *Enable an applicant who has "presented reasonably available evidence to support the claim" to access additional information (evidence) that is not publicly available (and, if necessary, protected by a confidentiality order) in order to prove the infringement and/or the acts constituting infringement, and*
 - b) *If granted, and based on the preserved/gathered information (evidence), enable the applicant to evaluate the reliable prospects of success in initiating subsequent infringement proceedings. More specifically, the applicant is brought in the position to evaluate whether:*
 - (i) *to initiate provisional measure proceedings in accordance with the "no unreasonable delay" condition set out in Rule 211.4 RoP;*

- (ii) *to initiate a procedure on the merits, in accordance with R. 13.1(I)(i) RoP, which refers to an indication of the facts relied upon, particularly the "alleged or threatened infringement",*
- (iii) *not to initiate proceedings where there would be insufficient evidence of infringement or threatened infringement.*

22. The above highlights that the general purpose of the Actions was to enable GENENTECH & ROCHE to evaluate the prospects of success in initiating subsequent proceedings on the merits.

Such evaluation is a "*personal*" (in a legal, strategic and commercial sense) assessment by GENENTECH & ROCHE based on the information gathered and/or the lack thereof.

(ii) *Use of gathered information/evidence upon execution of orders to preserve evidence/for destruction*

23. As proceedings regarding orders to preserve evidence/for inspection are extraordinary and invasive, the use of evidence is strictly limited in terms of time and purpose. This is articulated in R.198.1 RoP as follows:

1. The Court shall ensure that an order to preserve evidence is revoked or otherwise cease to have effect, upon request of the defendant, without prejudice to the damages which may be claimed, if, within a time period not exceeding 31 calendar days or 20 working days, whichever is the longer, from the date specified in the Court's order with due account to the date where the Report referred to in Rule 196.4 shall be presented, the applicant does not start proceedings on the merits of the case before the Court.

24. The Court articulated these concerns in its Review Decisions as follows:

(...)

5. Time-Limits procedure on the merits

Orders proceedings on the merits to be initiated taking into the consideration the term stipulated under R. 198 (1) RoP and this from the date of execution of the order to preserve evidence (ACT_21478/2025) (UPC_CFI_407/2025) and/or the order for inspection (ACT_21486/2025) (UPC_CFI_408/2025).

(...)

7. Use of the outcome of the executed orders

Allows the use of the outcome of the measures in other proceedings than the proceedings on the merits of the case (limited to the Dutch proceedings initiated before the District Court The Hague on 7 May 2025).

25. Regarding the proceedings initiated before the District Court of The Hague on 7 May 2025, the Judge-Rapporteur was not provided information on whether these proceedings are still pending, have been withdrawn or settled, and/or confidentiality circles were established. Therefore, the Judge-Rapporteur disregards these proceedings in his further assessment.

(iii) Confidentiality regime regarding gathered information/evidence upon execution of orders to preserve evidence/for destruction

26. Further, due to the nature of such proceedings, the RoP provide extensive confidentiality safeguards (see R. 194.5 RoP, R. 196.1. RoP, 197.4 RoP and R. 199.1. Rop).
27. The Court articulated these conditions/safeguards throughout the Actions in such a way (upon agreement of the Respondents) to only allow access to information/evidence (either used in the proceedings either gathered after the execution of the orders) as well as the expert reports itself to the representatives (EEO-regime) as follows:

In the Orders:

4. Confidentiality

Orders that access to all information gathered by the appointed experts during the execution of the order(s), as well as to the expert report itself, shall be limited to the representatives of the parties. Subsequently, a "confidentiality circle" will/could be established in order to identify the relevant information for the purposes of this order, as well as the information that should be considered "confidential" (in accordance with UPCA, RoP and Trade Secret Directive) and should be kept confidential in the sense that access is limited to identified persons.

In its order dated 11 Augusts 2025:

Orders that all documents attached to this application (App_34505/2025 and App_34515/2025)(and/or App_34496/2025 and App_34498/2025) as well as the unredacted version of the application itself, be accessible only to the representatives of GENENTECH INC and F. HOFFMANN – LA ROCHE AG in these proceedings for the sole purpose of responding to the requests in this application (App_34505/2025 and App_34515/2025)(and/or App_34496/2025 and App_34498/2025). Access to mentioned unredacted documents is strictly prohibited from being disclosed or shared with clients or third parties, and the information contained in these documents may not be used for any purpose other than exercising the right to defend themselves in these proceedings.

Finally, in the Review Decisions the Court decided to stay “the procedures related to the requests made by the parties related to R. 262(A) RoP and this until an order has been issued related to the requests made listed in §84 of this order”. Under §85 Review Decisions the following was stated regarding access to information/evidence:

86. Parties are informed that up till then (issuance of definite order as referred to in §85), access to the preserved/gathered information/evidence is limited to the representatives of the parties and the appointed experts.

28. As mentioned some of the (pending) requests introduced by ORGANON in the Actions relate to the destruction of or returning the gathered information (see §84 Review Decisions).

29. The Actions were withdrawn, the Court did not have to rule on the pending requests for penalties and remedies (R. 9 RoP and R. 354 RoP), nor on the requests for the destruction of documents (R. 9 RoP).

Furthermore, access to confidential information, as well as to the preserved and gathered information and evidence, remained limited to the representatives of the parties and the appointed experts (see §18 with overview §84 and 86 Review Decisions).

- (iv) Fundamental rights taken into consideration when issuing an order to preserve evidence/for inspection

30. When granting an order to preserve evidence/for inspection, several fundamental rights need to be weighed and balanced. In the Orders articulated as follows:

§36 (...) The following fundamental rights should be weighed and balanced when setting the standard of proof regarding measures to preserve evidence / for inspection:

- *the fundamental rights of an applicant for such orders (right to a fair trial (Art. 6 ECHR)(i.a. right to gather evidence, right of access to the court/judiciary (Art. 47 CFR)) and the right to protection of property (Art. 1 Protocol to the ECHR and Art. 17 CFR)*
- *the fundamental rights of the defendants for such orders (right to a fair trial (Art. 6 ECHR)(right of inter partes and public hearing, right of defence and prohibition of self-incrimination), right to privacy (Art. 8 ECHR), right to freedom of enterprise (Art. 16 ECHR) and right to protection of property (Art. 1 Protocol to ECHR + Art. 17 CFR)).*

31. Based on the weighing and balancing exercise, a procedural and confidential playing field was created in which the rights of the Respondents in the Action.

III.A.3. Limitation of the general principle of access to written pleadings and evidence related to orders to preserve evidence/for inspection taking into consideration the specifics of the Action

32. Although R. 262.1(b) UPCA does not explicitly allow for different approaches based on the nature of the proceedings, Article 45 UPCA states that proceedings may be kept confidential in the interest of one of the parties or in the general interest of justice. The UPC Court of Appeal has added the notion of "*integrity of proceedings*", which the Judge-Rapporteur understands to reflect concerns relating to the specific nature of proceedings in a comprehensive procedural framework.

33. When assessing a request for access to legal proceedings in general (R. 262.1.(b) RoP), a tension arises between transparency and confidentiality, which intensifies when considering the specific nature of the proceedings subject of the request for making available evidence and exhibits (in this case: orders to preserve evidence/for inspection).

34. Taking into consideration the specifics of the case, the interests of the parties involved and the general interests of justice and/or the integrity of the proceedings, the Judge-Rapporteur holds that access should only be granted to the redacted submissions leading to the Orders and the Review Decisions and this based on the following reasoning:
- Orders granting measures to preserve evidence/for inspection, if not followed by actual proceedings on the merits before the Court, are considered to be revoked or otherwise cease to have effect (Rule 198.1 RoP). The revocation or ceasing to have effect of such orders influences the rights to use the information used to obtain the granted measures, as well as the rights of third parties seeking access to the evidence gathered after execution of the orders. The revocation and ceasing to have effect should be interpreted liberally, due to the nature of such proceedings, in the sense that they pertain to any other documents used or gathered during these proceedings.
 - It is in the general interest of justice (Article 45 UPCA) and/or the integrity of the proceedings related to orders to preserve evidence/ for inspection that a procedural and confidential playing field is created during the proceedings. This procedural and confidential playing field is created with the fundamental rights of the parties in mind (see §31) and should be maintained if no proceedings on the merits are initiated. The boundaries of this procedural and confidential playing field could change if the applicant decides to introduce proceedings on the merits, as the right of access would be weighed differently, especially if the used and gathered evidence during proceedings related to orders to preserve evidence/ for inspection would become part of the proceedings on the merits.
 - Proceedings related to orders to preserve evidence/for inspection can only maintain a reason for existence and have the results desired within a judicial system, if the procedural and confidential playing field is respected, even after proceedings come to an end and no proceedings on the merits are introduced.
 - The applicants for orders to preserve evidence/for inspection must not be placed in a position where introducing such application might lead to the public gaining knowledge of their internal legal strategy and/or reasons for withdrawing such applications and/or not initiating proceedings on the merits.
 - However, the limitation on the right of access based on the nature of the proceedings should not be so absolute as to prohibit the public from accessing the reasoning behind the UPC's decisions to grant or deny applications for orders to preserve evidence. As the UPC Court of Appeal indicated, there is a general public interest in gaining a better understanding of the decision, given the arguments put forward. This general interest must be weighed against the interests of the parties, the general interest of justice, and/or the integrity of the proceedings. Access to the redacted submissions leading to the Orders and the Review Decisions should therefore be granted, as the aforementioned general interest outweighs the other interests.
35. Further, allowing access to information, subject to an (agreed upon) EEO-regime, for which a request for destruction/return was pending but did not need to be adjudicated but did not

need to be adjudicated as the Actions were withdrawn, would contravene the general interest of justice (Article 45 UPCA) and/or the integrity of the proceedings. The Judge-Rapporteur cannot be required to hypothetically adjudicate on requests for destruction/return if such requests are withdrawn to assess whether access should be allowed to third parties.

36. The above leads to the conclusion that access should be granted to the following documents (redacted if applicable), which are listed in the Requested Information, provided that the objections specified in III.B. are met.

- the applications for the Actions of 6 May 2025;
- the applications for review of 25 July 2025;
- the comments submitted by GENENTECH & ROCHE on 4 August 2025;
- the comments submitted by ORGANON on 20 August 2025; and
- the comments submitted by GENENTECH & ROCHE on 29 August 2025.

III.C. Objections argued by the Respondents

37. Above the Judge-Rapporteur held that access to the Requested Information should be limited, but allowed access to specific redacted documents. Hereafter the more specific objections/conditions are assessed.

III.C.1. Requests are not substantially reasoned and/or specified

38. The issue to assess is whether the Applicant sufficiently specified its Request.

39. From a formal legal point of view, the Judge-Rapporteur holds that he could deny the request, as listing the documents to which access is requested by highlighting them in yellow over eight pages, without linking them to specific reasons, is considered insufficiently specific (even taking the (appealed) LD Munich's liberal view of this issue into consideration- see § 14). At the very least, a categorical approach could be expected, whereby types of document are bundled and linked to a specific reason.

40. However, from a more pragmatic point of view, and given that the Judge-Rapporteur's reasoning already led to a limitation to a specific category (i.e. documents/submissions leading to the Orders and Review Decisions), the Judge-Rapporteur dismisses this objection. The three reasons listed by the Applicant (better understanding of the decisions rendered; development of interest as UPC practitioners and professional development as UPC practitioner and broader understanding of UPC practice and procedure) are applicable and sufficiently substantiated to allow access to the redacted documents referred to under §36.

III.C.2. (Further) Confidentiality Safeguards requested by GENENTECH & ROCHE

41. The Judge-Rapporteur has limited the access to the redacted versions of the listed documents and the Applicant already limited its request to access to the redacted versions.

42. The Judge-Rapporteur finds no convincing reason why access to these documents should be further limited or stayed for 14 days following this order (to allow GENENTECH & ROCHE to review them and submit R. 262.2. RoP requests). Access to the redacted versions was permitted outside the EEO confidentiality circle, and GENENTECH & ROCHE has not provided any specific reasons why these documents should undergo further review before granting the Applicant, a law firm, access.
43. Additionally, the Judge-Rapporteur notes that conditional Confidentiality Orders have already been issued, in which the Sub-Registry LD Brussels was provisionally ordered not to make the unredacted submissions uploaded in the Actions available to the public. This means that access to the redacted submissions was (conditionally) allowed. GENENTECH & ROCHE did not oppose this approach and did not specifically argue in these proceedings why these specific documents for which access was allowed would need to be the subject of further confidentiality safeguards. As such the Court sees not reason to differ from the allowed public access (taking into consideration that the Applicant is a law firm).

III.C.2. R. 262.1.(b) Rop related to Orders and Review Decisions

44. The Judge-Rapporteur noted that the following orders were marked as “M” in the CMS when they should have been marked “P”. The Judge-Rapporteur instructs the sub-registry of the LD Brussels to assign the correct code to these documents.

	Document	Date
1	Order	12/02/2026
8	Order	17/10/2025
9	Order	14/10/2025
42	Preliminary Order	01/08/2025

45. Based on the above, the Request regarding the aforementioned documents is dismissed.

IV. ORDER

The Judge-Rapporteur:

- Allows access to the Applicant to the following documents (in its redacted format if applicable):
 - the applications for the Actions of 6 May 2025;
 - the applications for review of 25 July 2025;
 - the comments submitted by GENENTECH & ROCHE on 4 August 2025;
 - the comments submitted by ORGANON on 20 August 2025; and
 - the comments submitted by GENENTECH & ROCHE on 29 August 2025.

2. Instructs the sub-registry of the LD Brussels to send to the Applicants the documents mentioned under (1) and this after anonymisation (with in CC the Representatives) and respecting the suspensive effect of this order (6).
3. Instructs the sub-registry of the LD Brussels to attribute the code “P” to the following orders after having checked these orders regarding anonymisation-issues:

	Document	Date
1	Order	12/02/2026
8	Order	17/10/2025
9	Order	14/10/2025
42	Preliminary Order	01/08/2025

4. Dismisses any other requests made by any of the parties to these proceedings.
5. Acknowledges the leave to appeal with suspensive effect by (a) GENENTECH INC. and F. HOFFMANN – LA ROCHE AG and (b) ORGANON HEIST B.V. and NV ORGANON and is granted to these parties.
6. Suspends the effects of the present order (except for (3)) until the expiration of the deadline for filing an appeal or, if an appeal is filed, until the end of such proceedings.

This order is issued on 4 May 2026 by the Judge-Rapporteur:

<p>Samuel GRANATA Judge-Rapporteur Presiding judge LD Brussels Legally Qualified Judge</p>	<p>Samuel Rocco M Granata Digitally signed by Samuel Rocco M Granata Date: 2026.05.04 14:49:42 +02'00'</p>
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Information on Appeal

An appeal may be filed against this order within 15 days of its service (Art. 73(2)(b)(ii) UPCA and Rules 220.2 and 224.1(b) RoP).