



Düsseldorf Local Division
UPC_CFI_1034/2025
UPC_CFI_931/2026

Order
of the Court of First Instance of the Unified Patent Court
issued on 11 May 2026
concerning EP 3 909 047

CLAIMANT:

Yangtze Memory Technologies Co., Ltd., No.88 Weilai 3rd Road, East Lake High-tech Development Zone, Wuhan, Hubei 430000, China

represented by: Attorney-at-law Oliver Jan Jüngst, Attorney-at-law Lucas Brons, Bird & Bird LLP, Carl-Theodor-Straße 6, 40213 Düsseldorf, Germany

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participating: Patent Attorney Dr. Felix Landry, Patent Attorney Leonard Lotz, Bird & Bird LLP, Am Sandtorkai 50, 20457 Hamburg, Germany

DEFENDANTS:

1. **Micron Technology, Inc.**, 8000 South Federal Way Boise, Idaho 83707-0006, USA
2. **Micron Europe Ltd.**, Venture House 2 Arlington Square, Downshire Way, Bracknell, Berkshire, RG12 1WA, United Kingdom
3. **Micron Semiconductor (Deutschland) GmbH**, Leopoldstrasse 250 B, 80807 München, Germany
4. **Micron Semiconductor France SAS**, Immeuble Iliade, 23 Avenue Carnot, 91300 Massy, France

represented by: Attorney-at-law Prof Dr Tilman Müller-Stoy, Attorney-at-law Dr Jan Bösing, Patent Attorney Tobias Kaufmann, Patent Attorney Dr Christian Haupt, Bardehle Pagenberg, Prinzregentenplatz 7, 81675 Munich, Germany

PATENT IN SUIT:

European Patent n° 3 909 047

PANEL/DIVISION:

Panel 1 of the Local Division in Düsseldorf

DECIDING JUDGES:

This order was issued by Presiding Judge Thomas acting as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT: Art. 58 UPCA, R. 262A RoP – Protection of confidential information

SUMMARY OF THE FACTS:

1. The Claimant is suing the Defendants for infringement of EP 3 909 047 (hereafter: the patent in suit). The time period for the Claimant to file a reply to the statement of defence in the infringement action, and the time period for filing a defence to the counterclaim for revocation are currently running.
2. By brief dated 27 April 2026, the Claimant submitted a “TechInsights report” as Exhibit BB 24, which was published on 21 June 2024. According to the Claimant, this report contains a technical analysis of the challenged embodiment, which is directly relevant to the merits of the infringement action, particularly in the light of the Defendants’ contention that the statement of claim based on the “Cellixsoft report” is “inconclusive”.
3. The Claimant states that the “TechInsights report” was prepared by TechInsights, an independent source for semiconductor technology intelligence and reverse engineering insights in the semiconductor industry with particular expertise in in-depth semiconductor teardowns. In the parallel US proceedings, the Claimant is asserting infringement of the US counterpart of the patent in suit, which contains substantially identical claims. In connection with these proceedings, and for the purpose of substantiating the infringement of the US patent, the Claimant asserts that its US counsel has entered into an agreement with TechInsights, licensing the use of the report to Claimant’s US counsel.
4. As the Claimant further explains, the submission of this additional test report at this stage is occasioned by the fact that TechInsights has, by contractual arrangement with the Claimant’s US counsel, prohibited the Claimant’s external representatives from disclosing the contents of the report to the Claimant, on account of US export restrictions. Under the terms of the contractual agreement between TechInsights and Claimant’s US counsel, the Claimant’s external representatives are authorised to use the report in bringing and prosecuting claims for infringement. Among other things, the Claimant’s external representatives are permitted to copy, distribute and use the report for litigation purposes, including court filings. However, the contract with TechInsights acknowledges that the report may contain information subject to US export control restrictions, requiring the external representatives to comply with these restrictions and obligations when handling the report (e.g. not exporting, re-exporting or transferring it to Claimant). Consequently, the Claimant’s external representatives are precluded from disclosing the contents of the report to the Claimant due to US export control restrictions.
5. To introduce the report into the current proceedings, the Claimant requests an order for the protection of confidential information, as set out in the operative part.

6. In support of this request, the Claimant argues that its representatives received the “TechInsights report” directly from the Claimant’s US counsel, who are representing the Claimant in the parallel US litigation. The Claimant therefore believes that the report falls within the scope of the litigation privilege as provided for in R. 288 RoP. In the Claimant’s view, communications protected by the litigation privilege under R. 288 RoP constitute confidential information within the meaning of Art. 58 UPCA. Consequently, the “TechInsights report” and all references to it in the reply to the statement of defence and/or any subsequent submissions are confidential.
7. According to the Claimant, the orders sought are accordingly intended to ensure compliance with the contractual obligations owed to TechInsight and with applicable US export control restrictions, thereby preventing the Claimant from gaining access to the confidential information. This necessarily encompasses restrictions on third-party access to the case file and on public attendance at the oral hearing, where the confidential information is discussed.
8. The Defendants are seeking to dismiss the request for confidentiality.
9. They argue that a party seeking an order to preserve confidentiality bears the burden of demonstrating that (i) the information at issue is confidential, (ii) specific and substantiated harm would result from its disclosure, and (iii) the measures requested are necessary and proportionate. The classification of information as confidential requires that (a) the information is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question, (b) the information has commercial value because it is secret; and (c) the information has been subject to reasonable steps under the circumstances, by a person lawfully in control of the information, to keep it secret.
10. Based on these principles, the Defendants point out that the Claimant itself stated that the report was published on 21 June 2024. The Defendants therefore consider the report to be publicly available and not confidential. Furthermore, the Defendants complain that the Claimant has not submitted the underlying agreement with TechInsights, has not identified any specific contractual provision that would be breached and has not specified which US export control regulation would be violated or how. On this basis, the Defendants dispute the existence of any such contractual obligations or export control restrictions that would necessitate a confidentiality order in the present proceedings. In any event, even if such obligations did exist, the Defendants argue that the Claimant has failed to discharge its burden of proof under R. 262A RoP. Additionally, the Claimant has failed, in the view of the Defendants, to identify what specific harm would result from the absence of a confidentiality order.
11. In response to the Defendants’ objections, the Claimant submitted excerpts from the agreement with TechInsights.
12. In addition, reference is made to the Parties’ entire written submissions.

GROUNDS FOR THE ORDER:

13. The Claimant’s application for protection of confidential information is admissible. It is also justified on the merits.

1.

14. Pursuant to Art. 58 UPCA, to protect the trade secrets, personal data or other confidential information of a party to the proceedings of a third party, or to prevent an abuse of evidence, the Court may order that the collection and use of evidence in proceedings before it be restricted or prohibited or that access to such access to such evidence be restricted to specific persons (underlining added by the Court).
15. In accordance with R. 262A RoP, a party may make an Application to the Court for an order that certain information contained in its pleadings or the collection and use of evidence in proceedings may be restricted or prohibited or that access to such information or evidence be restricted to specific persons.
16. Consequently, confidentiality orders are not limited to the protection of trade secrets. What is decisive is that the information in question is of a nature that requires it to be kept confidential. The extent to which a party has access to confidential information contained in submitted pleadings or evidence must be assessed in light of the circumstances of the case in question. When doing so, the interest of the parties involved in the proceedings must be weighed against each other. Particular consideration must be given the right to be heard and the right to the effective exercise of rights in a fair trial of the party affected by a possible restriction of access; and to the interest of the holder of the confidential information in protecting that information of the applicant (UPC_CFI_471/2023 (LD Mannheim), Order of 22 July 2024, p. 4 – DISH Technologies v. AYLO PREMIUM).

2.

17. Based on these principles, the conditions for the R. 262A RoP-order to protect confidential information sought by the Claimant are met.

a)

18. The formal requirements of R. 262A.2 and .3 RoP were complied with. The Defendants' representatives were also heard before the confidentiality order was issued, as required by R. 262A.4 RoP. They made use of the opportunity to submit observations.

b)

19. The Claimant has demonstrated why the information contained in the passages marked in grey in the "TechInsights report" is confidential and requires protection. The Defendants were unable to substantially challenge this.
20. There is no indication that the "TechInsights report", commissioned by the Claimant's US counsel, is publicly available. Insofar as the Defendants refer to the Claimant's remark that the report was "published on 21 June 2024," the Claimant has clarified that this does not mean that the report was freely available from the date onwards. From that point in time, the content of the report could only be acquired by means of a licence. To obtain such a licence, TechInsights requires a contractual agreement to be concluded and a licence fee to be paid.
21. In light of the current status of the proceedings, it is reasonable to protect the Claimant against potential US export control restrictions and grant the requested confidentiality.

There is no need for a time-consuming further investigation into whether such restrictions exist and, if so, to what extent. The Claimant has sufficiently demonstrated that submitting the “TechInsights report” in these proceedings could violate US export control restrictions. The Claimant will be protected from this risk by the order to protect confidential information. This order will not disadvantage the Defendants to any extent that outweighs the Claimant’s interest in ensuring confidentiality. Therefore, the question raised by the Claimant regarding the basis for the protection of trade secrets under R. 288 RoP is not decisive. Even setting this aside, the conditions for a confidentiality order are met here.

3.

22. There are no reservations regarding the Claimant’s request for a confidentiality order that pertains to the Claimant itself and grants access to the unredacted version of Exhibit BB 14 only to Claimant’s legal representatives. The practical implementation of the confidentiality order referred to by the Defendants is the responsibility of the Claimant and does not require further discussion.
23. The Court has previously ruled that such orders against the requesting party itself are admissible upon the request of a party “against itself” (UPC_CFI_219/2023 (LD Mannheim), Order of 30 April 2024, p. 3 – Panasonic v. Xiaomi; UPC_CFI_9_2023 (LD Munich), Order of 8 May 2024, GRUR-RS 2024, 25864, Headnote 1 and mn. 9), provided that there is a legitimate interest in such an order.
24. As previously explained, this is the case here. The Claimant needs to be able to submit the “TechInsights report” to the current proceedings without risk, particularly in light of any US export control restrictions.
25. Such an order does not put the Defendants at a significant disadvantage. The Claimant has limited the order requested against the Defendants to the minimum extent necessary. In particular, the Claimant does not seek to limit the number of natural persons having access to the case. The fact that access to the document classified as confidential is limited to the extent necessary for processing in these proceedings must be accepted by the Defendants when weighing the interests involved.

4.

26. There are no issues with excluding all natural persons on the Claimant’s side.
27. R. 262A.6 RoP explicitly states that the group of authorised persons must include at least one natural person from the concerned party. In other words, when seeking a confidentiality order, a party generally cannot require the other party to ensure that all of their natural persons are excluded from the confidentiality club (UPC_CoA_755/2025, Order of 26 January 2026, Headnote 2 and mn. 25 – Sun Patent v. Vivo; UPC_CFI_359/2023 (LD Mannheim), Order of 21 March 2024 – Fujifilm v. Kodak; UPC_CFI_471/2023 (LD Mannheim), Order of 22 July 2024, p. 4 – DISH v. AYLO).
28. However, the parties may agree to waive the requirement for a natural person to be a member of the confidentiality club, as defined in R. 262A.6 RoP (UPC_CFI_169/2024 (LD Hamburg), Order of 24 October 2024, Headnote 3 – 10x Genomics v. Vizgen). In such circumstances, there is no obvious reason why the party against whom the confidentiality order is to be issued cannot waive this right independently (UPC_CFI_240/2023 (LD Milan), Order of 23 July 2024, p. 4 – Oerlikon v. Himson). This provision is intended to protect the addressee

of the confidentiality order, who may waive this protection. There is no indication that R. 262A.6 RoP is a mandatory provision to the extent that the person it is intended to protect cannot waive this protection.

ORDER:

- I. The information, highlighted in grey in Exhibit BB 24 and in the reply to the statement of defence, which is yet to be submitted, and listed in more detail in the following table is classified as confidential within the meaning of Art. 58 UPCA, R. 262.2 RoP:

| Exhibit | Description |
|---------------|-------------------------------------|
| Exhibit BB 24 | TechInsights Report on the Y52P die |

- II. Access to the information classified as confidential in Section I of this order shall be restricted to:
1. the Claimant's authorized representatives, members of the legal team and internal support staff excluding any natural person from the Claimant;
 2. the Defendants' authorized representatives, members of the legal team and internal support staff;
 3. individuals of the Defendants (without restriction with respect to the number of natural persons).

Access to these documents is limited to the extent necessary for processing in these proceedings.

- III. Information identified as confidential in Section I of this order shall be treated as such by the persons that have been granted access in Section II of this order and shall not be used or disclosed outside of these court proceedings, unless it has been disclosed to the receiving party outside of these proceedings. This exception, however, only applies if this information was obtained by the receiving party on a non-confidential basis. These obligations shall continue to apply even after the conclusions of the present proceedings.
- IV. 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.

Issued in Düsseldorf on 11 May 2026

NAMES AND SIGNATURES

Presiding Judge Thomas