



UPC Court of Appeal
UPC_CoA_61/2026

ORDER
of the Court of Appeal of the Unified Patent Court
issued on 22 May 2026
concerning an application pursuant to R. 262A RoP

HEADNOTES:

- In the interest of legal certainty, to guarantee the authenticity of a procedural document and to exclude the risk that it is not in fact the work of the person authorized for that purpose, the procedural document itself must bear an electronic signature.
- R. 9.3 (a) RoP expressly allows the retroactive extension of a time period. This means that an extension order can be issued after the time period has expired and also that the Court may grant a time extension even if the applicant lodged the request for extension after the time period has expired.

KEYWORDS:

- Electronic signature, R. 4.1 RoP
- Confidentiality request, R. 262 A –third-party data provider
- Retroactive extension of time period, R. 9.3 (a) RoP

APPELLANT (APPLICANT IN THE MAIN PROCEEDINGS BEFORE THE CFI)

SharkNinja Operating LLC, Needham, United States
(hereinafter also referred to as “SharkNinja”)

represented by Paul Bettridge, European Patent Attorney and other patent attorneys and attorneys at law of Carpmals & Ransford LLP, London, United Kingdom

RESPONDENTS (DEFENDANTS IN THE MAIN PROCEEDINGS BEFORE THE CFI)

1. **Groupe SEB France**, Écully, France
2. **S.A.S. SEB**, Selongey, France
3. **SEB International Service (SIS)**, Faucogney et La Mer, France
4. **Groupe SEB WMF Consumer GmbH**, Geislingen an der Steige, Germany
(hereinafter also jointly referred to as “SEB”)

all represented by Thomas Bouvet, attorney at law, and other attorneys at law of Jones Day, Paris, France

PATENT AT ISSUE

EP 3 689 198

LANGUAGE OF THE PROCEEDINGS

English

DECIDING JUDGES

This order was issued by

Panel 2

Rian Kalden, legally qualified judge and presiding judge

Patricia Rombach, legally qualified judge and judge-rapporteur

Ingeborg Simonsson, legally qualified judge

Max Tilmann, technically qualified judge

Marc van der Burg, technically qualified judge

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

“Decision” in UPC_CFI_ 1594/2025, issued by the Local Division Paris on 10 April 2026.

FACTS

1. With the impugned “decision” (hereinafter: impugned order) the Paris Local Division dismissed SharkNinja’s application for provisional measures against SEB.
2. SharkNinja appealed the impugned order and lodged a R. 262A RoP request.
3. By an order of 29 April 2026, the judge-rapporteur granted provisional protection for the confidential information. Access to the information in the unredacted version of SharkNinja’s statement of appeal and grounds of appeal was given to SharkNinja’s authorized UPC representatives and their internal assistants with specific limitations. SEB was given the opportunity to comment on the confidentiality request by 5 May 2026 at the latest.
4. On 5 May 2026 SEB lodged two statements with “observations on SharkNinja’s request for confidentiality”. Neither has an electronic signature.
5. On 6 May 2026 SEB lodged the statement of 5 May 2026 with signature and a request for retroactive extension.

REQUESTS OF THE PARTIES

6. Essentially, SharkNinja requests the following

- I. The following information in red font colour in the Statement of appeal and grounds of appeal (hereinafter: Appeal) is recognized as confidential information:
 - a. the information in red font colour or framed by a red box in the Appeal, and
 - b. the confidential version of Exhibit CRA-29.
- II. Access to the unredacted version of the Appeal, Exhibit CRA-29 and the confidential information is restricted to
 - a. two natural persons from SEB's legal department, to be named by SEB, and
 - b. SEB's UPC representatives on the CMS and their internal assistants, insofar as their access to the confidential information is required for their work in these proceedings.
- III. The confidential information is treated as confidential by the persons named in section II. It may not be used or disclosed outside these court proceedings unless it has come to the knowledge of the receiving party outside these proceedings. However, this exception only applies if this information was obtained by the receiving party on a non-confidential basis from a source other than SharkNinja or its affiliated companies, provided that this source is not bound by a confidentiality agreement with SharkNinja or its affiliated companies or by any other confidentiality obligation towards them.
- IV. SEB is ordered to take appropriate measures to ensure that the confidential information remains confidential and is not used outside these proceedings.
- V. A penalty payment in an amount determined by the Court may be imposed for each non-compliance with sections III and IV.

7. Essentially, SEB requests that the Court of Appeal

- hold admissible and take into consideration the statements lodged by SEB on 5 May 2026,
- in the alternative:
- grant retroactively SEB one (1) additional day, computed from 5 May 2026, to submit its comments on SharkNinja's confidentiality request and on the other related issues;
- hold admissible and take into consideration the statement filed on 6 May 2026 to remedy the absence of signature defect.
- grant a 7-day extension to comment on the unredacted version of SharkNinja's Statement of appeal and grounds of appeal and Exhibit CRA-29.
- On the confidentiality issue:
 - as a main request, dismiss SharkNinja's Application for confidentiality,
 - as an alternative, designates the 6, alternatively 4, natural persons named by SEB which should have access to this information.

PARTIES' SUBMISSIONS

8. SharkNinja in summary submits the following.

- The specified information is confidential as it comprises valuable commercial information relating to market data regarding SEB's Cookeo Infinity and SharkNinja's Ninja Foodi models, as well as other competitors' products. This data was generated and provided by a third-party data provider.
- The specified information is not in the public domain. The disclosure of such information would provide valuable insights into the market and to competitors, so that competitors should not have access to it.

- The confidential information was sufficiently described in the confidentiality request as sales data from a third-party data provider. A more detailed description is not necessary to understand the content and nature of the confidential information.
- SEB's request for access to the confidential information of a total of six, alternatively five, employees should be dismissed. In its order of 29 April 2026, the Court already indicated that even if SEB do not agree with a limitation to two of their employees, no more than four employees should have access to the confidential information. This corresponds to a reasonable number of persons. The confidential information only consists of simple sales figures and is not so complex that six people need access to it.
- Even if more than two employees of SEB are granted access, this should not include employees from the commercial department. No specific knowledge is required to understand this information, and there is no reason why access of employees from other departments than the legal department is necessary for SEB's defence.
- SEB's request for a 7-day extension is not only unclear but also unreasonable. In particular, it is not clear if an extension is requested for the entire Statement of response or only for additional comments on the confidential sales data.
- Given the minor relevance of this data for the overall arguments in the appeal, if any extension at all is warranted, then it should only be in respect of a response to the part of the Appeal concerning the confidential data. SharkNinja therefore would not object to a short additional deadline to submit comments, but only in reply to the confidential information.
- 7 additional days – which is about half of the time limit for the Statement of response – should not be granted. Contrary to SEB's arguments, the understanding of the simple sales data does neither require to "fully onboard" SEB's employees "by reviewing all relevant elements of the proceedings", nor "a rigorous examination".
- SharkNinja is of the opinion that a submission without a signature is invalid. The decision of whether SEB's statement should be disregarded is for this reason left to the discretion of the court.

9. SEB in summary submits the following.

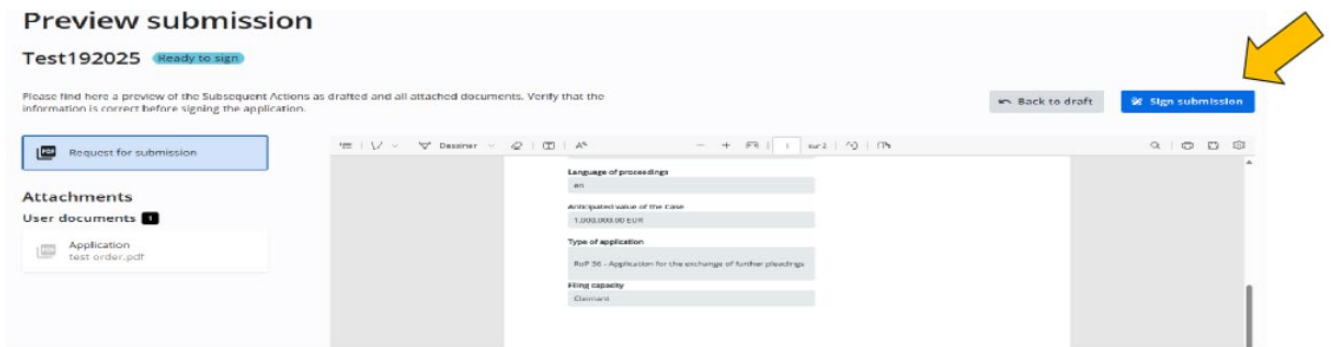
- To connect to its UPC Front Office space, a UPC legal representative logs in through a secure dual authentication process, which constitutes a strong multifactor authentication mechanism and attests to its identity. Once the upload of a submission or other document has been completed, the UPC legal representative proceeds to the signature of the document in its name, directly on the CMS website on which the addition of such signature is explicitly mentioned. Once the document has been "signed" according to this process, it appears as lodged on the CMS. It is on the basis of all these elements that SEB's representatives legitimately considered that the signature on the CMS constituted the signature required within the meaning of R. 4.1 RoP.
- It results from the UPC case law that a procedural defect which is remediable shall not lead to the declaration of inadmissibility of the application filed by the parties but requires the Court to grant that party an opportunity to remedy that defect.
- It results from SharkNinja's confidentiality application that the data combined in Exhibit CRA-29 is information provided by panels data provider, which are available to any person or company in exchange for payment.
- It can be assumed that SharkNinja paid to obtain the panel information and obtained the authorization to use the data for the purpose of court proceedings; if the contract between the third party and SharkNinja provides otherwise and notably limits the number of persons entitled to access the document, the contract must be provided.

- There is no reason to limit access to such information to a limited number of persons from the SEB company, in particular because:
 - Sales information from SEB and from other competitors cannot be treated as SharkNinja confidential information;
 - SharkNinja's sales information made available to a third-party panel provider also cannot be considered as information that must be limited to a number of natural persons from the defendant;
 - SEB contributes to such panels and therefore has access to panel information;
 - SEB offers to produce a statement on this point if needed.
- There is therefore no reason to limit the number of persons within SEB having access to such information.
- SEB therefore objects to SharkNinja's confidentiality request insofar as it covers commercial information that does not pertain to SharkNinja's confidential information but rather concerns market data purchased from a third-party data provider, the confidentiality of which is not demonstrated.
- SEB objects that only two employees of its legal department may have access to the confidential information.
- Two of its employees (Ms. [REDACTED] International Product Director, Multicooking; Mr. [REDACTED] Controlling Director, Product & Innovation, Kitchen Electric) who engaged in marketing activities and are knowledgeable on the multicooker market must be granted access to the alleged confidential information.
- There is no need to limit the confidentiality club to two persons of the SEB legal team.
- Since SharkNinja has filed its application for provisional measures, the four SEB employees listed in para. 14 of the Reply to the confidentiality request have been working on this matter internally alongside SEB's UPC representative and have been involved in every possible stage of these legal proceedings; it is therefore necessary that all four of them be included in the requested confidentiality club as members of SEB's legal department, at the risk of disorganizing SEB's defense efforts.
- SharkNinja, which is aware of the persons involved in this matter as they all attended the oral hearing, does not explain why including all four persons would put the alleged confidential information at risk.
- Since SEB and its UPC representatives still have not had access to all of SharkNinja's arguments and exhibits, SEB must be granted 7 days as additional time to comment on SharkNinja's Statement of Appeal and Grounds of Appeal as well as on Exhibit CRA-29. These documents, which have still not been disclosed to SEB nor its UPC representatives, constitute new evidence containing financial data, the analysis of which requires the involvement of [REDACTED] and Mr. [REDACTED] which have not been involved in the proceedings yet in detail. 7 days is a proportionate and necessary time to fully onboard them on the case by reviewing all relevant elements of the proceedings and allow them to carry out rigorous examination of the financial data contained in the documents at issue.

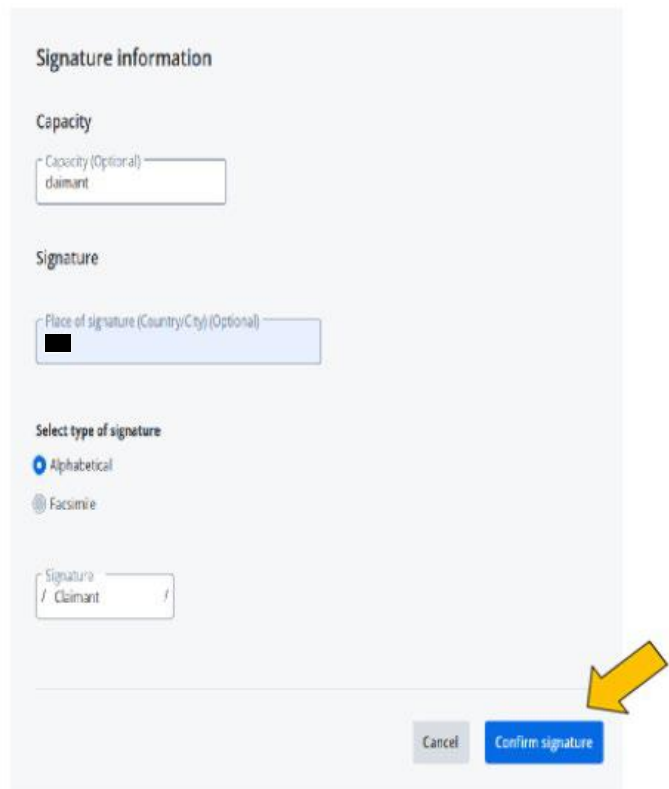
GROUNDS

Admissibility of SEB's statement lodged on 5 May 2026

10. According to R. 4.1 RoP, written pleadings and other documents shall be signed and lodged at the Registry or relevant sub-registry in electronic form. Parties shall make use of the official forms available online.
11. The statements lodged on 5 May 2026 do not contain a signature and therefore do not meet the requirements of R. 4.1 RoP. It is true that to connect to its UPC Front Office space, a UPC legal representative must log in through a secure dual authentication process, which constitutes a strong multifactor authentication mechanism and attests to its identity. Once the upload of a submission or other document has been completed, the UPC legal representative is invited to "sign submission" (right blue bottom depicted below).



Sign



12. But this does not mean that the submitted documents themselves are signed. In the interest of legal certainty, to guarantee the authenticity of that procedural document and to exclude the risk that it is not in fact the work of the person authorized for that purpose, the procedural document itself must bear an electronic signature.

Admissibility of SEB's statement lodged on 6 May 2026

13. The signed statement lodged by SEB on 6 May 2026 is admissible, as the Court hereby grants an extension of time until 6 May 2026.

14. According to R. 9.3 (a) RoP, on a reasoned request by a party the Court may extend a time period referred to

in the Rules of Procedure or imposed by the Court. R. 9.3 (a) RoP expressly allows the retroactive extension of a time period. This means that an extension order can be issued after the time period has expired and also that the Court may grant a time extension even if the applicant lodged the request for extension after the time period has expired (see CoA, 8 February 2024, UPC_CoA_404/2023, *Ocado v X*, para. 10).

15. R. 9 RoP must be understood to apply to pending proceedings (CoA, 6 June 2025, UPC_CoA_618/2024, *Hanshow v VusionGroup*, para. 45; 10 March 2026, UPC_CoA_37/2026, *Angelalign v Align Technology*, para. 21; 28 April 2026, UPC_CoA_56/2026, *Optopol v Topcon*, para. 18). R. 9.3 RoP is applicable because the statements at hand do not initiate new proceedings.

16. As there was no case law of the Court of Appeal on the question as to whether the signature on the CMS should be considered the signature required under R. 4.1 RoP, the SEB's error is excusable. The principles of fairness and equity (see preamble RoP no 5) justify that in cases like this the requested time extension is granted.

SharkNinja's confidentiality request

Legal framework

17. Pursuant to R. 262.1(b) RoP, 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. Pursuant to R. 262.2 RoP, a party may request that certain information of written pleadings or evidence be kept confidential, in particular, by making documents available to the public in redacted form (see R. 262.2, sentence 4, RoP) and provide specific reasons for such confidentiality.

18. Pursuant to Art. 58 UPCA, the Court may, to protect the trade secrets, personal data, or other confidential information of a party to the proceedings or of a third party, or to prevent an abuse of evidence, order that the collection and use of evidence in proceedings before it be restricted or prohibited or that access to such evidence be restricted to specific persons.

19. Pursuant to 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.

20. The classification of information as a trade secret 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 the person lawfully in control of the information, to keep it secret (see Art. 39 (2) TRIPS Agreement). R. 262 RoP and R. 262A RoP refer not only to trade secrets in this sense, but also to other confidential information (cf. Art. 58 UPCA: "for the protection of trade secrets, personal data or other confidential information", CoA, 1 August 2025, UPC_CoA_70/2025, *Strabag v Swarco Futurit et al.*, para. 17; 29 January 2026, UPC_CoA_930/2025, para. 22, *EOFlow v Insulet*).

Request I

21. Contrary to SEB's argument, the confidential information is sufficiently described in the confidentiality request as sales data from a third-party provider. A more detailed description is not necessary. Since 29 April 2026 the documents are uploaded in the CMS as "R", which means that the documents are only accessible for the main representative. Against this background the description of the information is sufficient.
22. The information requested by SharkNinja to be recognised as confidential relates to market data concerning SEB's Cookeo and SharkNinja's Ninja Foodi models, as well as other competitors' products. This data was generated and provided by a third-party data provider. This data is available to any person or company in exchange for payment. SEB argues this means that this data is not confidential, but this argument is unsuccessful. The information is not readily accessible. This is evidenced by the fact that companies pay for access to it. It follows that this information also has commercial value. The fact that the third-party data provider has an interest in granting access only in exchange for payment and ensuring that the use of the data is limited to the agreed purpose demonstrates that reasonable steps have been taken to keep the information secret.
23. To conclude, the information is to be recognized as confidential.

Request II-V

24. Pursuant to R. 262A.6 RoP the number of persons to whom access is restricted shall be no greater than necessary in order to ensure compliance with the rights of the parties to the legal proceedings to an effective remedy and to fair trial, and shall include, at least, one natural person from each party and the respective lawyers or other representatives of those parties to the legal proceedings. Whether a particular person may be granted full access under this provision must be determined on the basis of the relevant circumstances of the case, including the role of that person in the proceedings before this Court, the relevance of the confidential information to the performance of that role and the trustworthiness of the person in keeping the information confidential (CoA, 12 February 2025, UPC_CoA_621/2024, *Daedalus v Xiaomi*, para. 12).
25. The Court considers it necessary and sufficient for four natural persons from SEB to have access to the information.
26. As this information *inter alia* relates to market data concerning SEB, SEB has an interest to check this data. This could be done at best by the two employees engaged in marketing activities named by SEB. As this is not highly confidential information, it is also justified to give these employees access to the market data concerning SharkNinja and other competitors.
27. It follows that additionally two employees from the legal department shall be members of the confidentiality club.

Additional time to comment on the confidential information

28. SharkNinja unsuccessfully argues that SEB's request for an extension is unclear. Clearly, an extension is requested only with regard to confidential data (unredacted version").
29. SEB argues that 7 days are necessary to both fully onboard the employees engaged in marketing activities on

the case by reviewing all relevant elements of the proceedings and allow them sufficient time to carry out a rigorous examination of the financial data in the document at issue. The Court of Appeal sees no reason to fully onboard these employees by having them review all relevant elements of the proceedings. It is only necessary for them to examine confidential information. A period of five working days is sufficient for this.

ORDER

1. The time period for comments on the confidentiality request is extended to 6 May 2026.
2. The following information in red font colour in the Statement of appeal and grounds of appeal (hereinafter: Appeal) is recognized as confidential information:
 - a. the information in red font colour or framed by a red box in the Appeal, and
 - b. the confidential version of Exhibit CRA-29.
3. Access to the unredacted version of the Appeal, Exhibit CRA-29 and the confidential information is restricted to
 - a. Ms. [REDACTED] International Product Director, Multicooking;
 - b. Mr. [REDACTED] Controlling Director Product & Innovation, Kitchen Electric;
 - c. Ms. [REDACTED] Head of Legal, Products Division, Intellectual Property, Consumer Law, Innovation & Partnership Contracts;
 - d. Mr. [REDACTED] Expert Patent Engineer, European Patent Attorney and European Patent Litigator before the Unified Patent Court;
 - e. SEB's UPC representatives on the CMS and their internal assistants, insofar as their access to the confidential information is required for their work in these proceedings.
4. The confidential information shall be treated as confidential by the persons named in section 3. It may not be used or disclosed outside these court proceedings unless it has come to the knowledge of the receiving party outside these proceedings. However, this exception only applies if this information was obtained by the receiving party on a non-confidential basis from a source other than SharkNinja or its affiliated companies, provided that this source is not bound by a confidentiality agreement with SharkNinja or its affiliated companies or by any other confidentiality obligation towards them.
5. SEB is ordered to take appropriate measures to ensure that the confidential information remains confidential and is not used outside these proceedings.
6. In the event of a culpable breach of the order, the court may impose a penalty payment of up to EURO 250,000 for each instance of such a breach.
7. SEB is given the opportunity to comment on the confidential information no later than 29 May 2026.

Issued on 22 May 2026

Rian Kalden Date:
2026.05.22
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Rian Kalden, legally qualified judge and presiding judge

Patricia Ursula Rombach
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Ingeborg Simonsson, legally qualified judge

Max Wilhelm Tilmann
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Max Tilmann, technically qualified judge

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