



**Order**  
**of the Court of First Instance of the Unified Patent Court issued on 26**  
**March 2025**  
**concerning EP 2 983 864 B1**

APPLICANT:

**OTEC Präzisionsfinish GmbH**, Heinrich-Hertz-Straße 24, 75334 Straubenhardt Conweiler, Germany

represented by:

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

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

Electronic service address: klaus.haft@hoyngrokh.com

OPPONENTS:

- 1. STEROS GPA INNOVATIVE S.L.**, Calle Maracaibo 1, 08030, Barcelona, Spain Exhibition address:  
Hall 2.2, D018 E019, Cologne Exhibition Centre, Messeplatz 1, 50679 Cologne, Germany
- 2. SILADENT Dr. Böhme & Schöps GmbH**, Im Klei 26, 38644 Goslar, Germany Exhibition address: Hall 10.1, B050, Cologne Exhibition Centre, Messeplatz 1, 50679 Cologne, Germany

PATENT APPLICATION:

EUROPEAN PATENT NO. EP 2 983 864 B1

DECISION-MAKING BODY/CHAMBER:

Decision-making body of the Düsseldorf Regional Chamber

JUDGES INVOLVED:

This order was issued by Presiding Judge Thomas as the reporting judge, Judge Dr Schumacher, who is qualified in law, and Judge Dr Schober, who is qualified in law.

LANGUAGE OF THE PROCEEDINGS: German

SUBJECT: Art. 60 EPGÜ, R. 194 (d), 196, 197, 199 VerfO – Application for inspection and preservation of evidence

SUMMARY OF THE FACTS:

On 25 March 2025, the applicant filed an application for an order to inspect and preserve evidence at the respondents' exhibition stands in the run-up to an action on the merits.

The applicant is the sole proprietor of European Patent 2 983 864 B1 (Annex HRM 2; hereinafter 'the patent in question'), which was filed on 26 March 2014 in the German language, claiming the priority of two German patent applications (DE 102013006010 and DE 102013016053) dated 9 April 2013 and 27 September 2013 respectively. The grant of the patent in question was published on 26 April 2017. The patent in question is currently in force in Austria, Belgium, Switzerland and Liechtenstein, the Czech Republic, Germany, Spain, France, the United Kingdom, Ireland, Italy, Luxembourg, Poland and Turkey. The opt-out initially declared was withdrawn by application dated 24 March 2025 (App\_14363/2025).

No opposition was filed against the grant of the patent in question. Furthermore, no invalidity proceedings were initiated after the expiry of the opposition period.

The patent in question is entitled 'Method and apparatus for the surface treatment of workpieces'. Its claim 1 is worded as follows:

"A method for surface finishing workpieces, wherein the workpiece is moved relative to a bed of abrasive and/or polishing granules, wherein the workpiece is rotated ( $p_4$ ) about at least one axis relative to the bed of abrasive and/or polishing granules, wherein the workpiece is accelerated relative to the bed of and/or polishing granules to different rotational speeds ( $r_1$ ,  $r_2$ ), **characterised in that** the workpiece and/or a container (11) holding the bed of grinding and/or polishing granules is or are rotated under continuous acceleration at continuously varying rotational speeds."

The first respondent develops, manufactures and distributes machines and technologies for vibratory grinding and electropolishing. Its range of services includes the precise smoothing, polishing, rounding and deburring of workpieces.

The first respondent is the parent company of the GPAINNOVA Group. The second respondent is a specialist retailer and customer of the first respondent, which, among other things, offers and sells the first respondent's products.

The product portfolio of the first respondent includes electro-polishing machines for various applications, including the dental market. It offers these machines on its website <https://www.dlyte.com/de/produkte/>, including in Germany. The products offered by the first defendant under the 'DLyte' brand for the dental market include, amongst others, the 'DLyte 1D', 'DLyte 10D' and 'DLyte 100D' models, all of which form part of the first defendant's 'Compact Series'. The second defendant also offers these machines on its website. With regard to the content of these websites, reference is made to Annexes HRM 7 to HRM 9.

The defendants are currently exhibiting at the "Interdentalschau 2025" trade fair (hereinafter: IDS 2025), which is taking place in Cologne from 25 March 2025 to 29 March 2025.

The applicant submits that all the aforementioned products in the 'Compact Series' are currently on display at the 'IDS 2025' trade fair. It is virtually impossible for the applicant to gain access to these machines. Firstly, the prices, ranging from EUR 30,000 to EUR 50,000, are too high to justify purchasing them merely for the purpose of testing. Secondly, this is a personalised business. In the parties' industry, machines are sold only through 'established' distribution channels, namely an exclusive dealer network. In most countries, there is usually only one, and in larger countries two, authorised resellers of the first respondent's machines. The resellers have a very close relationship with the respective manufacturer of the machines, meaning that the applicant would not be supplied. An anonymous purchase of the machines in question is also not possible because, given the enormous financial burden of such a purchase, buyers wish to ensure that the machines will bring the desired added value to their business. Normally, a trial run takes place on the manufacturer's premises, or customers are first provided with a test machine. The test phase enables the test purchaser or its exclusive resellers to establish close contact. It would therefore be noticeable if this close contact were absent in individual cases, for example if the applicant wished to purchase the machine solely for testing purposes. The sale would presumably be halted.

The claimant only gains access to the respondents' machines for testing purposes in isolated cases, through dissatisfied customers. A full verification of the alleged acts of infringement is therefore not possible. Among other things, the claimant purchased the 'DLyte 10D' second-hand from a mutual customer for testing purposes. However, this was coincidental and had not yet taken place with regard to the patent in question at that time. Furthermore, the claimant had succeeded in examining the 'DLyte 100D' at a mutual customer's premises in Turkey, although it remained unclear whether the machine found in Turkey was identical to corresponding machines distributed in the EPG contracting states. The investigations had revealed, amongst other things, that the 'DLyte 10D' and the 'DLyte 100D' found in Turkey – if it were of identical design to those in the EPG contracting states – would infringe the patent in question. For details of the investigation results, reference is made to Annex HRM 14.

The applicant's efforts to examine the third model in the 'Compact Series', the 'DLyte 1D', were, however, unsuccessful. The same applies to an examination of the "DLyte 100D" in a version distributed in the EPG member states. Information on the respondent's website and product videos would suggest that the "DLyte 1D" and the "DLyte 100D", insofar as relevant to the infringement of the patent in suit, were identical in construction to the "DLyte 10D".

On 25 March 2025, one of the applicant's legal representatives was able to inspect the "DLyte 1D" and the "DLyte 100D" at the exhibition stand of the first respondent. The visual inspection confirmed the presumption that the "DLyte 1D" and the "DLyte 100D" is identical in construction to the "DLyte 10D", insofar as this is relevant to the infringement of the patent in suit. Furthermore, the "DLyte 1D" and the "DLyte 100D" were illuminated and switched on. Finally, a "DLyte" machine, presumably from the "Compact Series", had been on display at the second defendant's stand. Reference is also made to the photographs submitted as Annexes HRM 16 to HRM 17 and to an affidavit.

CLAIMS OF THE APPLICANT:

- I. To grant the applicant:
  1. a DLyte 1D and a DLyte 100D in working order to be inspected on site at the IDS trade fair, taking place from 25 to 29 March 2025 inclusive at Cologne Exhibition Centre, Messeplatz 1, 50679 Cologne, Germany, at the exhibition stand of the first respondent, by an expert and a bailiff, in particular
    - a. to put the DLyte 1D and the DLyte 100D into operation, whereby the first respondent is instructed to enter any necessary passwords,
    - b. for the purpose and duration of the measurements of the movement sequence and the rotational speed of the workpiece holder of the DLyte 1D or the DLyte 100D, to attach a smartphone to the workpiece holder,
    - c. to make appropriate adjustments to the machine in order to avoid distortions of the measurement results, in particular by deactivating the container's vibration unit,
    - d. select and activate a programme on the DLyte 1D or DLyte 100D that sets the workpiece holder in motion for the purpose of measurement,
    - e. where provided for by the DLyte 1D or DLyte 100D, to configure and run a programme yourself that sets the workpiece holder in motion for the purpose of measurement,
    - f. carry out the measurement whilst the DLyte 1D or DLyte 100D is in operation,
    - g. repeat the measurement process until a sufficient measurement of the rotational speed and the movement sequence of the workpiece holder of the DLyte 1D or the DLyte 100D has been obtained,
  2. or to apply a comparative measurement method;
  3. in the alternative, in the event that claims I.1 and I.2 are impossible,

- a. with regard to the DLyte 1D, to implement the measures requested under points I.1 and I.2 during the IDS, which takes place from 25 to 29 March 2025 inclusive at Cologne Exhibition Centre, Messeplatz 1, 50679 Cologne, Germany, at the exhibition stand of the second respondent,
  - b. and, with regard to the DLyte 100D, to physically seize one copy of the DLyte 100D and all technical, promotional and commercial documentation relating to the DLyte 100D during the IDS, which takes place from 25 to 29 March 2025 inclusive at Cologne Exhibition Centre, Messeplatz 1, 50679 Cologne, Germany, or to physically seize the DLyte 100D at any other location in Germany;
  - c. to draw up a detailed description of the DLyte 100D, comprising a detailed description of the features of the DLyte 100D as well as the relevant technical, promotional and commercial documentation relating to the DLyte 100D, at all locations specified in Section I.1;
4. in the alternative, in the event that application I.1. is not possible, I.2. and I.3. to physically seize, by means of a bailiff, one DLyte 1D and one DLyte 100D, together with one copy each of all technical, promotional and commercial documentation relating to the DLyte 1D and the DLyte 100D, during the IDS, which takes place from 25 to 29 March 2025 inclusive at Cologne Exhibition Centre, Messeplatz 1, 50679 Cologne, Germany, or to physically seize the DLyte 1D and the DLyte 100D at any other location in Germany;
  5. to prepare a detailed description of the DLyte 1D and the DLyte 100D, comprising a detailed description of the features of the DLyte 1D and the DLyte 100D, as well as the relevant technical, promotional and commercial documentation relating to the DLyte 1D and the DLyte 100D, at all the locations specified in Section I.1. ;
- II. to appoint Mr Stephan Freischem, Patent Attorney, Salierring 47-53, 50677 Cologne, as an expert witness and to rule that he may be replaced by a European patent attorney working in the same firm as Stephan Freischem;
  - III. to authorise the bailiff Ms Nadine Görden, Frankfurter Str. 538, 51145 Cologne, to be assisted by the expert in carrying out the measures to preserve evidence in accordance with the order to be issued in this matter, and to determine that, in the event of her unavailability, she may be replaced by any other competent expert;
  - IV. that Mr Joscha Torweihe, EPG representative and the applicant's appointed legal representative in this matter from the law firm Hoyng ROKH Monegier, Steinstraße 20, 40212 Düsseldorf, may be present during the measures requested under point I, or another lawyer from the law firm Hoyng ROKH Monegier should Mr Torweihe be unavailable;

- V. that Mr Steffen Lenz, patent attorney, EPG representative and patent attorney acting in this matter at the patent law firm Lichti, Bergwaldstraße 1, 76227 Karlsruhe, may be present during the measures requested under Section I, or another patent attorney from the patent law firm Lichti should Mr Lenz be unavailable;
- VI. to order that the employees and directors of the respondent shall not be permitted to be present during the enforcement of the order to be made in this case, and that the bailiff shall not be authorised to make an exception to this in accordance with the applicable national law;
- VII. order that the persons involved in carrying out the measures to preserve evidence in accordance with the order to be issued, such as the bailiff, the expert and/or the party representatives, the respondent or third parties, must not disclose any information regarding these measures to the respondent or third parties, nor must they provide any opportunity to inspect the DLyte 1D and the DLyte 100D or the respective detailed reports, or to examine them, unless the respondent consents or on the basis of a further order by the EPG;
- VIII. to oblige the respondents to cooperate in the implementation of the measures for inspection and preservation of evidence in accordance with the order to be issued in this matter and, upon request, to grant the bailiff and the expert
  - to grant unrestricted access to the DLyte 1D and the DLyte 100D, including the entry of passwords,
  - to grant access to a part of the DLyte 1D and the DLyte 100D, and/or
  - to put the DLyte 1D and the DLyte 100D into operation and to set them to various operating states;
- IX. to order the defendants to instruct their directors and employees to comply with the requests of the bailiff and/or the expert in accordance with Section VII;
- X. to impose a penalty payment of EUR 2,500 for every 15-minute period elapsing between the bailiff's or the expert's request to grant access for the inspection in accordance with Section I and the actual granting of the requested access;
- XI. to order that the bailiff must serve a copy of the order to be issued in this matter, together with a copy of the application, on at least one representative of the respondents who is present at the location where the relevant measures are to be carried out;
- XII. to order that the order to be issued in this manner is immediately enforceable;
- XIII. to order that the order to be issued in this manner is enforceable on all days and at all hours;

XIV. to order that service be effected by the bailiff in conjunction with Mr Joscha Torweihe, as set out in point IV, or by another solicitor from the law firm Hoyng ROKH Monegier, should Mr Torweihe be unavailable;

XV. to suspend all decisions on costs for the time being.

REASONS FOR THE ORDER:

The application for an order for an inspection and preservation of evidence (R. 192, 199 VerfO) is granted to the extent set out below.

I.

The Düsseldorf Local Chamber has jurisdiction pursuant to Art. 32(1)(c), 33(1)(b) and 60 EPGÜ. The application has been made in a manner admissible under R. 192 VerfO. In particular, the applicant has stated that she intends to bring an action on the merits against the respondents before the Düsseldorf Local Chamber.

II.

Furthermore, the applicant has credibly demonstrated that the patent in suit may be infringed by the respondents (Article 60(1) EPGÜ).

In view of the circumstances of the case as described, it is possible that the products 'DLyte 1D' and "DLyte 100D", as exhibited at the IDS in Cologne, make use of the technical teaching of the patent in question.

The applicant, who has standing to bring the proceedings as the proprietor of the patent in suit, has, on the basis of a product brochure (Exhibit HRM 21), a product video available on YouTube, the description of the Dental Series products (Exhibit HRM 23) and an examination of the 'DLyte 10D' – a sister model in the Compact Series (Exhibit HRM 14), has clearly demonstrated why she assumes that all the features of the patent in question are embodied in the 'DLyte 1D' product.

Furthermore, it has already analysed the 'DLyte 100D' model at one of its customers' premises in Turkey and submitted a corresponding examination report as Annex HRM 14. On the basis of this analysis, the applicant has clearly explained why it assumes that the technical teaching protected by the patent in question is also realised in this embodiment.

III.

The applicant has further demonstrated that the application is urgent (Rule 194(2)(a) of the Rules of Procedure). Furthermore, she has set out grounds for the issuance of an ex parte order (Rule 194(2)(b), (c) and 197 of the Rules of Procedure).

1.

The inspection or preservation of evidence is urgent.

a)

That the product 'DLyte 1D' exhibited at the 'IDS 2025' trade fair in Cologne may have been

The applicant has clearly demonstrated that the product makes use of the technical teaching of claim 1 of the patent application. However, sufficient substantiation can only be provided by examining the product exhibited at the aforementioned trade fair, which involves carrying out measurements of the machine's motion sequences and, in particular, of its rotational speed and acceleration behaviour. According to the applicant's submission, machines such as the 'DLyte 1D' are not readily available, and companies that have purchased and use such machines are generally unwilling to grant 'outsiders' (patent holders) access to their premises or machinery. The 'IDS 2025' trade fair therefore offers the applicant the opportunity to gather evidence of the alleged infringement of the patent in question.

With regard to the 'DLyte 100D' product, the applicant has already examined a machine at one of its customers' premises in Turkey. On the basis of this examination report, it has clearly set out why it considers that this embodiment also makes use of the technical teaching of patent claim 1. However, as the applicant must prove patent infringement within the member states of the EPG, an examination of the product exhibited at the 'IDS 2025' trade fair can provide certainty as to whether it corresponds to the product examined in Turkey in respect of the features relevant to a possible infringement of the patent in question. As the applicant has plausibly explained, given the extreme difficulty in procuring such machines due to their lack of availability on the open market, she has no option but to carry out the inspection at the 'IDS 2025' trade fair in Cologne.

b)

The order was to be issued ex parte pursuant to Rule 192.3, 197 of the Rules of Procedure. Otherwise, there would be a demonstrable risk that evidence would be destroyed or would no longer be available for other reasons (Rule 197.1, alternative 2 of the Rules of Procedure).

As the applicant has plausibly explained, there is a serious risk that the "DLyte 1D" and the "DLyte 100D" will be removed from the exhibition grounds at short notice or that individual polishing processes pre-programmed by the first respondent will be deactivated by means of a software update. As a result, evidence that could potentially confirm the infringement may be lost. Given the specific market conditions already described in detail, it would be virtually impossible for the applicant to obtain evidence of the infringement of the patent in suit by the aforementioned products, which it believes to have occurred.

IV.

In the context of the discretionary decision, the applicant's interests prevail.

On the basis of the information available to it to date, the applicant has provided a clear explanation of why it considers that all the features of claim 1 of the patent in suit are embodied in the products exhibited at the 'IDS 2025' trade fair in Cologne. She has also clearly explained why, given the particular circumstances in the relevant market, she has no other means of gathering evidence of what she considers to be an infringement of the patent in question by the 'DLyte 1D' and "DLyte 100D", which is why it is reliant on an examination of the products exhibited at the "IDS 2025" trade fair to preserve evidence.

Against this background, the present order is necessary to do justice to the patent holder's overriding interests in this regard. The measures ordered do not place an unreasonable burden on the respondents. The confidentiality provisions included in the order take sufficient account of their confidentiality interests.

#### V.

The applicant has paid the court fee for the application for inspection/preservation of evidence, R. 192.5 VerfO.

#### VI.

Pursuant to Rules 196.4 and 196.5 of the Rules of Procedure, the order provides for the appointment of an expert to carry out the measures. To assist the expert in securing the evidence, the Chamber has made use of the option provided for in Rule 196.5(2) of the Rules of Procedure to order the assistance of a bailiff. The bailiff's involvement was necessary in particular for the alternative application for seizure of property, which under national law falls within the jurisdiction of bailiffs (UPC\_CFI\_539/2024 (Düsseldorf Regional Court), order of 18 October 2024 – Bekaert Binjiang Steel v Siltronic).

Under Rule 196.5 of the Rules of Procedure, members or representatives of the applicant were to be excluded from the inspection and the preservation of evidence. In the interests of proportionality and the protection of confidential information, the number of legal representatives present during the inspection was also to be limited (Article 60(1) of the EPGÜ, Rule 196.1 of the Rules of Procedure). The confidentiality measures further ordered in respect of the legal representatives, the expert and the bailiff take account of the respondents' interests in confidentiality, as does the procedure described following receipt of the detailed description.

Furthermore, it was ordered that the detailed description to be drawn up by the expert may only be used in main proceedings against the respondents (R. 196.2 VerfO).

In any event, the costs of the inspection and preservation of evidence to be carried out by the expert, including the detailed description to be prepared by the expert, are to be borne by the applicant until further notice, as she is the one requesting the inspection. Unless the expert waives the payment of an advance for his costs, the applicant must pay the expert a reasonable advance, to be determined by him, prior to the commencement of the inspection.

This order, together with the documents referred to in paragraph XVI, is to be served by the bailiff in cooperation with the applicant's legal representative, who is present at the inspection and preservation of evidence in accordance with paragraph IX.1, pursuant to Rule 197.2 of the Rules of Procedure.

#### VII.

The general threat of coercive measures included in the order gives the Chamber the necessary flexibility to respond to any breaches of this order, taking into account the interests of both parties and the seriousness of the breach.

In this specific case, it was possible to refrain from ordering the provision of security. The special circumstances required for an ex parte order (Rule 196.6 of the Rules of Procedure) are present. Unlike in the case of an injunction, the respondents are likely to suffer only minor damage as a result of the inspection

and the preservation of evidence. They remain entitled to offer and distribute the products to be examined (distinguishing from: UPC\_CFI\_177/2023 (Düsseldorf Regional Court), order of 22 June 2023 – myStromer v Revolt). On this basis, and taking into account the short duration of the trade fair, the requirement of a security deposit would unduly delay the preservation of evidence and the inspection, which justifies refraining from ordering a security deposit in the present case.

#### VIII.

In so far as the applicant sought, in the alternative, authorisation to seize the products to be examined 'at any other location', this could not be granted on grounds of either specificity or proportionality. These considerations also preclude authorising the enforceability of this order 'at all times'. The description of the permissible measures in the order also complies with the requirement of specificity.

There are no apparent grounds for excluding representatives and employees of the respondents from participating in the inspection. Such an exclusion, sought by the applicant, is already precluded by the fact that the employees and directors of the respondents, in accordance with the applicant's request, are required to comply with the instructions of the bailiff and/or the expert.

ORDER:

The following inspection and preservation of evidence order is issued without prior hearing of the respondents:

- I. The applicant is permitted to inspect a 'DLyte 1D' and a 'DLyte 100D' in working order on site at the IDS trade fair, which is taking place from 25 to 29 March 2025 inclusive at Cologne Exhibition Centre, Messeplatz 1, 50679 Cologne, Germany, at the exhibition stand of the first respondent, and in doing so
  1. put the "DLyte 1D" and the "DLyte 100D" into operation, whereby the first respondent is instructed to enter any necessary passwords;
  2. for the purpose and duration of the measurements of the movement sequence and rotational speed of the workpiece holder of the 'DLyte 1D' and the 'DLyte 100D', to attach a smartphone to the workpiece holder;
  3. to make appropriate settings on the machine in order to avoid distortions of the measurement results, in particular by deactivating the vibration unit of the container;
  4. select and activate a programme on the "DLyte 1D" or "DLyte 100D" that sets the workpiece holder in motion for the purpose of measurement;
  5. where provided for by the "DLyte 1D" or "DLyte 100D", to configure and activate a programme yourself that sets the workpiece holder in motion for the purpose of measurement;
  6. to carry out the measurement whilst the "DLyte 1D" or "DLyte 100D" is in operation;
  7. to repeat the measurement process until a sufficient measurement of the rotational speed and the movement of the workpiece holder of the "DLyte 1D" or the "DLyte 100D" has been achieved.
- II. Should an on-site inspection in accordance with Section I not be possible, the applicant is permitted
  1. with regard to the "DLyte 1D", to carry out the measures described in Section I.1. during the IDS, which takes place from 25 to 29 March 2025 inclusive at Cologne Exhibition Centre, Messeplatz 1, 50679 Cologne, Germany, at the stand of the second respondent  
  
and
  2. with regard to the "DLyte 100D", one copy of such documentation and all technical, promotional and commercial documents relating to the "DLyte 100D" during the IDS, which takes place from 25 to 29 March 2025 inclusive in Cologne

Messe, Messeplatz 1, 50679 Cologne, Germany, and then have them inspected by an expert as described in Section I.

- III. Should the inspection referred to in Sections I and II.1 not be possible, the applicant is permitted, as a last resort, in addition to the seizure of the “DLyte 100D” pursuant to Section II.1, to also seize a “DLyte 1D” and all technical, promotional and commercial documents, one copy of each, relating to the “DLyte 1D” is to be physically seized by a bailiff during the IDS, which takes place from 25 to 29 March 2025 inclusive at Cologne Exhibition Centre, Messeplatz 1, 50679 Cologne, Germany, and then inspected by an expert as described in Section I.
- IV. The expert shall, within a period of two weeks following the completion of the measures set out in points I to III, prepare a detailed description of the “DLyte 1D” and the “DLyte 100D” and submit it to the Chamber, which shall contain a detailed description of the features of the “DLyte 1D” and the “DLyte 100D” relevant for assessing an infringement of the patent in suit.
- V. The description prepared in accordance with point IV and all other results of the inspection and preservation of evidence may only be used in main proceedings against the respondents.
- VI. The following person is appointed as the expert to carry out the aforementioned measures:

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

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

- VII. To assist the expert, the bailiff

Nadine Görden, Frankfurter Str. 538, 51145

Cologne.

In the event that the applicant is unable to attend the inspection and the measures to secure evidence, she may be replaced by a locally competent bailiff to be appointed by the applicant.

- VIII. In the interests of safeguarding the respondents’ trade secrets, which may come to light during the inspection and preservation of evidence, the expert and the bailiff are instructed to maintain confidentiality both towards the applicant personally and towards third parties.

- IX. During the enforcement of this order, in addition to the expert and the bailiff, the presence of the following representatives of the applicant is permitted:
1. Mr Joscha Torweihe, solicitor, EPG representative and the applicant's appointed legal representative in this matter, of the law firm Hoyng ROKH Monegier, Steinstraße 20, 40212 Düsseldorf, or another solicitor from the law firm Hoyng ROKH Monegier, should Mr Torweihe be unavailable;
  2. Mr Steffen Lenz, patent attorney, EPG representative and patent attorney acting in this matter at the patent law firm Lichti, Bergwaldstraße 1, 76227 Karlsruhe, may be present during the measures requested under Section I, or another patent attorney from the patent law firm Lichti, should Mr Lenz be unavailable.

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

- X. The respondents are ordered to cooperate in the implementation of the measures for inspection and preservation of evidence in accordance with this order and, upon request, to allow the bailiff and the expert
1. to allow them, as well as the persons authorised to be present in accordance with Section IX, to enter the respondents' exhibition stands at the IDS trade fair, which takes place from 25 to 29 March 2025 inclusive at Cologne Exhibition Centre, Messeplatz 1, 50679 Cologne, Germany, in order to carry out the inspection and preservation of evidence in accordance with this order;
  2. to grant unrestricted access to the "DLyte 1D" and the "DLyte 100D", including the entry of passwords;
  3. to grant access to parts of the "DLyte 1D" and the "DLyte 100D";
  4. to put the "DLyte 1D" and the "DLyte 100D" into operation and to set them to various operating modes

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

- XI. The persons involved in carrying out the inspection and the preservation of evidence, and in particular the bailiff, the expert witness and the applicant's legal representatives, are obliged to keep confidential, both from third parties and from the applicant, any facts that come to their knowledge in the course of executing the order in its entirety.

Furthermore, until an order for release is issued by the Unified Patent Court, the aforementioned persons must not provide the applicant or third parties with any opportunity to inspect the 'DLyte 1D' and the 'DLyte 100D', any documents and products that may have been seized, or the detailed description to be prepared by the expert.

- XII. The respondents are to be requested to comment on their respective confidentiality interests following the submission of the detailed description to be prepared in accordance with Section IV by the expert appointed to carry out this order. The aforementioned representatives of the applicant, who were permitted to be present during the inspection and preservation of evidence, are to be heard. Only thereafter shall the court decide whether and to what extent the detailed description is to be brought to the applicant's personal attention and whether the duty of confidentiality for the applicant's representatives is to be lifted.
- XIII. The applicant is obliged to bear the costs of the inspection and the preservation of evidence, including the preparation of the detailed description. The applicant is required to pay the expert a reasonable advance on costs, to be determined by the expert, prior to the commencement of the inspection, unless the expert waives such an advance.
- XIV. In the event of a wilful breach of this order, the court may impose a penalty payment on each party for each breach; the amount of such payment shall be determined by the court, taking into account the circumstances of the individual case.
- XV. The measures for inspection and preservation of evidence shall be lifted at the request of the respondents or shall otherwise lapse if the applicant, within a period of no more than 31 calendar days or 20 working days, whichever is longer, after the written description of the applicant to be prepared in accordance with Section IV has been disclosed or the court has decided by a final decision not to grant access to this description, has brought an action against the respondents.
- XVI. This order shall be served personally by one of the applicant's representatives named in Section IX together with a copy of the application for this order, including the exhibits and other documents on which the application is based prior to or at the time of enforcement of this order, as well as the notice regarding provisional measures and instructions for access to the proceedings (provided by the CMS), without delay at the time of enforcement of the measures.

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

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

INFORMATION ON REVIEW AND APPEAL:

The respondents may apply for a review of this order within 30 days of the measures being implemented (Art. 60(6) EPGÜ, R. 197.3 VerfO).

The party adversely affected may appeal against this order within 15 days of its service (Art. 73(2)(a) EPGÜ, R. 220.1(c) VerfO).

DETAILS OF THE ORDER:

Main file reference: ACT\_14438/2025

UPC number: UPC\_CFI\_260/2025

Type of proceedings: Application for preservation of evidence and inspection

Issued on 26 March 2025 NAMES  
AND SIGNATURES

Presiding Judge Thomas	<b>Ronny Thomas</b> Digitally signed by Ronny Thomas Date: 26 March 2025 12:37:52 +01:00
Legally qualified judge Dr Schumacher	<b>JuleKathrin Schumache r</b> Signed digitally by Jule Kathrin Schumacher Date: 26 March 2025 13:10:01 +01'00'
Legally qualified judge Dr Schober	<b>Walter Schober</b> Digitally signed by Walter Schober Date: 26 March 2025 12:45:51 +01:00
on behalf of Deputy Registrar Strysio	<b>HEIKE BETTINA ELVIRA Strysio</b> Digitally signed by HEIKE BETTINA ELVIRA Strysio Date: 26 March 2025 13:24:52 +01:00