Reports of Cases

ORDER OF THE PRESIDENT OF THE COURT

22 May 2025*

[Text rectified by order of 30 June 2025]

(Appeal – Interveners at first instance – Confidentiality – Information treated as confidential at first instance)

In Case C-826/24 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 3 December 2024,

European Commission, represented by F. Castillo de la Torre, A. Dawes, T. Franchoo and C. Urraca Caviedes, acting as Agents,

appellant,

the other parties to the proceedings being:

Google LLC, established in Mountain View (United States),

Alphabet Inc., established in Mountain View,

represented by D. Beard, Barrister-at-Law, J. Holmes, Barrister-at-Law, J. Williams, Barrister-at-Law, W. Ellison and C. Jeffs, advocaten, and J. Staples, Solicitor,

applicants at first instance,

Surfboard Holding BV, established in Zeist (Netherlands),

Vinden.NL BV, established in Rijssen (Netherlands),

interveners at first instance,

THE PRESIDENT OF THE COURT,

having regard to the proposal of O. Spineanu-Matei, Judge-Rapporteur,

after hearing the Advocate General, J. Kokott,

* Language of the case: English.

makes the following

Order

1 By its appeal, the European Commission seeks to have set aside the judgment of the General Court of the European Union of 18 September 2024, *Google and Alphabet* v *Commission (Google AdSense for Search)* (T-334/19, 'the judgment under appeal', EU:T:2024:634), by which the General Court annulled Commission Decision C(2019) 2173 final of 20 March 2019 relating to a proceeding under Article 102 TFEU and Article 54 of the EEA Agreement (Case AT.40411 – Google Search (AdSense)).

2 By document lodged at the Registry of the Court of Justice on 27 February 2025, Google LLC and Alphabet Inc. request the Court to grant confidential treatment, vis-à-vis Surfboard Holding BV and Vinden.NL BV, interveners at first instance, to certain information contained in the response which they lodged in the present case and in Annexes R. 2, R. 3 and R. 4 thereto, identical to the treatment granted by the General Court to that same information in the case which gave rise to the judgment under appeal. In particular, the application for confidential treatment concerns the information relating to Google's commercial strategy found in paragraph 66 of that response and the information referred to in paragraphs 23, 26, 174, 188, 189, 202, 204, 212, 228, 229, 246 and 283 and in footnote 345 to Annex R. 2 to that response, in paragraphs 279 and 288 of Annex 1 to Annex R. 2, in footnotes 22 and 68 to, and in paragraph 68 of, Annex R. 3 to that response, and in paragraphs 26 and 28 of Annex R. 4 thereto, relating to Google's confidential studies, the terms of contracts concluded by that undertaking, its 'Direct Partners' and the revenues generated by their businesses.

3 It is apparent from the file in the case which gave rise to the judgment under appeal, disclosed to the Court of Justice by the General Court, that Vinden.NL and Surfboard Holding had, by documents of 16 September 2019 and 19 September 2019 respectively, applied for leave to intervene in the proceedings at first instance in support of the form of order sought by Google.

4 By order of 26 November 2019, the President of the Tenth Chamber of the General Court granted those applications for leave to intervene and decided that only a non-confidential version of all the procedural documents served on Google and Alphabet, as well as on the Commission, would be disclosed to Surfboard Holding and Vinden.NL, without prejudice to Surfboard Holding and Vinden.NL submitting, as appropriate, within the prescribed periods, their objections to any applications for confidential treatment concerning them.

5 As is apparent from the file in the case which gave rise to the judgment under appeal, disclosed to the Court of Justice by the General Court, those companies, which became interveners at first instance, lodged no objections to the applications for confidential treatment which were lodged concerning them, with the result that the grant of confidential treatment, ordered by the General Court on a provisional basis in that order, has become final.

6 Article 171(1) of the Rules of Procedure of the Court of Justice provides that the appeal is to be served on the other parties to the relevant case before the General Court. Furthermore, pursuant to Article 172 of those rules, any party to the relevant case before the General Court having an interest in the appeal being allowed or dismissed may submit a response within two months after

service of the appeal on that party. It follows from those provisions that the appeal and the other procedural documents lodged before the Court of Justice are also to be served, in principle, on the parties admitted as interveners before the General Court.

7 However, where a party is requesting, vis-à-vis a party that intervened before the General Court, confidential treatment in respect of material produced before the Court of Justice which has already been treated as confidential vis-à-vis that same party in the proceedings at first instance, that same confidential treatment must, in principle, be maintained for the purposes of the proceedings before the Court of Justice (order of the President of the Court of 19 January 2023, *Google and Alphabet* v *Commission*, C-738/22 P, EU:C:2023:44, paragraph 5 and the case-law cited).

8 In the present case, it must be stated that the request by Google and Alphabet that the Court treat as confidential, vis-à-vis Surfboard Holding and Vinden.NL, the information relating to Google's commercial strategy in paragraph 66 of Google's and Alphabet's response lodged in the present case, and the information in paragraphs 23, 26, 174, 188, 189, 202, 204, 212, 228, 229, 246 and 283 and in footnote 345 to Annex R. 2 to that response, in paragraphs 279 and 288 of Annex 1 to Annex R. 2, in footnotes 22 and 68 to, and in paragraph 68 of, Annex R. 3 to that response, and in paragraphs 26 and 28 of Annex R. 4 thereto, relating to Google's confidential studies, the terms of contracts concluded by that undertaking, its 'Direct Partners' and the revenue generated by their businesses, concerns information which has already been treated as confidential in the case which gave rise to the judgment under appeal. Accordingly, that application must be granted, since only a non-confidential version of that response and of its annexes, redacting that information, is to be served, by the Registrar, on Surfboard Holding and Vinden.NL.

9 [As rectified by order of 30 June 2025] In addition, in the light of the case-law referred to in paragraph 7 of the present order and for the purposes of the sound administration of justice, it is also appropriate, in principle, to grant confidential treatment, vis-à-vis Surfboard Holding and Vinden.NL, to information which will be adduced in the context of the present appeal proceedings and for which confidential treatment was granted at first instance as regards those same parties, where one of the parties which relied on the confidentiality of that information at first instance makes an express request to that effect.

10 In those circumstances, only a non-confidential version of all the procedural documents which may have to be served on the Commission or on Google and Alphabet will be served, by the Registrar, on Surfboard Holding and Vinden.NL in the present proceedings.

On those grounds, the President of the Court hereby orders:

1. **Confidential treatment shall be granted, vis-à-vis Surfboard Holding BV and Vinden.NL BV, to the information relating to Google LLC's commercial strategy in paragraph 66 of Google's and Alphabet Inc.'s response lodged in the present case, and the information in paragraphs 23, 26, 174, 188, 189, 202, 204, 212, 228, 229, 246 and 283 and in footnote 345 to Annex R. 2 to that response, in paragraphs 279 and 288 of Annex 1 to Annex R. 2, in footnotes 22 and 68 to, and in paragraph 68 of, Annex R. 3 to that response, and in paragraphs 26 and 28 of Annex R. 4 thereto, relating to Google's confidential studies, the terms of contracts concluded by that undertaking, its 'Direct Partners' and the revenue generated by their businesses, since only a non-confidential version of that response and of its annexes, redacting that information, is to be served, by the Registrar, on Surfboard Holding and Vinden.NL.**

2. **Confidential treatment, vis-à-vis Surfboard Holding and Vinden.NL, shall also be granted to information which will be adduced in the context of the present proceedings and for which confidential treatment was granted at first instance as regards those same parties, where one of the parties which relied on the confidentiality of that information at first instance makes an express request to that effect. Only a non-confidential version of all the procedural documents which may have to be served on the European Commission or on Google and Alphabet will be served, by the Registrar, on Surfboard Holding and Vinden.NL in the present proceedings.**

3. **The costs are reserved.**

Luxembourg, 22 May 2025.

A. Calot Escobar
Registrar

K. Lenaerts
President