

Order
of the Court of First Instance of the Unified Patent Court
issued on 16 July 2025
concerning EP 3 511 174
App_29027/2025 in re App_22125/2025, ORD_24123/2025

CLAIMANT:

FUJIFILM Corporation, 26-30, Nishiazabu 2-chome, Minato-ku, Tokyo 106-8620, Japan,

represented by: RA Christof Augenstein Kather Augenstein Rechtsanwälte
PartGmbH, Bahnstraße 16 - 40212 - Düsseldorf - DE

electronic address for service: augenstein@katheraugenstein.com

DEFENDANTS:

1. Kodak GmbH, Kesselstraße 19, 70327 Stuttgart,

represented by: Elena Hennecke, Freshfields Bruckhaus Deringer
Rechtsanwälte Steuerberater PartG mbB, Feldmühleplatz 1,
40545 Düsseldorf, Germany

electronic address for service: elena.hennecke@freshfields.com

2. Kodak Graphic Communications GmbH, Kesselstraße 19, 70327 Stuttgart,

represented by: Elena Hennecke, Freshfields Bruckhaus Deringer
Rechtsanwälte Steuerberater PartG mbB, Maximiliansplatz
13, 80333 Munich, Germany

electronic address for service: elena.hennecke@freshfields.com

3. Kodak Holding GmbH, Kesselstraße 19, 70327 Stuttgart,

represented by: Elena Hennecke, Freshfields Bruckhaus Deringer
Rechtsanwälte Steuerberater PartG mbB, Maximiliansplatz
13, 80333 Munich, Germany

electronic address for service: elena.hennecke@freshfields.com

PATENT AT ISSUE:

European patent EP3 511 174

PANEL/DIVISION:

Panel of the Local Division in Mannheim

DECIDING JUDGES:

This order was issued by Judge Tochtermann acting as presiding judge and judge-rapporteur, the legally qualified judge Böttcher, the legally qualified judge Agergaard and the technically qualified judge Wismeth.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT OF THE PROCEEDINGS: INTENDED Enforcement warning, Panel Review of case management order

STATEMENT OF FACTS AND REQUESTS:

Claimant requested, contained in Claimant's Notification of intended enforcement, to issue a warning to the defendants as follows:

We r e q u e s t , that the UPC – LD Mannheim issues a warning to the Defendant that in the event of any breach of and/or failure to comply with any of the orders set out in Section B.III. (destruction), B.IV. (recall) and B.V. (removal from the channels of commerce) of the judgement dated 2 April 2025, ref. UPC_CFI_365/2023 after the expiry of a period of one(1) week following service of the notification, the respective Defendants shall pay to the court a penalty of up to EUR 30,000.00 per day of delay and/or non-compliance, with any days that have commenced counting as full days.

The judge-rapporteur gave the defendants the possibility to comment, which requested to reject the request.

For further details it is referred to the briefs and exhibits.

The judge-rapporteur rejected the request for the reasons set out in the order of 3 June 2025.

Claimant requests

to review the order of the Court of First Instance of the Unified Patent Court dated 3 June 2025, case number UPC_CFI_365/2023, App_22125/2025, ORD_24123/2025 and to issue an order in accordance with the application dated 9 May 2025.

Defendants motion to dismiss the application.

Defendants refer to the arguments contained in the impugned order of the court, highlighting that

R. 354.4 RoP is only applicable if a breach has already been established and that Claimant would have been bound to file an appeal against the main decision.

GROUND FOR THE ORDER:

The Claimant's request for review is admissible, but to be rejected.

The panel exercises its discretion in the same way as the judge-rapporteur.

The judge-rapporteur based his order on correct legal standards and correctly applied these standards in rejecting the request.

The panel did not - in the main decision - fix time periods for the fulfillment of operative parts B.III, B.IV. and B.V. and also did not decide on amounts of penalty up-front. All related points will have to be addressed in the course of an application to impose penalties and only there appropriate penalties will have to be set in the light of the facts of the case. If Claimant had disagreed with the main decision, it would have been bound to challenge the points subject to this review with an appeal against the decision on the merits. It is not for the panel to now alter the operative part of that decision upon a request for panel review.

ORDER:

1. The request to review the order of the Court of First Instance of the Unified Patent Court dated 3 June 2025, case number UPC_CFI_365/2023, App_22125/2025, ORD_24123/2025 is rejected.
2. Claimant bears the costs of these proceedings.

Issued in Mannheim on 16 July 2025

NAMES AND SIGNATURES

Presiding judge Tochtermann	
Legally qualified judge Agergaard	
Legally qualified judge Böttcher	
Technically qualified judge Wismeth	