



Munich local division

UPC_CFI_564/2024

Decision
of the Court of First Instance of the Unified Patent Court
issued on 16 October 2025

CLAIMANT AND COUNTERCLAIM DEFENDANT

Brita SE, legally represented by the Executive Board Markus Hankammer, Stefan Rudolf Jonitz and Dr Rüdiger Kraege, Heinz-Hankammer-Straße 1, 65232 Taunusstein, DE,

represented by: Niels Christof Julius Schuh, lawyer () Meissner Bolte Patentanwälte
Rechtsanwälte Partnerschaft mbB, Kaiserswerther Str. 183, 40474
Düsseldorf, DE.

DEFENDANTS AND COUNTERCLAIMANTS FOR ANNULMENT

1. **AQUASHIELD EUROPE s.r.o.**, represented by the managing directors Jakub Grosman and Alex Rish, Mánesova 881/27, 120 00 Prague, CZ,
2. **AQUASHIELD DACH GmbH**, represented by managing director Jakub Grosman, Warschauer Platz 11-13, 10245 Berlin, DE,
3. **Gasmarine BV Srl**, represented by the Managing Director Maximilian Devotee Lungotorrente Secca 23, 16163 Genoa, IT,
4. **MGR26 Limited Liability Company**, represented by the managing directors Gad Ayache and Moshé-Dov Ayacche, 19 Rue Séjourné, 94000 Créteil, FR,

represented by: Sönke Scheltz, lawyer, Eisenführ Speiser Patentanwälte Rechtsanwälte
PartGmbH, Johannes-Brahms-Platz 1, 20355 Hamburg, Germany.

PATENT AT ISSUE

European patent EP 2 387 547

PANEL/CHAMBER

PANEL 2 of the Munich local division

PARTICIPATING JUDGES

This decision was issued by Presiding Judge U. Voß as rapporteur, legally qualified judge Dr. D. Voß, legally qualified judge M. Mlocar and technically qualified judge Dr. M. van der Burg.

LANGUAGE OF THE PROCEEDINGS

German

SUBJECT

Rule 265 RoP – Withdrawal of counterclaim for annulment

BRIEF DESCRIPTION OF THE FACTS

- 1 The claimant brought legal action against the defendant for infringement of the patent at issue (UPC_CFI_248/2024). The defendant filed a counterclaim for annulment of the patent at issue (UPC_CFI_564/2024).
- 2 In its decision of 22 August 2025, the Chamber ruled on the action and the counterclaim for revocation.
- 3 In a document dated 15 October 2025, the defendants requested the withdrawal of the counterclaim for revocation pursuant to Rule 265.1 of the RoP and announced that the parties waived their right to a decision on costs pursuant to Rule 265.2(c) of the RoP.
- 4 In a document dated the same day, the claimant agreed to the withdrawal of the counterclaim for annulment and confirmed the waiver of a decision on costs pursuant to Rule 265.2 (c) RoP.

REASONS FOR THE ORDER

I.

- 5 Pursuant to Rule 265.1, sentence 1 of the RoP, a claimant may apply for the withdrawal of their claim as long as no decision has yet been made on the claim. Pursuant to sentence 3, the application for withdrawal shall not be permitted if the other party has a legitimate interest in the court ruling on the action. On this basis, the withdrawal of the counterclaim for annulment declared on 15 October 2025 shall be permitted.
- 6 The fact that the Chamber announced a decision on 22 August 2025 does not preclude this. According to the case law of the Court of Appeal, the withdrawal of a counterclaim for annulment during pending appeal proceedings is permissible until a final decision has been made (Court of Appeal, UPC_CoA_569/2024, order of 24 February 2025). The transfer of the underlying

to the present situation means that the withdrawal of a counterclaim for annulment is permissible until the expiry of the appeal period (Local Division Düsseldorf, UPC_CFI_320/2024, decision of 30 September 2025), because no final decision of the court has been issued by that time and the party can still lodge an appeal. It would not make sense to require a party to lodge an appeal only so that it can then – in accordance with the case law of the appeal court – declare the withdrawal of the counterclaim in the context of the pending appeal proceedings.

- 7 Since the appeal period in the present case runs until 22 October 2025, the application for leave to withdraw the counterclaim dated 15 October 2025 is timely.
- 8 The claimant has not asserted any legitimate interests within the meaning of Rule 265.1 sentence 3 RoP. Rather, it has agreed to the withdrawal. No such legitimate interests are apparent in any other respect either.

II.

- 9 According to Rule 265.2 (a) and (b) RoP, the consequence of the admission of the withdrawal of the action is the termination of the proceedings and the entry of the decision in the register.
- 10 According to Rule 265.2 (c) RoP, the court must also make a decision on costs in accordance with Part 1, Chapter 5 when accepting the withdrawal of the action. No application by the parties is required for this decision; it must be made even without such an application. However, if the parties state that they do not wish to apply for a decision on the costs of the parties, this may be taken into account in the decision on costs to be made. This statement is generally to be understood to mean that there will be no reimbursement of costs between the parties and that each party shall bear its own costs.
- 11 As a result of the withdrawal of the action being accepted, the decision of the Chamber of 22 August 2025 regarding the counterclaim for annulment, including the decision on costs, is also ineffective upon termination of the proceedings (Local Division Düsseldorf, UPC_CFI_320/2024, decision of 30 September 2025).

ORDER

1. The withdrawal of the counterclaim for annulment is granted.
2. The proceedings pursuant to No. 1 are declared terminated.
3. The decision shall be entered in the register.
4. The decision of the Chamber of 22 August 2025 is ineffective with regard to the counterclaim for annulment, including the decision on costs.
5. The parties shall bear their own costs. There shall be no reimbursement of costs between the parties.

U. Voß Presiding Judge	Digitally signed by UlrikeVoß Ulrike Voß Date: 16 October 2025, 16:51:30 +02'00'
Dr D. Voß Legally qualified judge	Digitally signed by Daniel DanielVoß Voß Date: 16 October 2025, 16:57:19 +02'00'
M. Mlakar Legally qualified judge	Digitally signed by MOJCA MLAKAR MOJCAMLAKAR Date: 16 October 2025, 22:07:20 +02'00'
Dr M. van der Burg Technically qualified judge	Digitally signed by MARC MARCWILLEM WILLEM DIRK Van der Burg Date: 17 October 2025, 14:29:19 +02'00' DIRKVanderBurg
For the Deputy-Registrar	Digitally signed by Anja Anja Mittermeier Mittermeier Date: 17 October 2025, 14:58:47 +02'00'