



UPC_CFI_499/2024
ACT_48877/2024

**Decision by default
of the Court of First Instance of the Unified Patent Court
Local Division The Hague
issued on 21/10/2025
regarding EP 1 993 350 B2**

Headnote: Decision by default in infringement action. Late filing of SoD after R.275 order. Orders given in provisional measures action confirmed. Mushroom strain is not considered to be excluded from patentability (Art. 53(b) EPC). Infringement. Measures granted in so far as deemed lawful, reasonable and sufficiently founded.

Keywords: Default. Provisional measures confirmed.

CLAIMANT

Amycel LLC
260 Westgate Drive - 95076 –
Watsonville, California – US
("Claimant")

Represented by Hendrik
W.J. Lambers, Daan F. de
Lange and Jasmijn de
Groot

DEFENDANT

██████████
- ██████████ ████████
██████████ - ██████████ PL
("Defendant")

Represented by Michal Przyluski

PATENT AT ISSUE

<i>Patent no.</i>	<i>Proprietor/s</i>
EP 1 993 350 B2	Amycel LLC

PANEL/ DECIDING JUDGES

Presiding judge	Edger Brinkman
Legally qualified judge	Rute Lopes
Judge-rapporteur	Margot Kokke

This decision is issued by the full panel.

LANGUAGE OF PROCEEDINGS: English

REQUESTS, BACKGROUND AND PROCEDURAL DETAILS

1. Claimant is the proprietor of proprietor of EP 1 933 350 B2, the “patent”, granted for ‘*Brown mushrooms for commercial production*’. The grant of the B1 version of the patent was published on 29 June 2016.

The present Action

2. On 30 August 2024, the Claimant uploaded a statement of claim (“SoC”) in the CMS of the UPC, therewith initiating the present infringement action (UPC_CFI_499/2024 ACT_48877/2024, the “**Action**”). The Action follows provisional measures proceedings initiated by the Claimant on 14 May 2024 against the Defendant before this Local Division (case UPC_CFI_195/2024, ACT_23163/2024, the “**PM proceedings**”).
3. In the Action, the Claimant requests the court, as far as possible by directly enforceable decision, to
 - A. (1) Order defendant by way of permanent injunction, with immediate effect as of the date of service of the decision to be rendered in these proceedings on the defendant, to refrain from infringing EP 1 993 350 B2 in any way in the territories of the Netherlands, Germany, France and Italy;
or alternatively to
(2) Order by way of permanent injunction, with immediate effect as of the date of service of the decision to be rendered in these proceedings on defendant, to refrain from infringing EP 1 993 350 B2 in any way, in particular by making, offering, placing on the market and/or using and/or importing or storing for those purposes a hybrid *Agaricus bisporus* mushroom strain BR06, wherein a representative culture of BR06 is available from ATCC under Accession No. PTA-6876, more in particular the Cayene mushroom strain as specified in the complaint and any other strains that fall within the scope of protection of the EP 1 993 350 B2, all within the territories of the Netherlands, Germany, France and Italy (Art. 63(1) UPCA);
 - B. Order defendant, within two weeks after the date of service of the decision to be rendered in these proceeding, to deliver up any mushroom strain present in the Netherlands, Germany, France and Italy that falls within the scope of protection of EP 1 993 350 B2, specifically the mushroom strain Cayene, so as to remove and prevent their entry into or movement within the channels of commerce;
 - C. Order the defendant, within two weeks after the date of service of the decision to be rendered in these proceedings on defendant, to provide to [Claimant](p/a Brinkhof N.V.) a written account of
 1. the full names and address details of all parties to whom the defendant, within the Netherlands, Germany, France and Italy, offered for sale, sold and/or delivered or otherwise traded in any strain that falls within the scope of protection of EP 1 993 350 B2, specifically the mushroom strain Cayene, with a specification for each party of the volume (in litres) offered, sold, delivered or otherwise traded in, as well as the sales price (in euro) and the date when one of the named acts was performed;
 2. the turnover and profits, including a breakdown of the individual cost factors, which the defendant realized with the sales mentioned above under C.1.;

3. the volume of any strain that falls within the scope of protection of EP 1 993 350 B2, specifically the mushroom strain Cayene, which defendant keeps in storage for sale within the Netherlands, Germany, France and Italy;

all of the above to be supported by copies of relevant documentation such as purchase orders, order confirmations, invoices and delivery notes and other purchase and sales documents;

- D. Order the defendant, within one week after the date of service of the decision to be rendered in these proceedings on the defendant, to send a registered letter, on defendant's usual paper and in its usual font and signed by an authorized representative, to all the parties to whom the defendant in question offered for sale, sold, delivered or other-wise traded in any mushroom strain that falls within the scope of protection of EP 1 993 350 B2, in particular the mushroom strain Cayene, in the Netherlands, Germany, France and Italy, with the following contents and without any additions, while simultaneously providing a copy of these letters to Amycel (p/a Brinkhof N.V.):

"Dear Madam, Sir,

The Unified Patent Court has ordered us by decision of [Add date] to inform you that we have infringed Amycel LLC's European Patent EP 1 993 350 B2. The Unified Patent Court has ordered us to immediately cease and desist from any infringement of Amycel's patent in the territories of the Netherlands, Germany, France and Italy. This means that we may no longer offer, sell or deliver any mushroom strain that is protected by Amycel's patent, specifically the Cayene strain, to customers in the named territories for the remainder of the life of the patent. We request you to return to us all current stock of the Cayene strain we delivered to you. We will reimburse you with the costs for this return to us such as the purchase price, transport and packaging costs and customs and storage costs.

[name and signature of statutory representative of ...]"

or a letter with such content or form as the Court will determine in the proper administration of justice;

- E. Order the defendant, within one week after the date of service of the decision to be rendered in these proceedings on the defendant, the following message will be placed on the homepage of its two websites [redacted] and [redacted] and kept there for 90 (ninety) days, in a clear and immediately visible and readable manner in its usual font and size, with only the following content:

"The Unified Patent Court has ordered us by decision of [Add date] to inform you that we have infringed Amycel LLC's European Patent EP 1 993 350 B2. The Unified Patent Court has ordered us to immediately cease and desist from any infringement of Amycel's patent in the territories of the Netherlands, Germany, France and Italy. This means that we may no longer offer, sell or deliver any mushroom strain that is protected by Amycel's patent, specifically the Cayene strain, to customers in the named territories for the remainder of the life of the patent."

or a message with such content or form as the Court will determine in the proper administration of justice;

- F. Order defendant to destruct all mushroom strain returned by the parties indicated under D. above within two weeks after the defendant received this returned mushroom strain, and within two weeks of the service of the decision to be rendered in these proceedings on defendant, to destruct mushroom strain kept in storage by the defendant in question as indicated under C.3 above, in all cases at Defendant's costs, and in all cases providing written documentation which evidence of this destruction to Amycel (p/a Brinkhof) within a week of the destruction of the mushroom strain in question, while allowing a representative of Amycel, to be appointed by Amycel, to witness this destruction, to which end Amycel (p/a Brinkhof) is informed of the intended destruction at least a week in advance thereof;
- G. To order the defendant to pay the Court a penalty payment of EUR 50,000,- for each day or part of a day that one of the granted aforementioned injunctions under A. are not complied with, and a penalty payment of EUR 5,000,- for each day or part of a day that the to be granted orders under B.-F. is not complied with in full;
- H. Determine that defendant is liable for, and to order the defendant to pay the damages Amycel has suffered and which Amycel may suffer (past and future damages) as a result of the defendant infringing EP 1 993 350 B2, as to be determined by claim A. above, to be assessed and determined in follow-up damages proceedings;
- I. Order defendant to pay Amycel, within two weeks after service of the decision to be rendered in these proceedings, EUR 50,000,- as an interim award of damages;
- J. Determine that defendant bears its own and Amycel's procedural costs of the current proceedings and of the provisional measures proceedings, and to order defendant to pay Amycel's procedural costs to Amycel within two weeks after the service of the decision to be rendered in these proceedings on the defendant;
- K. Order defendant to provide security for the legal costs of Amycel in the amount of EUR 100,000,- within two weeks after the service of a granted order on this request for security.

4. The grounds for the permanent injunction and measures that Claimant seeks in the Action, are the same as those it relied on in the PM proceedings: Claimant asserts that Defendant infringes its patent right with his brown mushroom strain sold under the name ‘Cayene’.

The PM Order

5. The Court by order of 31 July 2024 (Order no. 44133/2024, the “**PM Order**”) decided as follows in the PM proceedings, therewith concluding those inter partes proceedings:

“Having heard the parties, the court by way of provisional measures:

1. *Orders Defendant by way of preliminary injunction to refrain from direct infringement of European patent EP 1 993 350 B2 in the territories of The Netherlands, Germany, France and Italy, with immediate effect after service of this order, by making, offering and / or placing on the market the brown mushroom strain Cayene as specified in the complaint, or importing or storing this strain for those purposes in accordance with the claim of the patent (Articles 63(1) and 25(a) UPCA);*
2. *Orders the Defendant to pay to the court a penalty payment (which may be repeated) of up to EUR 50,000.00 for each day or part of a day that the aforementioned injunction is not complied with; the penalties will be determined by this Local Division of the court upon request by Amycel (Article 63(2) UPCA; and R.354.3 RoP);*
3. *Orders Defendant to deliver up, within one week after the service of this order, the brown mushroom strain Cayene infringing EP 1 993 350 B2 present in the territories of The Netherlands, Germany, France and Italy, so as to prevent their entry into or movement within the channels of commerce (R. 211(1)(b) RoP);*
4. *Orders Defendant to provide, within two weeks after the service of this order, to Amycel (c/o its representatives) a written account with the full names and address details of all customers to whom the Defendant offered for sale, sold and/or delivered or otherwise traded in the Cayene strain within the territories of The Netherlands, Germany, France and Italy (R. 211 (1) RoP);*
5. *Orders Defendant to pay to the court a penalty payment (which may be repeated) of up to EUR 5,000.00 for each day or part of a day that the aforementioned injunction at 4. is not complied with; the penalties will be determined by this Local Division of the court upon request by Amycel (Article 63(2) UPCA; and R.354.3 RoP).*
6. *Orders the Defendant to pay to Amycel an interim award of costs in the sum of EUR 11,000.00 (R. 211.1(d) RoP).*
7. *The above is immediately enforceable but for Amycel only once it has provided security in favour of the Defendant in the form of a deposit in the amount of EUR 200,000.00 (two hundred thousand Euro) on the bank account of the UPC dedicated thereto or a bank guarantee of a respected bank established in a Contracting Member State.*
8. *Rejects the claims in all other respects.*
9. *Determines that the Defendant shall bear the costs of the proceedings.*
10. *Sets the date as referred to in R. 213.1 RoP at 30 calendar days after service of this order.*
11. *Sets the value of the dispute at EUR 200,000.00.”*

The service on Defendant – R.275 Order

6. On 13 December 2024, three and a half months after the uploading of the SoC, Claimant filed an application (App_65966/2024, the “R.275 Application”) for alternative service of the SoC on Defendant pursuant to R. 275 RoP in the Action.
7. By order of 19 December 2024 (the “**R.275 Order**”) the judge-rapporteur, considering the steps already taken by the registry and by Amycel to bring the SoC to the defendant's attention, considered the actions taken to be an alternative method that is in accordance with the UPC principles of efficiency and fairness and that respects the rights of the Defendant, ordering the following:
 - I. *The date on which the Statement of Claim is deemed to be served on Defendant is 25 November 2024;*
 - II. *Amycel is ordered to send a copy of this order to Defendant's former representative with the requests set out in 11 above.*
8. The R.275 Order contains the following reasoning:

(...)

 9. *Defendant's representative in the provisional measures proceedings was asked [by the registry] to indicate whether he was authorized to accept service of the Statement of Claim, but he informed the registry that Defendant had not appointed him in these proceedings on the merits. Service by electronic means can therefore not be effected.*
 10. *As Defendant is located in Poland, an EU country that is not a Contracting Member State, R. 274.1(a)(i) RoP applies to service. Accordingly, service was effected by the court by sending a registered letter with acknowledgement of receipt. This letter was returned to the registry. Subsequently this was tried again and the letter was again returned unopened.*
 11. *At the same time, Amycel, after deliberations with the registry, initiated two alternative methods of service namely:*
 - a. *service through a Dutch bailiff acting as transmitting agency and using the local official receiving agency in Poland;*
 - b. *service through a Dutch bailiff using a well-established private carrier for in person delivery against acknowledgement of receipt, including the acknowledgment of receipt with the use of the tracking tools of this private carrier.*
 12. *By both routes the following documents were contained in the writ of service of the bailiff (each document accompanied by a Polish translation):*
 - Amycel's SoC;
 - the Local Division's service letter dated 17 September 2024;
 - the Local Division's wit CMS access codes dated 17 September 2024;
 - the so-called L-form according to the EU Service Regulation.
 13. *Via method of service b. (private carrier) the documents were delivered to Defendant with acknowledgement of receipt on ■■■ November 2024, evidenced by the private carrier's proof of delivery submitted by Amycel with the application. From a further report of the private carrier it is apparent that Defendant subsequently refused the package and returned it to the carrier for return to the sender. or when this is not possible by 274.1(b) RoP.*
 14. *Service via method a. mentioned above was also not successful. The package with the documents was delivered to Defendant's address on 19 November 2024 but was subsequently returned to the Dutch bailiff unopened. Defendant did not make a written declaration of refusal, e.g. by using the L-form (cf. Article 12.3 EU Service Regulation).*
 15. *The Court considers that the steps already taken to bring the SoC to the defendant's attention by an alternative method, as described above, respect the rights of the defendant. The legal documents were received by and/or delivered to his address, but he chose not to accept or open the documents. Therefore, the alternative method*

followed by Amycel is in accordance with the UPC principles of efficiency and fairness (RoP Preamble, points 4 and 5) and is a "good service" pursuant to R. 275.2 RoP.

10. In addition, the Claimant was ordered to send a copy of the R.275 Order to the former representative of Defendant:

11. Amycel used the same representative in the provisional measure proceedings (at the local division and in appeal APL_47391/2024, UPC_CoA_490/2024) and in the revocation action (PR_ACT_40493/2024 UPC_CFI_403/2024). Although this representative indicated that he has not been engaged by Defendant for these proceedings, the court assumes that he is in touch with the Defendant. Amycel is therefore ordered to send a copy of this order by email to the former representative, requesting him (i) to forward the order to the Defendant or otherwise bring it to his attention and (ii) to inform the Defendant that a decision by default shall be issued in case he does not appear in these proceedings by filing a statement of defense within three months from 25 November 2024.

16. Pursuant to R.275 Order, R 23 and R 300 (c) RoP, the deadline to upload the Statement of Defence ("SoD") was Wednesday 25 February 2025.

17. From the representative data for the Defendant in the CMS it appears that on 6 January 2025 mr. M. Pryluski, who also represented Defendant in the PM proceedings in both instances and in the revocation action concerning the patent, registered as representative:

Representative Data

Name	Michal Przyluski JD&P Patent Attorneys
Postal Address	ul. Myśluborska 93A/50 - 03-185 - Warszawa - PL
The authorised representative was changed on	06/01/25 19:41:14 CET

18. The date of service of the SoC was not disputed in a timely manner by the Defendant.

Uploading of the Statement of Defence and R.320 Order

19. On 4 March 2025 Defendant's representative uploaded the SoD.
20. On the same day he filed an application pursuant to Rule 320 RoP for the re-establishment of rights in respect of the deadline to file the SoD as App_10764/2025, hereinafter: the "R.320 Application".
21. By order of 1 April 2025 (the "**R.320 Order**") the full panel of the court of first instance local division The Hague, for the grounds mentioned in the order, found that in the context of the specific circumstances of these proceedings, the representative of the Defendant has not taken all due care to avoid that his (unforeseen and outside his control) incapacity to file at the very end of the period during which the SoD could be uploaded, would have the consequence that the deadline for filing the SoD could not be met. The court rejected the R.320 Application and ordered as follows:
- 1. The R.320-Application for the re-establishment of rights is rejected;*
 - 2. The SoD is considered not to be filed;*
 - 3. A decision by default shall be taken in the infringement action.*

Further applications

22. Between 1 April and 12 June 2025, the Defendant filed the following five additional applications without permission from the court:

- 1 April 2025 (App_15963/2025): a R. 9.1. RoP application to admit additional exhibits into the proceedings;
- 1 April 2025 (App_15973/2025): a R. 9.3 (a) RoP application for retrospective extension of the time period to submit a SoD;
- 2 April 2025 (App_16189/2025): a R. 9 RoP application to submit exhibits not lodged with its 1 April 2025 I application;
- 29 April 2025 (App_20489/2025): a R. 9.3 (a) RoP application to admit a further exhibit;
- 12 June 2025 (App_28283/2025): a R. 295 (m) RoP request to stay the proceedings.

23. The Claimant was given the opportunity to reply to the request to stay and to the other applications, which it did by submission of 30 June 2025 (in workflow App_28283/2025), concluding as follows:

All of [Defendant]'s applications and requests should be rejected. Amycel requests the Local Division to issue the default decision and grant the relief Amycel has claimed in its Statement of Claim, including the (interim) award of the requested damages and procedural costs, as further specified with its 13 December 2024 Application.

24. On 1 and 9 September, Defendant filed two further applications, with each requesting to submit a new exhibit as App_35900/2025 and App_36390/2025 respectively.

GROUNDINGS FOR THE DECISION

25. The action is admissible and well-founded. As a result of defendant's default, a decision by default is to be issued in accordance with the application (Statute of the Unified Patent Court Art. 37, Rule 355 RoP).

26. R.277 RoP specifies that no decision by default shall be entered under Part 5, Chapter 11 of the RoP unless the Court is satisfied that either (a) the SoC was served by a method prescribed by the internal law of the state addressed for the service of documents in domestic actions upon persons who are within its territory; or (b) the SoC was actually served on the defendant under Chapter 2 of the RoP. It follows from the R.275 and R.320 Orders that the Court is satisfied that the SoC was served on Defendant. A representative for the Defendant was registered on 6 January 2025, further confirming that the SoC reached the Defendant.

Jurisdiction and competence

27. Ex officio the Court establishes that it has international jurisdiction to hear this infringement Action for the Contracting Member-States where the patent is valid regarding the European patent that is not opted out of the UPC (Art. 31 and 32.1 (a) UPCA and Art. 7.2, 71a and 71b Brussels Regulation 1215/2012, as amended by EU Regulation 542/2014), because the alleged infringement by the Polish Defendant also takes place in the Netherlands. This local division is internally competent to hear the case as the allegedly infringing acts also occurred in The Netherlands (Art. 33.1(a) UPCA).

Admissibility

28. Claimant started this Action within the time limit specified in the PM Order sub 10. It also deposited the security ordered in the PM Order sub 7 on 7 August 2024 on the dedicated UPC bank account. The injunction and other relief ordered are therefore (still) in place.
29. Claimant is the registered proprietor of the patent and is thus entitled to commence proceedings pursuant to Article 47 UPCA.
30. The seven applications filed by the Defendant between 1 April and 9 September 2025, after the R.320 Order was issued, are not admitted into the proceedings. In so far as the Defendant is requesting the panel to reverse the R.320 Order with these applications, this request is dismissed. In the R.320 Order the termination of the Action with a decision by default was announced. Reference is made to the grounds given in the R.320 Order. The fact that some time passes between the issuing of R.320 Order, does not change this. The default decision only confirms the injunction that is already in place pursuant to the PM Order; it does not change the factual and legal situation, apart from replacing a provisional by a permanent injunction. In so far as the Defendant seeks to submit further exhibits with the seven applications, these are not admissible and not considered by the Court.

Well-founded?

31. Pursuant to R.355.2 RoP, a decision by default against the defendant may only be given where the facts put forward by the claimant justify the remedy sought.¹ The Court understands this to mean that in a default situation, it must assess whether the facts are sufficiently substantiated by evidence and whether the requested measures and orders are not *prima facie* unlawful or unfounded, i.e. the patent in question is not obviously invalid and that the allegedly infringing product is not obviously outside of the scope of the patent.
32. The grounds for the injunction and measures that Claimant seeks in the Action, are the same as those it relied on in the PM proceedings: Claimant asserts that Defendant infringes its patent right with his brown mushroom strain sold under the name 'Cayene'. Hence, the debate and issues in the Action are, as Claimant pointed out in its statement of claim ("SoC"), unavoidably, mostly a repetition of the debate during the PM proceedings and the SoC largely reflects the facts and legal arguments Claimant submitted in the PM proceedings.
33. In the circumstances of the present case, it follows from the assessment by the Court of largely the same facts and almost identical submission of Claimant as well as submissions of the Defendant in the inter partes PM proceedings, that the requested measures are not unlawful or unfounded. In the PM proceedings the Court (provisionally) considered that the patent is more likely that not to be valid and infringed. The Court refers to the reasoning of its PM Order for brevity. The Court has no reason to assume in these proceedings on the merits, also given that there is no relevant defence to be considered, otherwise. The Court thus establishes, based on the facts put forward by the Claimant in these proceedings, that the patent is valid and infringed.

¹ See also LD Dusseldorf 5 August 2025, UPC_CFI318/2025 (igus/Whale technology). A similar test seems to be applied by LD Munich in its decision by default of 9 January 2025, UPC_CFI_508/2023. The test mentioned in the headnote of CD Milan 22 July 2025, UPC_CFI_597/2024 seems stricter, but the test applied in that decision seems to be similar; the facts of the latter case are also quite different because several submissions had been exchanged.

Requested orders and proportionality

34. As the Court finds the patent valid and infringed, the injunction requested sub A subject to recurring penalty payments requested sub G (see paragraph 2 above), shall be granted pursuant to Art. 63 UPCA, with the addition that the total penalty shall be maximised. In practice this means that the preliminary injunction of the PM Order is confirmed. The injunction is limited to the strain Cayene for which it was established that it infringes. No other infringing products have been alleged. The injunction also covers the strain Cayene sold under a different name (as argued by the Claimant in the SoC). Where the strain Cayene is mentioned in the order (injunction and other measures), this also covers the same strain sold under a different name.
35. In view of the established infringement, the corrective measures requested by the Claimant with regard to the infringing mushroom strain Cayene as cited in paragraph 2 above sub B (delivery up of products), sub C (information on distribution), sub D (recall), sub E (notice on website) and sub F (destruction of infringing products) will also be granted in so far as reasonable and appropriate, at the expense of the Defendant (pursuant to Art. 64.1, 2 and 3 UPCA). There are no indications that these measures are disproportionate within the meaning of Article 64(4) UPCA, with the exception of the following. The request sub B (delivering up so as to remove and prevent entry into or movement within the channels of commerce) is considered superfluous in view of the requested destruction also of the Cayene requested sub F which seems to concern (at least partly) the same mushrooms, is further reaching and will have the same effect. Furthermore, to require (sub F) that the destruction is both documented by the Defendant and in addition that the Claimant is given the opportunity to watch the destruction, is superfluous. The order will be drafted to clarify that documentation is only necessary in case Claimant decides not to attend the destruction. It is also not necessary to order that any documentation of the destruction is *in writing*. The destruction can also be documented visually.
36. Claimant submitted (as exhibit VB28) a news item from Defendant's website discussing the outcome of the PM proceedings (and other ongoing proceedings) which contains the following text:
- “(...) at this stage, none of the ongoing cases has determined whether [Defendant] has infringed the patent. A definitive answer to the question of whether the brown mushroom spawn under the trade name Cayene infringes Amycel's patent rights to the Heirloom spawn will be known when the aforementioned legal proceedings are conclusively resolved.”
- In view of this, the Court will grant the requested notice on the website sub E, for a limited period and limited in size, as set out in the order below. The notice must be placed on the same location on the website(s) of Defendant on which the earlier notice was posted and in a similar way.
37. The requested penalty payments in case of non-compliance with these measures requested sub G. are granted, albeit with a fixed maximum as well. Also to avoid execution issues, the Court clarifies that the sales information to be provided can be in digital form.
38. In setting the timelines to meet the orders, the Court takes into consideration that the Defendant was already ordered to deliver up the infringing product in the PM Order and to provide a list of customers.
39. The injunction and additional measures shall be granted for the (four) UPC Member States where the patent is valid, as requested (Art. 34 UPCA).

40. The Defendant is also liable for damages suffered by Claimant due to the infringement of the patent in the relevant UPC states (Netherlands, Germany, France, Italy). He shall be ordered to pay these damages, as requested sub H. in accordance with Art. 68 UPCA, R. 118.1 RoP). In view of the absence of a defence, the Court establishes that Defendant knowingly infringed or at least had reasonable grounds to know that he would infringe the patent within the relevant UPC territory as from the day of the grant of the patent (29 June 2016), as submitted by the Claimant as the broadest alternative.
41. Pursuant to R. 119 RoP the Claimant requests the Court to order Defendant to pay an interim award of damages of EUR 50,000. Specifically, it seeks an interim award of damages which will at least cover the expected costs of the procedure for the award of damages. The Court finds the requested amount reasonable, and an interim award is granted accordingly.
42. Defendant as the losing party is obliged to bear reasonable and proportionate legal costs and other expenses incurred by the successful party, the Claimant, in accordance with Article 69 UPCA. The court will decide this in principle in these proceedings, as requested sub J (R. 118.5 RoP). The height of the costs to be reimbursed is to be decided in separate cost proceedings. The request to order the Defendant to bear the costs incurred by the Claimant in the PM proceedings, both in first instance and in appeal, is dismissed as this has already been decided in the PM Order and the appeal thereto.
43. The court will set the value of the proceedings relevant for determining the ceiling for recoverable costs of representation, at EUR 500,000.00 as requested and substantiated by Claimant.
44. The immediate enforceability of the orders contained in the decision in each Contracting Member State from the day of their service, follows from Art. 82.1 UPCA, R. 354.1 and R. 355.4 RoP. In the present case, the court sees no reason to suspend enforcement pursuant to R. 355.4 (a) RoP or to make enforcement pursuant to R. 355.4 (b) RoP subject to the provision of security.

DECISION

The Court

- I. Orders Defendant to refrain from direct infringement of European patent EP 1 993 350 B2 in the Contracting Member States where the patent is valid, i.e. the territories of The Netherlands, Germany, France and Italy, with immediate effect after the date of service of this decision, by making, offering and / or placing on the market the hybrid *Agaricus bisporus* (brown) mushroom strain Cayene as specified in the complaint, whether sold as Cayene or under another name, or importing or storing this strain for those purposes in the aforementioned territories (Art. 63(1) and 25(a) UPCA).
- II. Orders the Defendant, within two weeks after the date of service of this decision on Defendant, to provide to Claimant (p/a Brinkhof N.V.) a written account of:
 1. the full names and address details of all parties to whom the Defendant, within the Netherlands, Germany, France and Italy, sold and/or delivered or otherwise traded in the mushroom strain Cayene the grant of the patent (29 June 2016), with a specification for each party of the volume (in liters) sold, delivered or otherwise traded in, as well as the sales price (in euro) and the date when one of the named acts was performed;

2. the turnover and profits, including a breakdown of the individual cost factors, which the Defendant realized with the sales mentioned above under II.1;

3. the volume of the mushroom strain Cayene, which Defendant keeps in storage for sale within the Netherlands, Germany, France and Italy;

all of the above to be supported by copies of relevant documentation such as purchase orders and/or order confirmations, invoices and delivery notes and other purchase and sales documents.

The information to be provided pursuant to this order can be provided in digital form.

- III. Orders the Defendant, within one week after the date of service of the decision to send a registered letter, on Defendant's usual paper and in its usual font and signed by the Defendant or an authorized representative, to all the parties to whom the Defendant offered for sale, sold, delivered or other-wise traded in the mushroom strain Cayene in the Netherlands, Germany, France and Italy, with the following contents and without any additions, while simultaneously providing a copy of these letters to the Claimant (p/a Brinkhof N.V.):

"Dear Madam, Sir,

The Unified Patent Court has ordered us by decision of 21 October 2025 to inform you that we have infringed Amycel LLC's European Patent EP 1 993 350 B2 with our mushroom strain Cayene in the territories of the Netherlands, Germany, France and Italy. The Unified Patent Court has ordered us to immediately cease and desist this infringement. This means that we may no longer offer, sell or deliver this mushroom strain to customers in the named territories for the remainder of the life of the patent. We request you to return to us any current stock of the Cayene strain we delivered to you. We will reimburse you with the costs for this return to us such as the purchase price, transport and packaging costs and customs and storage costs.

[name and signature of statutory representative of ...]."

- IV. Orders the Defendant, within one week after the date of service of the decision to be rendered in these proceedings on the Defendant, to place the following message on the same location on the website(s) on which earlier announcements regarding the proceedings were placed (as mentioned in 36 above) and kept there for 30 days, in a clear and immediately visible and readable manner in its usual font and size, with only the following content:

"The Unified Patent Court has ruled that we have infringed Amycel LLC's European Patent EP 1 993 350 B2 with our mushroom strain Cayene in the territories of the Netherlands, Germany, France and Italy. The Unified Patent Court has ordered us to immediately cease and desist this infringement. This means that we may no longer offer, sell or deliver the Cayene mushroom strain to customers in the named territories."

- V. Orders the Defendant to destruct
- all batches of mushroom strain Cayene returned by the parties pursuant to III. above within two weeks after the Defendant received this returned mushroom strain, and
 - within two weeks of the service of this decision on Defendant, to destruct batches of mushroom strain kept in storage by the Defendant in the relevant territory as indicated under II.3 above,

in both cases at Defendant's costs and giving (a representative of) the Claimant the opportunity to witness this destruction, to which end the Claimant (p/a Brinkhof) is informed of the intended destruction at least a week in advance thereof; in case the Claimant chooses not to attend, the Defendant will provide documentation evidencing the destruction to the Claimant (p/a Brinkhof) within a week of the destruction of the batch in question.

- VI. Orders the Defendant to pay to the Court a penalty payment of up to EUR 50,000,- for each day or part of a day that the injunction at I. is not complied with, with a maximum of EUR 1,000,000 and a penalty payment of up to EUR 5,000,- for each day or part of a day that the orders at II-V. are not complied with in full, with a maximum of EUR 100,000; the penalties will be determined by this Local Division of the court upon request by Amycel (Art. 63(2) UPCA; and R.354.3 RoP).

- VII. Determines that Defendant is liable for the damages the Claimant has suffered and may suffer (past and future damages) as a result of the Defendant infringing EP 1 993 350 B2 with the Cayene strain the height of which damages is to be assessed and determined in follow-up damages proceedings.
- VIII. Orders Defendant to pay the Claimant within two weeks after service of this decision EUR 50,000. - as an interim award of damages;
- IX. Determines that the Defendant shall bear the costs of the proceedings.
- X. Sets the value of the case/dispute at EUR 500,000.00.
- XI. The orders are immediately enforceable, subject to R. 118.8 RoP.
- XII. Rejects the requests in all other respects.

Edger Brinkman	Edger Frank BRINKMAN Digitally signed by Edger Frank BRINKMAN Date: 2025.10.21 08:52:55 +02'00'
Rute Lopes	Rute Alexandra Da Silva Sabino Lopes Assinado de forma digital por Rute Alexandra Da Silva Sabino Lopes Dados: 2025.10.21 08:39:07 +01'00'
Margot Kokke	Margot Elsa KOKKE Digitally signed by Margot Elsa KOKKE Date: 2025.10.21 09:43:03 +02'00'
On behalf to the registry	Larissa Donata Hageman Digitally signed by Larissa Donata Hageman Date: 2025.10.21 10:11:13 +02'00'

INFORMATION ABOUT LEGAL REMEDY

Defendant may lodge an application to set aside this decision within one month of service of the decision (Rule 356.1 RoP)

INFORMATION ON ENFORCEMENT (ART. 82 UPCA, ART. 37(2) STATUTE, R. 118.8, 158.2, 354, 355.4 RoP)

An authentic copy of the enforceable order will be issued by the Deputy Registrar upon request of the enforcing party (R. 69 Rules governing the Registry of the Unified Patent Court).