

**Decision**  
**of the Court of First Instance of the Unified Patent Court**  
**delivered on 11 February 2026**  
**concerning EP 3 686 683 B1**

**Headnote:**

If a defendant has used its own website to create the impression that there has been no patent infringement, it may be justified under Art. 80 UPCA to not only allow the claimant to publish the Court's decision, but also to require the defendant to publish the operative part of the decision on its website.

**Keywords:**

Publication; Art. 80 UPCA

CLAIMANT:

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represented by: Attorney-at-law Boris Kreye LL.M., Attorney-at-law Anika Boche, Maximiliansplatz 22, 80333 Munich, Germany

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DEFENDANTS:

1. **Katun Germany GmbH**, represented by its managing directors Mr Thomas Arthur Meij and Mr Robert Henry Moore, Hammfelddamm 4a, 41460 Neuss, Germany
2. **Katun (E.D.C.) B.V.**, represented by its managing director Mr Robert Henry Moore, De Prinsenhof 11, 4004 LN Tiel, The Netherlands
3. **Katun Corporation**, represented by its chief executive officer Mr Robert Henry Moore, 7760 France Ave. So., Suite 340, Minneapolis, Minnesota 55435, United States
4. **General Plastic Industrial Co., Ltd.**, represented by its chairman Mr Jack Wang and its president Mr Jerry Wang, 50, Tzu-Chiang Road, Wu-Chi Dist., Taichung, Taiwan 43547

Defendants 1-4 represented by: Attorney-at-law Dr Thure Schubert, Attorney-at-law Dr Matthias Jentsch, Attorney-at-law Luisa Huber, Patent Attorney Arnold Asmussen, Patent Attorney Dr Axel Leins, VB Vossius & Brinkhof UPC Litigators, Siebertstraße 3, 81675 München, Germany

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PATENT AT ISSUE:

European patent n° EP 3 686 683 B1

PANEL/DIVISION:

Panel of the Local Division in Düsseldorf

DECIDING JUDGES:

This decision is delivered by Presiding Judge Thomas, the legally qualified judge Dr Schumacher acting as judge-rapporteur, the legally qualified judge Knijff and the technically qualified judge Dr Philippss.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT OF THE PROCEEDINGS: Infringement action and counterclaim for revocation

DATE OF THE ORAL HEARING: 8 January 2026

SUMMARY OF THE FACTS:

1. The Claimant is suing the Defendants for infringement of the European Patent EP 3 686 683 B1 (Exhibit C 19, hereinafter: patent in suit).
2. The patent in suit is based on European patent application No. 18 859 213.3, which was filed in English language on 21 September 2018 (published as EP 3 686 683 A1, Exhibit C 43). The underlying international application is PCT/JP2018/036623, which was published in Japanese language as WO 2019/059419 A1 (Exhibit VB 08, in English translation submitted as Exhibit VB 08 EN, hereinafter: WO 419) on 28 March 2019. The patent in suit claims priority of Japanese application JP 2017181802, which was filed on 21 September 2017.
3. Mention of the grant of the patent in suit was published on 13 March 2024. The patent in suit has unitary effect. The registered and sole authorised proprietor of the patent in suit is the Claimant.
4. A notice of opposition has been filed by the Defendants on 13 December 2024. On 15 September 2025, the Opposition Division of the European Patent Office (EPO) issued a preliminary opinion (Exhibit C 48).
5. Following the oral hearing before the Panel on 8 January 2026, the Claimant informed the Court that, at the end of the opposition hearing on 27 January 2026, the Opposition Division of the EPO had rejected the opposition and maintained the patent in suit as granted. The written grounds for this decision are not yet available.
6. The patent in suit is titled 'Developer replenishing container and developer replenishing system'. Claims 1, 5 and 6 of the patent in suit read as follows:

Claim 1:

'A developer supply container detachably mountable to a developer receiving apparatus (8) including a developer receiving portion (11) provided with a receiving opening (11a) for receiving a developer, and a supported portion (11b) integrally displaceable with the developer receiving portion (11), said developer supply container (1) comprising:

a developer accommodating portion (2c) accommodating the developer;  
a discharging portion (700) provided with a discharge opening (3a4) in a bottom side of said discharging portion (700) for discharging the developer accommodated in said developer accommodating portion (2c);  
a supporting portion (30) provided at said discharging portion (700) and capable of supporting the supported portion (11b),

**characterized in that**

said supporting portion (30) is movable relative to said discharging portion (700), **and in that**

said developer supply container (1) further comprises a moving mechanism (4f, 30b; 30Ca, 30Cb; 60, 61; 70, 71; 90) for moving said supporting portion (30) upwardly relative to said discharging portion (700) while supporting said supported portion (11b) to move the developer receiving portion (11) toward said developer supply container (1) so as to bring said receiving opening (11a) into communication with said discharge opening (3a4) with a mounting operation of said developer supply container (1) to the developer receiving apparatus (8).'

Claim 5:

'A developer supply container according to Claim 1, wherein said moving mechanism includes a guiding means for guiding said supporting portion (30B) in a direction of bringing the receiving opening (11a) into communication with said discharge opening (3a4), and a sliding operation portion for moving said supporting portion (30B) along said guiding means with the mounting operation.'

Claim 6:

'A developer supply container according to Claim 5, wherein said guiding means includes a rib (3i) provided on one of said discharging portion and said supporting portion (30B), a holding portion (30Bd) provided on the other end engaged with said rib (3i) to slidably support said supporting portion (30B).'

7. For the wording of all other claims, reference is made to the patent in suit.
8. The Katun group (hereinafter also referred to as 'Katun') is a manufacturer and global supplier of products and services for the office imaging equipment market. Katun's product range includes office imaging equipment such as parts and accessories for copiers, printers and fax machines, as well as printer consumables. These products are marketed by Katun as a low-cost alternative to OEM (Original Equipment Manufacturer)-brand products.
9. Defendant 1 is part of the Katun Group and is based in Neuss, Germany. The company supplies accessories and consumables for copiers and electronic data processing (EDP) in Germany and Austria.
10. Defendant 2 is also part of the Katun Group and is based in Gorinchem, the Netherlands. Defendant 2 was appointed by Defendant 3 as its master distributor and operational hub for the EMEA region. It sells Katun products in the EU via Katun market affiliates, including Defendant 1, which are established in various European countries such as the Netherlands, Germany, the United Kingdom, France, Spain, Portugal, Italy and Switzerland.
11. Defendant 3 is the founding entity of the Katun Group, headquartered in Minneapolis, USA.
12. Defendant 4, which is based in Taiwan, ultimately owns the Katun group. It manufactures printer consumables and supplies the Katun Group, including Defendants 1 to 3.
13. With its infringement action, the Claimant targets toner bottles of the models 53446, 53410, 53531, 53753 and 53437 and all other toner bottle models manufactured by Defendant 4 in

Taiwan and subsequently offered and distributed by the Defendants in several UPCA Member States, having the design as follows, irrespective of a specific brand, model designation or colour (hereinafter: challenged embodiment):



14. Pictures 1 and 4 show a toner bottle of the model 53753, while pictures 2 and 3 show a toner bottle of the model 53410.
15. The only differences between models 53446, 53410, 53531, 53753 and 53437 are the sizes of the toner bottles and certain components. Their construction and the function of the moving mechanism are identical.
16. The Claimant obtained the toner bottles of models 53446, 53410, 53531, 53753 and 53437 by way of a test purchase in Germany.
17. The aforementioned toner models can be used in Canon imageRUNNER multifunction printers and copier machines.
18. The challenged embodiments are offered and distributed by Defendant 1 in Germany and Austria, and by Defendant 3 in UPC territory in general. Defendant 2 also distributes the challenged embodiments in Europe.
19. Defendant 4 manufactures the challenged embodiments in Taiwan and is closely involved in their worldwide distribution. It intends and has knowledge of the distribution of the challenged embodiments also in the UPC territory.

MAIN STEPS OF THE PROCEEDINGS:

*Service on Defendant 3*

20. On 28 June 2024, the Claimant filed a statement of claim against all four defendants.
21. At the Claimant's request, the statement of claim was served on US-based Defendant 3 at the registered office of Defendant 2 in the Netherlands. The Claimant referred to the registered office of Defendant 2 as a branch office of Defendant 3.
22. On 31 July 2024, the Defendants' representative used the access code provided by the Court to log into the CMS on behalf of Defendant 3.
23. On 14 October 2024, the Defendants' representative filed a statement of defence and counterclaim for revocation on behalf of Defendants 1 to 3, disputing the validity of service on Defendant 3.
24. At the interim conference held before the judge-rapporteur on 4 December 2025, the Defendants declared that they would no longer contest effective service on Defendant 3.

*Procedural aspects*

25. In the reply, the Claimant filed a request for leave to change claim pursuant to R. 263 RoP concerning:
  - an auxiliary request regarding indirect infringement;
  - an extension of the requested information;
  - an addition to the wording of the motion for interim damages.
26. This request has not yet been decided upon.
27. On 29 September 2025, the Claimant filed an application for the admission of further pleadings under R. 36 RoP. The judge-rapporteur ruled on this application by order of 20 November 2025.
28. At the interim conference, the Claimant made some clarifications and minor changes to the motions. Reference is made to the order pursuant to R. 105.5 RoP of 10 December 2025.

INDICATION OF THE PARTIES REQUESTS:

Infringement action

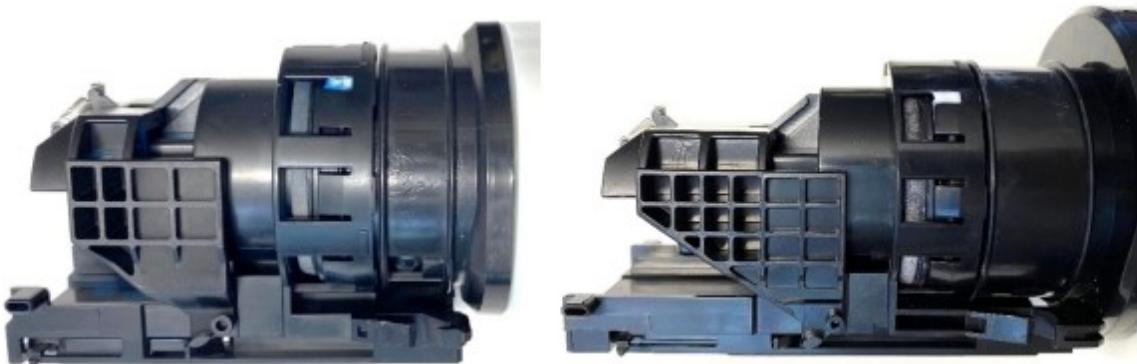
29. In the following reproduction of the motions, the amendments made by the Claimant in its request pursuant to R. 263 RoP are shown in italics.
30. The Claimant finally requests that the Court:
  - I. orders Defendants to refrain from
    - offering, placing on the market, using or importing or storing for those purposes within

the territory of the Agreement on a Unified Patent Court at the conclusion of the oral hearing

a developer supply container detachably mountable to a developer receiving apparatus including a developer receiving portion provided with a receiving opening for receiving a developer, and a supported portion integrally displaceable with the developer receiving portion, said developer supply container comprising: a developer accommodating portion accommodating the developer; a discharging portion provided with a discharge opening in a bottom side of said discharging portion for discharging the developer accommodated in said developer accommodating portion; a supporting portion provided at said discharging portion and capable of supporting the supported portion, characterized in that said supporting portion is movable relative to said discharging portion, and in that said developer supply container further comprises a moving mechanism for moving said supporting portion upwardly relative to said discharging portion while supporting said supported portion to move the developer receiving portion toward said developer supply container so as to bring said receiving opening into communication with said discharge opening with a mounting operation of said developer supply container to the developer receiving apparatus

(Independent Claim 1 of the patent in suit),

especially when the developer supply container is designed as shown below:



I.a. on an auxiliary basis (in the event that the Court interprets independent claim 1 of the patent in suit to claim a developer supplying system consisting of a developer supply container and a developer receiving apparatus),

*orders Defendants to refrain from*

*supplying or offering to supply, within the territory of the Contracting Member States in which EP 3 686 683 B1 has effect, any person or entity not entitled to exploit the invention of EP 3 686 683 B1, with developer supply containers suitable for putting into effect in this territory the following:*

*a developer supply container detachably mountable to a developer receiving apparatus including a developer receiving portion provided with a receiving opening for receiving a developer, and a supported portion integrally displaceable with the developer receiving portion, said developer supply container comprising: a developer accommodating portion accommodating the developer; a discharging portion provided with a discharge*

*opening in a bottom side of said discharging portion for discharging the developer accommodated in said developer accommodating portion; a supporting portion provided at said discharging portion and capable of supporting the supported portion, characterized in that said supporting portion is movable relative to said discharging portion, and in that said developer supply container further comprises a moving mechanism for moving said supporting portion upwardly relative to said discharging portion while supporting said supported portion to move the developer receiving portion toward said developer supply container so as to bring said receiving opening into communication with said discharge opening with a mounting operation of said developer supply container to the developer receiving apparatus*

*(Indirect infringement of claim 1 of the patent in suit),*

*especially when the developer supply container is designed as shown below:*



- II. orders Defendants for each case of violation of the order under item I. to make penalty payments to the Court, which are to be determined by the Court in reasonable proportion to the importance of the order to be enforced, whereby an amount of up to EUR 10,000.00 for each case of violation and per item is suggested;
- III. finds that the patent in suit was infringed by Defendants in respect to the developer supply containers shown above under item I.;
- IV. orders Defendants, under penalty of a periodic fine of up to EUR 1,000.00 for each day of delay, within a period of one month from the date of service of the decision, to inform Claimant of the extent to which Defendants have committed the actions referred to in item I. since 13 March 2024, by specifying:
  - 1) the origin and distribution channels of the infringing products,
  - 2) the quantities produced, manufactured, delivered, received or ordered, as well as the price obtained for the infringing products, and
  - 3) the identity of any third person involved in the production or distribution of the infringing products;
  - 4) *the number and product data of the infringing products offered,*
  - 5) *the advertising carried out, broken down by advertising medium, its circulation,*

*the marketing period and marketing area, including evidence for these advertising activities,*

6) *the costs, broken down by individual cost factors and the profit obtained,*

*whereby*

*– the list with the data has to be additionally transmitted electronically in a form that can be evaluated by means of EDP (e.g. Excel table), and*

*– copies of the relevant purchase documents (namely invoices, alternatively delivery bills) are to be submitted as proof of the information provided, whereby confidential details outside the information subject to disclosure may be redacted;*

V. orders Defendants 1 – 3, under penalty of a periodic fine of up to EUR 1,000.00 for each day of delay, within a period of one month from the date of service of the decision, to recall from the channels of commerce the products referred to in item I. that have been placed on the market since 13 March 2024, with reference to the infringement of the products as determined by the Court and with the commitment to pay any fees and necessary packaging and transport costs, as well as customs and storage costs associated with the return, and to take back the products to definitively remove them from the channels of commerce;

VI. orders Defendants 1 – 3, under penalty of a periodic fine of up to EUR 1,000.00 for each day of delay, within a period of one month from the date of service of the decision, to destroy the products referred to in item I. in their direct and/or indirect possession and/or ownership (including any products that come into their direct and/or indirect possession and/or ownership pursuant to item V. or otherwise) in the territory of the Agreement on a Unified Patent Court at the conclusion of the oral hearing or, at their option, to hand them over to a bailiff to be appointed or commissioned by Claimant for the purpose of destruction;

VII. finds that Defendants are obligated to reimburse Claimant for any damages incurred by Claimant since 13 March 2024 due to the actions referred to in item I. as well as those yet to be incurred;

VIII. orders Defendants *jointly and severally (“gesamtschuldnerisch”)*, to pay interim damages, with the amount of such damages at the discretion of the Court, whereby at a minimum, Claimant’s expected costs of the proceedings for the award of damages and compensation must be covered, whereby an amount of at least EUR 400,000.00 is suggested;

IX. allows Claimant to display the Court’s decision and to publish it (including the announcement thereof) in full or in part on its website and in public media, including industry journals of its choice;

X. orders Defendants to publish the operative part of the Court’s decision on their websites;

XI. orders Defendants to pay the costs of the proceedings, including those relating to the

measures requested in items I. to X. above;

XII. attaches to the decision an order for the immediate enforceability of the measures requested in items I., II., IV. to VI. and VIII. to X. above,

alternatively,

in the event that a security is ordered, permits Claimant to provide it by bank or savings institution guarantee and determines the amount of the security separately for each claim awarded and for the decision of cost liability,

alternatively,

permits Claimant to avoid enforcement with respect to the costs of the proceedings against provision of security;

XIII. issues a decision by default in the event that Defendants fail to take a step within the time limit foreseen in the UPC Rules of Procedure or set by the Court or fail to appear at an oral hearing after having been duly summoned.

31. With regard to the Claimant's 'especially when' motions based on defendant claims 5 and 6, reference is made to the statement of claim (initial requests) and to the reply (request pursuant to R. 263 RoP).

32. The Defendants request to

I. dismiss the action;

II. order the Claimant to pay the costs of the proceedings;

III. provisionally award the Defendants the reimbursement of costs for the infringement action (R. 150.2 RoP);

in the alternative, to

IV. make the enforcement of the judgment subject to the prior provision of security by the Claimant in an appropriate amount (R. 352.1, 354.2 RoP), which may be provided by a written, irrevocable, unconditional and unlimited guarantee from a credit institution authorized to do business in the territory of a Member State of the UPC, the amount of which is left to the discretion of the Court;

V. allow the Defendants to avert the enforcement of the decision by providing security, which may be provided by a written, irrevocable, unconditional and unlimited guarantee from a credit institution authorized to do business in the territory of a Member State of the UPC, without regard to the provision of security by the Claimant (R. 9.1 RoP),

VI. grant the Defendants a grace period to be determined by the Court, whereby a period of 6 months after the announcement of the decision is suggested, before an injunction (No. I, II), recall (No. V) and/or destruction (No. VI) become effective.

### Counterclaim for revocation

#### 33. Defendants 1, 2 and 3 request:

- I. the European Patent with Unitary Effect EP 3 686 683 B1 be revoked in its entirety with effect to the Contracting Member States;
- II. to order the Claimant to bear the costs of the revocation proceedings;
- III. to provisionally award the Defendants the reimbursement of costs for the Counterclaim for revocation (R. 150.2 RoP).

#### 34. The Claimant requests:

- I. the Counterclaims for revocation be dismissed and the patent in suit EP 3 686 683 B1 be maintained as granted in all participating Member States on the date of publication by the EPO of the mention of the grant of EP 3 686 683 B1 in the European Patent Bulletin;
- II. Defendants be ordered to bear the costs of the proceedings.

### Application to amend the patent

#### 35. The Claimant requests:

in the alternative (should the counterclaims not be dismissed):

the patent in suit EP 3 686 683 B1 be maintained based on one of the proposed amendments (Auxiliary Requests 1 to 4a in the indicated order) in all participating Member States on the date of publication by the EPO of the mention of the grant of EP 3 686 683 B1 in the European Patent Bulletin and the counterclaims for revocation be dismissed with respect to the remainder;

#### 36. The Defendants 1, 2 and 3 contest these requests.

### POINTS AT ISSUE:

#### Claim construction

37. According to the Claimant, claim 1 only concerns a developer supply container and does not require a printer for the claimed features to be realised.
38. The Defendants argue that the claim relates not only to the container itself, but also to a system for supplying developer to the printer which interacts with the printer's developer receiving apparatus. Among other arguments, the Defendants refer to the fact that the object of the invention is the 'mounting' of the supply container. This inherently involves interaction with the components of a printer's developer receiving apparatus. According to the Defendants, the developer receiving apparatus is not only the purpose of the supply container, but also part of the claimed interaction system comprising the supply container and the corresponding components of the developer receiving apparatus of a printer.

## Infringement

39. The Claimant states that the Defendants are infringing the patent in suit by offering and distributing the challenged embodiments. Based on an accurate claim construction, the challenged embodiments literally realise each feature of claim 1 of the patent in suit. However, even if claim 1 were interpreted as relating to a developer supply system, the Defendants would infringe claim 1 directly and indirectly. According to the Claimant, the patent rights cannot be exhausted because replacing used-up (OEM) toner containers with the challenged embodiments would not merely constitute intended use; rather, it would amount to a new making of the subject matter of claim 1.
40. The Defendants argue that, based on an accurate interpretation of claim 1 as a system claim, the challenged embodiments do not make use of the patent in suit, as they do not contain a developer receiving portion. There is also no indirect infringement due to exhaustion.

## Validity

41. The Defendants contest the novelty of the subject matter of claim 1 over EP 2 837 973 A1 (Exhibit VB 05, hereinafter: D3).
42. For the sake of argument, if one were to assume that D3 does not disclose the relative movement of the supporting portion by means of a moving mechanism, this would be the only undisclosed feature. In view of D3 and considering the common general knowledge, the patent in suit would then lack an inventive step. The patent in suit does not deliver the alleged advantages over D3. Rather, it merely relates to an alternative solution. Therefore, the objective technical problem underlying the alleged invention can be formulated as searching for an alternative mechanism for lifting the supported portion 11b. According to the Defendants, there are only two alternatives: providing the supporting portion as either movable or stationary relative to the discharging portion. Selecting one of two alternatives, one of which is already known, cannot be considered inventive.
43. Furthermore, the Defendants argue that the claims contain subject-matter which extends beyond the content of the application as originally filed. In this context, they point out that the Claimant itself argues that the term 'bottom side' should be understood as 'bottom plane'. A discharge opening in a bottom plane of the discharging portion, however, is not directly and unambiguously derivable from the original case papers, as required by Art. 123(2) EPC.
44. The Claimant considers the patent in suit to be valid. According to the Claimant, the patent in suit is new and inventive over D3 and does not extend beyond the content of the application as originally filed.
45. In view of the Claimant, the Defendants do not dispute the validity of the granted independent claims 14 and 17, and the granted dependent claims 2 to 4, 7 to 13, 15 and 16.
46. With regard to the claim construction, infringement and validity of sub-claims 5 and 6, the parties' written submissions are referred to.

## Application to amend the patent

47. The Defendants argue that the number of auxiliary requests is excessive given the various amendments that have little to no relevance to the circumstances of the case. In the present case, a reasonable number would have been two auxiliary requests: one based on a combination of claims 1 and 5 as granted, and one based on a combination of claims 1, 5, and 6 as granted. This strategy would also have been convergent; however, the Claimant's auxiliary requests do not meet this requirement. The Claimant contests these arguments.

## Legal consequences

48. The Defendants consider the Claimant's request for EUR 400,000 in interim damages to be excessive. They deem it necessary to consider the relatively short period of time that the patent in suit has been in force, and the value in dispute, which should be less than EUR 500,000.00. [...]

49. According to the Defendants, the Claimant's request for publication of the decision is not justified under Art. 80 UPCA. No explanation or information for the public is required. The Defendants refer to a voluntary industry agreement endorsed by the Claimant, which commits the Claimant not to design machines that prevent the use of non-OEM cartridges. Given this long-standing voluntary commitment, a widely publicised decision banning a non-OEM cartridge from the market would lead to further confusion rather than providing clarification.

50. The Defendants consider the requests for an injunction, a recall and destruction to be disproportionate.

51. They further argue that, if the challenged embodiments were found to infringe the patent in suit, the Claimant would create a compatibility obstacle due to the scope of the chosen claim. As with a standard essential patent (SEP), this would create a barrier to market entry. This, in turn, affects third parties by creating a monopoly that enables high prices to be imposed on consumers and restricts their freedom to choose different suppliers of consumables.

52. If the Court grants an injunction, it must allow a grace period for the use of existing products. The objectives set out in the EU Ecodesign Directive and voluntary agreements, such as the one endorsed by the Claimant, demonstrate that environmentally sound decisions regarding printer cartridges are in the public interest. In accordance with the principle of proportionality, this can be achieved by ensuring that these products, which have already consumed energy in their manufacture, are not rendered unusable by an injunction and destroyed immediately.

53. In their rejoinder, the Defendants further argue that a modification of the attacked embodiments is feasible. A substantial portion of the product – specifically, the container and the developer, which constitute a significant part of the overall product value – does not reflect the alleged technical effects of the patent and could be reused without the allegedly infringing portion of the container which could be separated from the remainder of the container and disassembled.

54. In the Claimant's view, there are no legitimate interests that would prevent a ruling against the Defendants, particularly since the Court is generally required to issue an injunction upon finding patent infringement. The Defendants' comparison to a standard essential patent is

misplaced, as the patent in suit is not standard-essential. Furthermore, the Claimant does not hold a dominant market position, let alone abuse it. In any case, an injunction would be proportionate, as the Claimant's interests outweigh any alleged interests raised by the Defendants.

55. The requested publication on the Defendants' website is covered by Art. 80 UPCA. The UPC's common practice of publishing decisions and orders supports a claim for broader dissemination, as the content is already public and does not require protection from further distribution. The dissemination of the outcome of court proceedings is also an inherent and intended consequence of a recall of infringing products. Since the Claimant has a recall claim, there is no reason why the Defendants should not also be obliged to inform their customers through additional communication channels. This is particularly pertinent given that the Defendants have already opted for this communication method by publicising the underlying proceedings on their US website, including the statement, 'Katun is confident the products it is selling and distributing for use in Canon applications are non-infringing.' Therefore, they are less worthy of protection in order to correct the false impression created in the public about their authorisation to manufacture and sell the challenged embodiments. Finally, the Defendants supply approximately 8,000 customers worldwide, all of whom must be notified. This is not feasible through private communication alone.
56. Regarding the calculation of interim damages, the Claimant points out that it is unaware of the Defendants' actual turnover generated by the challenged embodiments. Therefore, it refers to the Defendants' net turnover. As the manufacturer and initial supplier, the Defendants are at the top of the supply chain in the whole EMEA region, meaning they generally distribute larger quantities in various countries and in all UPC Member States.

#### Security

57. In their statement of defence, the Defendants requested that the enforcement of a decision be made subject to the prior provision of security, but they have not justified this request. In their rejoinder, they state that providing security is crucial to ensuring fairness and balance between the parties involved, even when the creditor is solvent. In the present dispute, enforcing the requisite injunction would halt the distribution of the challenged embodiments, leading to the forfeiture of all revenue derived from sale and engendering prospective commercial damage. The Defendants also point out that a claimant's financial solvency at the time of enforcement does not guarantee its future ability to repay. Economic crises, unforeseen business difficulties or insolvency could arise, leaving the creditor unable to restore the defendant's position if the decision is reversed.
58. The Claimant states that, as a global company, it has sufficient funds to compensate any potential claims for damages.

#### R. 263 RoP request

59. Regarding the requests for leave to change the claim, the Claimant essentially argues as follows:
60. The amendments relating to indirect infringement (made on an auxiliary basis) are a response to the Defendants' statement of defence and could not have been made at an earlier stage. As the Defendants have already provided detailed information on this matter

in their statement of defence, the amendments do not unreasonably hinder them in conducting their action.

61. Regarding the extension of the requested information, R. 263 RoP does not apply, since providing documents is owed on the basis of good faith considerations. In any case, the requirements of R. 263 RoP are met. On 3 July 2024, the Düsseldorf Local Division (UPC\_CFI\_7/2023 – Kaldewei v. Bette) confirmed the right to request information necessary for calculating damages, as well as the right to request evidence to verify the accuracy of the information provided for the first time. As the statement of claim was filed prior to this decision, the Claimant was unable to make these requests at an earlier stage.
62. The mere inclusion of the Defendants' joint and several liability does not constitute a change to the claim for interim damages, since the initial request was already directed at all of the Defendants. Only the modalities of liability between the Defendants have been amended, i.e. the legal arguments. In any case, the requirements of R. 263 RoP are met. The Claimant introduces joint and several liability in the reply for two reasons. Firstly, the Defendants have not disputed the infringing actions set out by the Claimant in the statement of claim. Secondly, the Defendants have contested service on Defendant 3. The Claimant therefore seeks to ensure that its claim for interim damages can be enforced effectively.
63. The Defendants object to the Claimant's requests. They argue that the absence of a decision on the specifics of providing information before the Kaldewei v. Bette decision did not prevent such a request from being made. Furthermore, the request for joint and several liability could have been included from the outset.

#### Decision on costs

64. The Defendants are seeking a cost decision in their favour, regardless of the outcome of the decision on the merits. They point out that they have proactively sought to avoid reasons for initiating and continuing the proceedings in good faith. In contrast, the Claimant has not even contacted them, for example by sending an enquiry or warning letter, before bringing the present action. Furthermore, the Defendants point out that they have continuously tried to amicably terminate the matter right from the start.

#### GROUNDS FOR THE DECISION:

65. Both, the counterclaim for revocation and the infringement action, are admissible. The counterclaim is unfounded, whereas the infringement action is well-founded.

##### A. Admissibility

###### I. Infringement action

66. The infringement action is admissible.
67. In particular, the UPC has international jurisdiction. It is a common court within the meaning of Art. 71a(1) of the Brussels Ibis Regulation (Art. 71a(2)(a) of the same Regulation). Therefore, the UPC has jurisdiction if the courts of a Contracting Member State would have jurisdiction under the Brussels Ibis Regulation for an action within the meaning of Art. 32(1) UPCA (Art. 71b(1) of the Brussels Ibis Regulation). This is the case here.

68. With respect to Defendants 1 and 2, who are domiciled within the Contracting Member States, international jurisdiction follows from Art. 4(1) Brussels Ibis Regulation in conjunction with Art. 71a(2)(a), 71b(1) Brussels Ibis Regulation and Art. 32(1) UPCA.
69. The international jurisdiction with respect to Defendants 3 and 4 follows from Art. 7(2) Brussels Ibis Regulation as this provision in conjunction with Art. 71b(2) Brussels Ibis Regulation opens international jurisdiction, regardless of the defendant's place of residence, for all patent infringements (allegedly) committed in a UPC Member State. The jurisdiction granted by Art. 7(2) Brussels Ibis Regulation is, however, not limited to this Member State (see UPC\_CFI\_387/2025 (LD Hamburg), Order of 14 August 2025, para. 43 – Dyson v. Dreame).
70. Furthermore, the Defendants did not file a preliminary objection within the one month period stipulated in R. 19.1 RoP. Therefore, both the jurisdiction of the Unified Patent Court and the jurisdiction of the Düsseldorf Local Division are deemed to be accepted, R. 19.7 RoP.

## II. Counterclaim for revocation

71. There are no concerns regarding the admissibility of the counterclaim for revocation of Defendants 1, 2 and 3. In particular, the UPC has international jurisdiction for the counterclaim for revocation on the basis of Art. 24(4) in conjunction with Art. 71b(1) and 71a(2)(a) of the Brussels Ibis Regulation.

## B. Person skilled in the art

72. The person skilled in the art is a mechanical engineer experienced in the construction and design of electrophotographic image forming apparatus.

## C. Scope of the patent in suit

73. With regard to the scope of the patent in suit, the following applies:

### I. Technical background to the invention

74. The invention relates to a developer supply container dismountably mountable to a developer receiving apparatus and a developer supply system including such developer supply container.
75. The patent in suit states in its introduction that conventionally, a developer (e.g. a fine powder toner) is usable with an electrophotographic image forming apparatus (e.g. a copying machine). In such an image forming apparatus, the developer is consumed as the image is formed. Therefore, the developer is supplied from the developer supplying device. In the developer supplying device, a developer supply container containing the developer is mounted on a developer receiving apparatus to supply the developer (para. [0002]).
76. In terms of the state of the art, the patent in suit cites JP 2013 – 015826 A (hereinafter: JP 826). JP 826 describes a structure in which the developer receiving portion of the developer receiving device is moved (displaced) toward the discharge opening of the supply container in accordance with the mounting operation of the supply container dismountably provided in the developer receiving apparatus (para. [0002]).

77. The developer receiver portion of the device described in JP 826 is guided by a guide (engaging portion) provided in the supply container and moves so as to approach the supply container with the mounting operation of the supply container. When the mounting of the supply container is completed, the discharge opening of the supply container and the receiving opening of the developer receiving portion are in a connected state. In addition, the developer receiving portion is guided by a guide and moves so as to be separated from the supply container in accordance with the release operation of the supply container. In this manner, the discharge opening and the receiving opening are separated from each other (para. [0003]).
78. In order to move the developer receiving portion of the apparatus described in JP 826 to the supply container side in accordance with the mounting operation of the supply container, the guide is inclined so as to be higher toward the supply container from the front side toward the upstream side in the mounting direction of the supply container. This is to move an engaged portion of the developer receiving portion in contact with the guide by using the force applied to the supply container at the time of mounting and dismounting. However, especially when mounting the supply container, a force for displacing the developer receiving portion in the mounting direction and a force for displacing the developer receiving portion in the vertical direction are applied at the same time, and therefore mounting force is required (para. [0004]).
79. The patent in suit also refers to EP 2 913 719 A1 (Exhibit C 24), which discloses a developer supply container having the features of claims 1 and 14 [para. [0005]].
80. Against this background, the patent in suit sets itself the task of further developing a developer supply container according to the preamble of claims 1 and 14 such as to provide a smooth mounting of a supply container by reducing mounting force required by the movement of the developer receiving portion (para. [0006]).
81. In order to solve this task, claim 1 of the patent in suit protects a developer supply container having the following features:
  - 1.1 A developer supply container detachably mountable to a developer receiving apparatus (8) including a developer receiving portion (11) provided with a receiving opening (11a) for receiving a developer, and a supported portion (11b) integrally displaceable with the developer receiving portion (11),

    said developer supply container (1) comprising:

    - 1.2 a developer accommodating portion (2c) accommodating the developer;
    - 1.3 a discharging portion (700) provided with a discharge opening (3a4) in a bottom side of said discharging portion (700) for discharging the developer accommodated in said developer accommodating portion (2c);
    - 1.4 a supporting portion (30) provided at said discharging portion (700) and capable of supporting the supported portion (11b),

    characterized in that

      - 1.5 said supporting portion (30) is movable relative to said discharging portion (700),

and in that

- 1.6 said developer supply container (1) further comprises a moving mechanism (4f, 30b; 30Ca, 30Cb; 60, 61; 70, 71; 90) for moving said supporting portion (30) upwardly relative to said discharging portion (700)
  - 1.6.1 while supporting said supported portion (11b) to move the developer receiving portion (11) toward said developer supply container (1)
  - 1.6.2 so as to bring said receiving opening (11a) into communication with said discharge opening (3a4) with a mounting operation of said developer supply container (1) to the developer receiving apparatus (8).

## II. Claim Construction

### 1. Principles

82. The patent claim is not only the starting point but the decisive basis for determining the protective scope of a European patent under Art. 69 EPC in conjunction with the Protocol on the Interpretation of Art. 69 EPC. The interpretation of a patent claim does not depend solely on the strict, literal meaning of the wording used. Rather the description and the drawings must always be used as explanatory aids for the interpretation of the patent claim and not only to resolve any ambiguities in the patent claim. The patent claim is to be interpreted from the point of view of a person skilled in the art. In applying these principles, the aim is to combine adequate protection for the patent proprietor with sufficient legal certainty for third parties (UPC\_CoA\_335/2023, Order of 26 February 2024, Headnote 2 and p. 26 seq. – 10x Genomics v Nanostring; UPC\_CoA\_1/2024, Order of 13 May 2024, para. 26 – VusionGroup v Hanshow; UPC\_CoA\_182/2024, Order of 25 September 2024, para. 82 – Mammut v. Ortovox; UPC\_CoA\_528/2024, Decision of 25 November 2025, para. 39 – Amgen v Sanofi; UPC\_CoA\_464/2024, Decision of 25 November 2025, para. 50 – Meril v Edwards).

### 2. Assessment

83. According to feature 1.1, the developer supply container shall be detachably mountable to a 'developer receiving apparatus'. The developer receiving apparatus includes a developer receiving portion, provided with a receiving opening for receiving a developer, and a supported portion, integrally displaceable with the developer receiving portion. The skilled person will understand that the developer receiving apparatus is part of an electrophotographic image forming apparatus (e.g. a printer).
84. However, the developer receiving apparatus itself, and therefore the printer or parts of it, are not subject of claim 1. Claim 1 only states that the developer supply container is 'mountable' to such a developer receiving apparatus. The skilled person will understand this to mean that the parts of the developer receiving apparatus named in feature 1.1 – the developer receiving portion, the receiving opening and the supported portion – are not claimed to be present. The developer supply container only has to be suitable to be detachably mounted on a developer receiving apparatus as described in claim 1.
85. This understanding is consistent with the task of the invention, which is to further develop a developer supply container according to the preamble of claims 1 and 14 such as to provide a smooth mounting of a supply container by reducing mounting force required by a

movement of the developer receiving portion (para. [0006]). No developer receiving apparatus is mentioned there. Also, according to the summary of the invention, this object is achieved by a developer supply container having the features of claim 1 or claim 14 (para. [0007]). Again, no developer receiving apparatus is mentioned.

86. A developer receiving apparatus itself is only claimed in claim 17 in the context of a system comprising a developer receiving apparatus and a developer supply container. This is also made clear in para. [0001], which reads as follows:

*'The present invention relates to a developer supply container according to the preamble of claims 1 and 14 dismountably mountable to a developer receiving apparatus and a developer supplying system including such developer supply container.'*

87. Hence, the 'developer supply container' is claimed in claims 1 and 14, the 'developer supplying system' is claimed in claim 17.

88. The Defendant's arguments do not alter this view.

89. They refer to para. [0006] and argue that the alleged problem to be solved is to provide a smooth mounting of a supply container, not the supply container itself. However, as mentioned before, according to para. [0006] it is an object of the invention to further develop a developer supply container such as to provide a smooth mounting of a supply container.

90. Para. [0028] ff. and para. [0053], to which the Defendants also refer, do not support their view that the developer receiving apparatus is part of the product protected by claim 1. As mentioned before, the patent in suit relates to both, a developer supply container (independent claims 1 and 14) and a developer supplying system (independent claim 17). Therefore, the fact that parts of the description deal with the system does not mean that the system is the subject matter of claim 1.

91. Lastly, the Defendants refer to the IP classification of the patent in suit ('G03G 15/08' as well as 'G03G 21/16'), which shall substantiate the assertion of claim 1 referring to a 'system'. However, the IP classification refers to the focus of the technical field, not of the claims. According to the principles outlined above, only the claims are the decisive basis for determining the scope of protection.

#### D. Counterclaim for revocation

92. The counterclaim for revocation, filed by Defendants 1, 2 and 3, is unfounded.

##### I. Added matter

93. The patent in suit is not based on added matter.

##### 1. Principles

94. Under Art. 138(1)(c) EPC a European patent may be revoked if its subject-matter extends beyond the content of the application as filed or, if it was granted on a divisional application, extends beyond the content of the earlier application as filed.

95. According to the principles developed by the Court of Appeal, there is added matter if the claim as granted contains subject-matter that extends beyond the content of the application as filed. In order to ascertain whether there is added matter contrary to Art. 123(2) EPC, the Court must thus first ascertain what the skilled person would derive directly and unambiguously using his or her common general knowledge and seen objectively and relative to the date of filing, from the whole of the application as filed, whereby implicitly disclosed subject-matter, i.e. matter that is a clear and unambiguous consequence of what is explicitly mentioned, shall also be considered as part of its content (UPC\_CoA\_382/2024, Order of 14 February 2025, para. 52 – Abbott v. Sibio; UPC\_CoA\_764/2024, Decision of 2 October 2025, para. 64 – expert e-Commerce v. Seoul Viosys; UPC\_CoA\_762/2025, Decision of 5 November 2025, para. 44 – Seoul Viosys v. expert e-Commerce; UPC\_CoA\_528/2024, Decision of 25 November 2025, para. 54 – Amgen v. Sanofi).
96. Where the patent results from a divisional application, this requirement applies to each earlier application. The subject matter of the granted claim 1 thus may not extend beyond (1) the disclosure of the application as filed for the patent in suit and (2) the disclosure of the original PCT application that entered the regional phase and is the parent application for the divisional application (UPC\_CoA\_382/2024, Order of 14 February 2025, para. 52 – Abbott v. Sibio; UPC\_CoA\_764/2024, Decision of 2 October 2025, para. 65 – expert e-Commerce v. Seoul Viosys; UPC\_CoA\_762/2025, Decision of 5 November 2025, para. 45 – Seoul Viosys v. expert e-Commerce).
97. The assessment of whether there is added matter is a question of law to be decided on the basis of the facts brought forward by the parties. The facts are the relevant claims and the application as filed. Since the test is whether the relevant claims have basis in the application as a whole, the Court is allowed to look at the entire document (UPC\_CoA\_528/2024, Decision of 25 November 2025, Headnote 4, para. 105-108 – Amgen v Sanofi).

## 2. Assessment

98. Applying these principles, there is no added matter.
99. The Defendants allege that the application as originally filed does not disclose the location of the discharge opening in a bottom side of the discharging portion (feature 1.3 of patent claim 1). However, the feature is disclosed in the application as filed.

### *The application as filed, Art. 138(1)(c) EPC*

100. The application as filed within the meaning of Art. 138(1)(c) EPC, the PCT-application WO 419 (Exhibit VB 08) is in Japanese. The Defendants submitted an English translation (Exhibit VB 08 EN) shortly before the oral hearing.
101. During both the written proceedings and the oral hearing, the parties referred to the published text of the application filed with the EPO upon entry into the regional phase (EP 683 A1, Exhibit C 43), which is in English. It can be assumed that this translation truthfully reproduces the content of the PCT-application. With this translation the applicant (patent owner) initially provides the EPO with the application documents in the language of the proceedings on which the EPO will conduct the examination of the PCT application and – in case of amendments to the application documents – will evaluate the compliance with Art. 123(2) EPC of these amendments. As it is in the applicant's own interest that the examination

is performed on the true content of the PCT-application, it can *prima facie* be assumed that such translation provided by the patent applicant itself truthfully reproduces the content of the international application in the language of the proceedings of the earlier application (see UPC\_CoA\_762/2024, Decision of 5 November 2025, para. 62 – Seoul Viosys v. expert e-Commerce).

102. In addition, neither party claims that there are any relevant differences between the translation according to Exhibit VB 08 EN and the text of EP 683 A1 (Exhibit C 43). Therefore, in line with the parties' approach, the Court continues to cite the application as filed in accordance with EP 683 A1.

*Relevance of the newly submitted translation of claim 1*

103. The Claimant submitted a translation of claim 1 of the PCT application as Exhibit C 42.
104. The Defendants referred to the translation according to Exhibit C 42 and claimed that the translation provided for in EP 683 A1 is incorrect, including for para. [0006] of EP 683 A1. In particular, they argued that the term 'thereof' was not present in the Japanese text. This argument must be rejected.
105. Since the entire disclosure must be considered when evaluating added matter, referring to the translation of a single claim is insufficient. In order to contradict the translation provided for in EP 683 A1, it would have been necessary to highlight specific translation errors and submit, e.g., a party-expert report on the particularities of the Japanese language (see UPC\_CoA\_762/2024, Decision of 5 November 2025, para. 63 – Seoul Viosys v. expert e-Commerce). The Defendants did not do so. In fact, the term 'thereof' appears in their own translation of the entire text, which they provided as Exhibit VB 08 EN. Furthermore, it is not disputed that there may be more than one possible translation from Japanese to English as a general rule. The Defendants themselves have pointed out that the Japanese wording of claim 1 allows for several translations, since it does not define exactly which 'bottom surface' is meant.
106. In any case, the Court cannot identify any relevant differences between the translations of claim 1 of the application as filed. Even if one considers only the pure wording, the translation according to C 42 does not necessarily lead to a different meaning.
107. According to EP 683 A1 (Exhibit C 43) and Exhibit VB 08 EN, feature 1.3 of claim 1 reads as follows:

*'a discharging portion provided in a bottom side thereof with a discharge opening for discharging the developer accommodated in said developer accommodating portion'*
108. In Exhibit C 42, feature 1.3 of the PCT application reads as follows:

*'a discharging portion provided with a discharge opening in the bottom side for discharging the developer accommodated in said developer accommodating portion'*
109. The Court cannot see that the differences in the wording necessarily result in a different meaning. In fact, when considering the wording alone, both translations can be interpreted as meaning that the discharging opening is located in the discharging portion.

110. The wording according to EP 683 A1/Exhibit VB 08 EN can be understood in this way, as stated by the EPO's Opposition Division in the preliminary opinion (Exhibit C 48). In particular, the term 'provided' can be read as being associated to 'with'. Therefore, the term 'in a bottom side thereof' has to be seen as between commas, with 'therefore' referring to the 'discharging portion' itself (see Exhibit C 43, para. 3.1). Feature 1.3 of the original claim can be interpreted as:

*'a discharging portion provided, in a bottom side of itself (i.e. of said discharging portion), with a discharge opening for discharging the developer accommodated in said developer accommodating portion'.*

111. The wording according to Exhibit C 42 can also be interpreted as meaning that the discharge opening is located in the bottom side of the discharging portion: '*a discharging portion provided with a discharge opening in the bottom side* (of the discharging portion).

*Disclosure of a discharge opening in a bottom side of the discharging portion*

112. The application as originally filed discloses a discharge opening in a bottom side of the discharging portion.

113. When looking at Fig. 5 and reading the application as a whole, the skilled person will understand that embodiment 1 (para. [0009] – [0064]) directly and unambiguously discloses a discharge opening located in the bottom side of the discharging portion.

114. According to para. [0030] regarding Fig. 5, a shutter 4 is incorporated between the upper flange portion 31 and the lower flange portion 32 (of the supply container). In this embodiment, the flange portion 3 and the shutter 4 constitute a discharge portion 700 for discharging the developer accommodated in the developer accommodating portion 2c (lines 15-18).

115. According to para. [0029], the flange portion 3 comprises the aforementioned upper flange portion 31 and the lower flange portion 32.

116. That means, that the above mentioned discharge portion 700 (see Fig. 5) is formed by the whole room of flange 3 (not just the lower flange portion) and shutter.

117. According to Fig. 5, therefore, the discharge opening is arranged in a bottom side of the discharge portion 700.

*'Bottom plane'*

118. The Defendants also refer to the Claimant's response to the first Communication of the Examining Division under R. 71 (3) EPC. According to the Defendants, the Claimant stated in that response that the term 'bottom side' is to be understood as 'bottom plane'.

119. However, the Claimant did not actually state that 'bottom side' should be understood as 'bottom plane'. Rather, the Claimant stated that the wording of the amended claim 1:

*'... could be understood by a reader of the most recent claims 1 and 14 in that the discharge opening (3a4) must be in a bottom side of the developer supply container, wherein the term "bottom side" is understood as bottom plane of the developer supply container. However, as is e.g. visible from Fig. 22, the discharge opening (3a4) does not lie in a bottom plane of the*

**developer supply container. The discharge opening is located in a plane which is higher than the bottom plane of the developer supply container.'**

*(emphasis added)*

120. As can be derived from the cited text above, the Claimant only points to a possible misunderstanding ('could be understood ... However, ...') and does not indicate that 'bottom side' should be understood as 'bottom plane'.

#### *Further claims*

121. Defendants 1, 2 and 3 do not address the issue of added matter in relation to the other claims.
122. In their reply, they merely assert that the claims referring to claim 1 (claims 2-13 and 17) comprise added matter. Claim 14 comprises the same language and thus suffers from the same deficiency. Its dependent claims 15 and 16 accordingly do also comprise the same added matter issue. These submissions give no ground for further explanation.

### II. Novelty

123. The invention is considered to be new, Art. 54(1) EPC.

#### 1. Principles

124. According to Art. 54(1) EPC, an invention shall be considered to be new if it does not form part of the state of the art. Assessing novelty within the meaning of Art. 54(1) EPC requires determining the overall content of the prior publication. The decisive factor is whether the subject-matter of the patent in suit, with all its features, is directly and unambiguously disclosed in the prior art document (UPC\_CoA\_182/2024, Order of 25 September 2024, para. 123 – Mammut v. Ortovox).

#### 2. Assessment

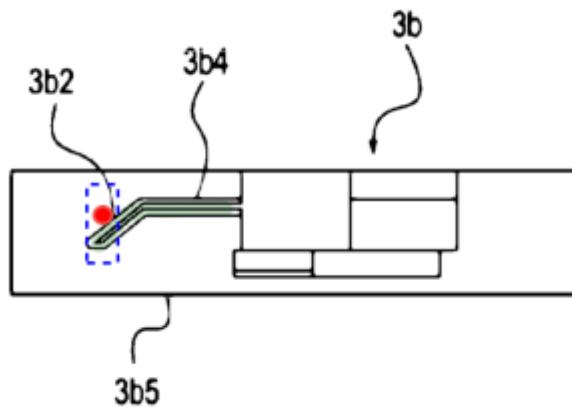
125. With regard to novelty, the Defendants only cite D3 as prior art. However, the Court finds that the subject-matter of the patent in suit is novel over D3.

##### *a) Patent claim 1*

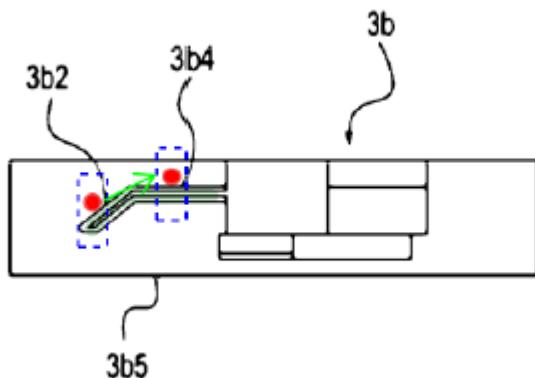
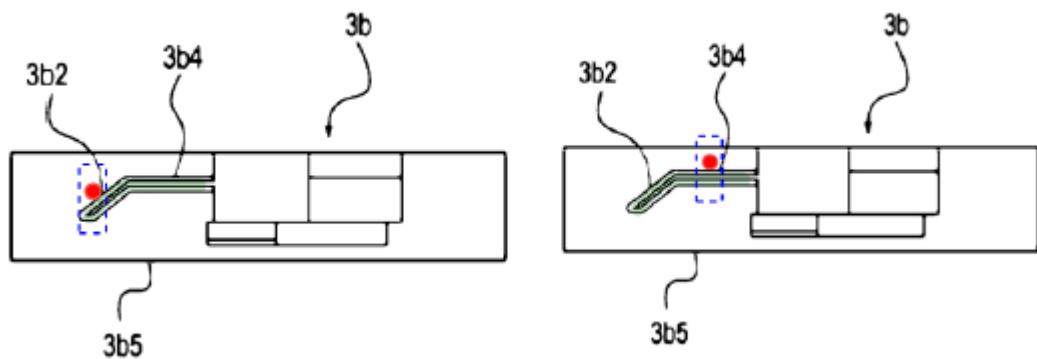
126. D3 does not directly and unambiguously disclose features 1.5 and 1.6 of patent claim 1.

##### *Feature 1.5*

127. It is not disclosed that the supporting portion is movable relative to the discharging portion, feature 1.5.
128. The Defendants justify the disclosure as follows: They identify a supported portion in the area indicated in dashed blue line and with a red dot, added by the Defendants to Fig. 8 (c) of D3:



129. Based on this, they show that the supporting portion is movable, and indeed moves, as follows (dashed blue lines, red dots and green arrow added by the Defendants):



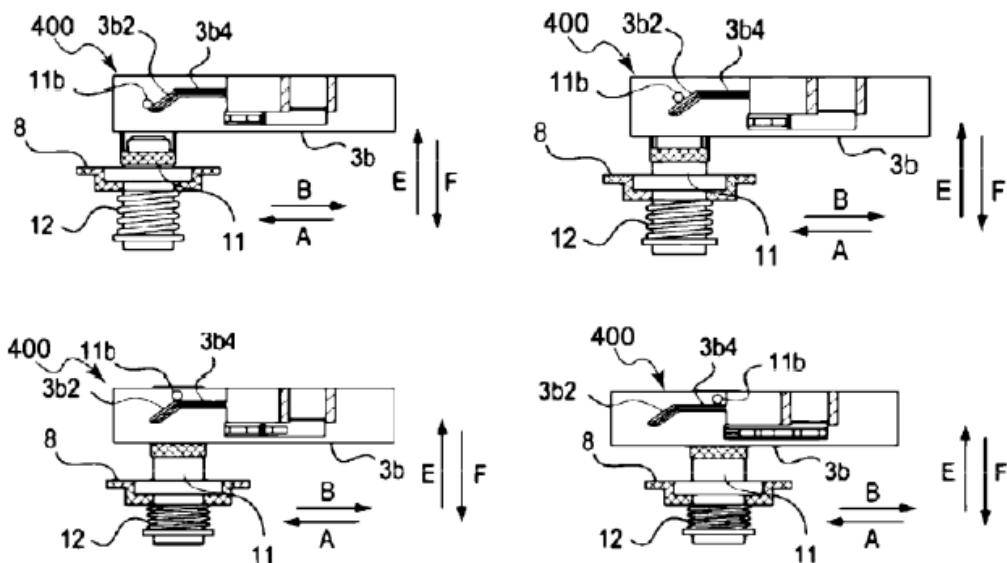
130. In the Panel's view, it is doubtful that the 'supporting portion' can be located in the way the Defendants claim. This is not the case if a portion within the meaning of the patent in suit is regarded as a 'part', i.e. a 'mechanical part', rather than a 'portion' of something else, or a place or a position on the device (see EPO's preliminary opinion, Exhibit C 48, para. 4.3).

131. In any case, there is no direct and unambiguous disclosure that the supporting portion is movable relative to the discharging portion. The figures in D3 do not contain the Defendants' markings. Without these additions, however, it is impossible to deduce such movement from the figures. Without the Defendants' additions, the location of the supporting portion cannot

be determined. It is certainly not possible to determine any change in its position within the same figure.

*Feature 1.6*

132. Furthermore, D3 does not disclose a moving mechanism for moving the supporting portion upwardly relative to the discharging portion, feature 1.6.
133. The Defendants argue that as the supporting portion moves, there is also a mechanism causing said movement. They refer to the following sequence of Figs. 13 (d), 14 (d), 15 (d) and 16 (d):



134. Based on the Court's previous statement, D3 does not disclose a moving mechanism. This is a direct consequence of feature 1.5 not being disclosed.
135. However, even if one were to assume that the supporting portion of D3 was movable relative to the discharging portion, a moving mechanism would not be directly and unambiguously disclosed.
136. During the oral hearing, the Defendants pointed out that D3 even uses the same term as the patent in suit, namely 'moving mechanism'. They referred to claim 1 of D3, which reads as follows:

*'A supplying apparatus comprising:*

...

*a receiving portion capable of receiving the developer, said receiving portion including a receiving opening which opens upwardly and which is connectable with said discharge opening to receive the developer discharged through said discharge opening when said supply container is mounting to said mounting portion;*

*a first moving mechanism configured to move said receiving portion to and away from a position of said discharge opening in interrelation with mounting and demounting operation of said supply container; ...'*

*(emphasis added)*

137. As can be clearly derived from the claim itself, the moving mechanism is configured to move the 'receiving portion'. This receiving portion forms part of the apparatus (e.g. printer) side of the system described in D3.
138. Therefore, the same applies to para. [0037] of D3, which describes the lower flange 3b constituting the receiving portion moving mechanism. This paragraph does not disclose a moving mechanism for moving the supporting portion in the sense of feature 1.6 of the patent in suit either.
139. Thus, this disclosure is unrelated to a movable supporting portion, which is part of the developer supply container, as claimed in claim 1 of the patent in suit.
140. Lastly, the Defendants refer to paras. [0058] – [0069] under the heading 'Mounting operation of developer supply container'. However, they do not explain why features 1.5 and 1.6 should be disclosed in these paragraphs.

*b) Dependent claims 5 and 6*

141. Since claim 1 is not lacking novelty, this also applies to dependent claims 5 and 6.

*c) Further claims*

142. Defendants 1, 2 and 3 do not discuss a lack of novelty of further claims.

143. In their reply, they merely state that it is irrelevant whether granted independent claims 14 and 17 or granted dependent claims 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 15 and 16 of the patent in suit are independently valid since these claims fall with the non-allowable claims 1, 5 and/or 6. Furthermore, they point out, that these claims have not been in the infringement action against the Defendants. Based on these submissions, there are no grounds for a further discussion.

III. Inventive step

144. The subject-matter of claim 1 involves an inventive step, Art. 56 EPC.

1. Principles

145. According to the case law of the Court of Appeal, the approach taken by the Unified Patent Court when establishing inventive step is as follows (see UPC\_CoA\_464/2024, Decision of 25 November 2025, Headnotes 4-13, para. 128-136 – Meril v. Edwards; UPC\_CoA\_528/2024, Decision of 25 November 2025, Headnotes 10-22, para. 122-138 ff. – Amgen v. Sanofi):
146. It first has to be established what the object of the invention is, i.e. the objective problem. This must be assessed from the perspective of the skilled person, with his or her common general knowledge, as at the application or priority date (also referred to as the relevant date) of the patent. This must be done by establishing what the invention adds to the state of the art, not by looking at the individual features of the claim, but by comparing the claim as a whole in context of the description and the drawings, thus also considering the inventive concept underlying the invention (the technical teaching), which must be based on the

technical effect(s) that the skilled person on the basis of the application understands is (are) achieved with the claimed invention.

147. In order to avoid hindsight, the objective problem should not contain pointers to the claimed solution.
148. The claimed solution is obvious when at the relevant date the skilled person, starting from a realistic starting point in the state of the art in the relevant field of technology, wishing to solve the objective problem, would (and not only: could) have arrived at the claimed solution.
149. The relevant field of technology is the field relevant to the objective problem to be solved as well as any field in which the same or similar problem arises and of which the person skilled in the art of the specific field must be expected to be aware.
150. A starting point is realistic if the teaching thereof would have been of interest to a skilled person who, at the relevant date, wishes to solve the objective problem. This may for instance be the case if the relevant piece of prior art already discloses several features similar to those relevant to the invention as claimed and/or addresses the same or a similar underlying problem as that of the claimed invention. There can be more than one realistic starting point and the claimed invention must be inventive starting from each of them.
151. The skilled person has no inventive skills and no imagination and requires a pointer or motivation that, starting from a realistic starting point, directs them to implement a next step in the direction of the claimed invention. As a general rule, a claimed solution must be considered not inventive/obvious when the skilled person would take the next step prompted by the pointer or as a matter of routine, and arrive at the claimed invention.
152. A claimed solution is obvious if the skilled person would have taken the next step in expectation of finding an envisaged solution of his or her technical problem. This is generally the case when the results of the next step were clearly predictable, or where there was a reasonable expectation of success.
153. The burden of proof that the results were clearly predictable or the skilled person would have reasonably expected success, i.e. that the solution he or she envisages by taking the next step would solve the objective problem, lies on the party asserting invalidity of the patent. A reasonable expectation of success implies the ability of the skilled person to predict rationally, on the basis of scientific appraisal of the known facts before a research project was started, the successful conclusion of that project within acceptable time limits.
154. Whether there is a reasonable expectation of success depends on the circumstances of the case. The more unexplored a technical field of research, the more difficult it was to make predictions about its successful conclusion and the lower the expectation of success. Envisaged practical or technical difficulties as well as the costs involved in testing whether the desired result will be obtained when taking a next step may also withhold the skilled person from taking that step. On the other hand, the stronger a pointer towards the claimed solution, the lower the threshold for a reasonable expectation of success.
155. When the patentee brings forward and sufficiently substantiates uncertainties and/or practical or technical difficulties, the burden of proof that these would not prevent a skilled

person from having a reasonable expectation of success, falls on the party alleging obviousness.

156. The fact that other persons or teams were working contemporaneously on the same project does not necessarily imply that there was a reasonable expectation of success. It may also indicate that it was an interesting area to explore with a mere hope to succeed.

## 2. Assessment

157. The Defendants only claim a lack of inventive step with regard to a combination of D3 and common general knowledge. However, based on the aforementioned principles, the Defendants' arguments are insufficient to demonstrate a lack of inventive step in this context.

### *a) Patent claim 1*

#### *Objective problem of the invention*

158. The objective problem of the invention is to further develop a developer supply container according to the preamble of claims 1 and 14 such as to provide a smooth mounting of such supply container.

#### *Realistic starting point*

159. The Panel considers D3 as a realistic starting point (see also EPO's preliminary opinion, Exhibit C 48, para. 5.1).

#### *Pointer*

160. The Defendants did not show a pointer to the solution, which would have directed the skilled person from D3 to a next step in the direction of the invention claimed in the patent in suit (see EPO's preliminary opinion, Exhibit C 48, para. 51). They do not present any arguments as to how such a pointer could be derived from D3.

#### *Claimed solution not obvious*

161. Even if one were to assume that the skilled person would find a pointer in the prior art, the Panel cannot see that the skilled person would (not 'could') have taken the next step in expectation of finding an envisaged solution of the technical problem.
162. The Defendants essentially argue that there are only two possible solutions for supporting the upward movement of the supported portion by means of the supporting portion. Either moving the supported portion directly via the supporting portion or moving the supported portion indirectly by moving the supporting portion upwardly. Selecting one of two alternatives, one of which is already known, cannot be considered inventive.
163. In the Panel's opinion, the skilled person would not consider the claimed solution to be an alternative. Providing a movable supporting portion and a moving mechanism instead of the stationary guiding portions 3b2 and 3b4 of D7 would require additional components for the supply container, resulting in a costly and complex arrangement. Furthermore, the Panel agrees with the Opposition Division that the Defendants' argument considers the presence

or absence of the solution's feature as exclusive alternatives, implying 'a priori' knowledge of the solution. Therefore, the Defendants' approach constitutes inadmissible hindsight (see the EPO's preliminary opinion, Exhibit C48, para. 5.3).

*b) Dependent claims 5 and 6*

164. As claim 1 does not lack an inventive step, the same applies to dependent claims 5 and 6.

*c) Further claims*

165. Defendants 1, 2 and 3 do not discuss a lack of inventive step with regard to further claims.

IV. Auxiliary requests

166. As the patent in suit is valid based on the main request, any further discussion of the auxiliary requests is obsolete.

E. Direct Infringement of claim 1

167. The challenged embodiments directly infringe claim 1 of the patent in suit.

I. Implementation of all features

168. The challenged embodiments make literal use of the teaching of claim 1.

1. Feature 1.1

169. The Defendants are challenging infringement only with regard to feature 1.1 and based on their interpretation of claim 1 as a system claim requiring a developer receiving apparatus. Based on the Defendants' claim construction, feature 1.1 is not realised as the challenged embodiments do not contain a developer receiving portion (of a developer receiving apparatus, e.g. printer).

170. However, given the Court's interpretation shown above, feature 1.1 does not require a developer receiving apparatus (e.g.) to be present. Consequently, feature 1.1 of claim 1 is literally realised.

2. Further features

171. The realisation of all other features is not in dispute between the parties. Therefore, no further explanation is required in this respect.

II. Infringing acts

172. All four Defendants are committing infringing acts within the meaning of Art. 25(a) UPCA, which is not disputed.

173. The challenged embodiments are offered and distributed by Defendant 1 in Germany and Austria, and by Defendant 3 in UPC territory in general. Defendant 2 also distributes the challenged embodiments in Europe.

174. Defendant 4 manufactures the challenged embodiments in Taiwan and is closely involved in their worldwide distribution. It intends and has knowledge of the distribution of the challenged embodiments also in the UPC territory. Therefore, Defendant 4 is acting as an accomplice (see UPC\_CFI\_534/2024, Decision of 3 October 2025, headnote 3 and para. 180 – Belkin v. Philips).

#### F. Indirect infringement

175. The Claimant only asserted indirect infringement on an auxiliary basis, namely if claim 1 were to be interpreted as a system claim.
176. As claim 1 is infringed directly, there is no need for any further discussion of indirect infringement. Furthermore, a decision on the R. 263 RoP request regarding indirect infringement is unnecessary.

#### G. Legal consequences

##### I. Injunction

177. The injunction is based on Art. 25(a) UPCA in conjunction with Art. 63(1) UPCA.
178. Where the proprietor files an infringement action and the Court finds that an intellectual property right has been infringed or is threatened to be infringed, it shall issue an order prohibiting the continuation of the infringement unless there are special reasons for not doing so. A special reason for denying an injunction may apply if, in the circumstances of the particular case, granting an injunction does not comply with the general obligations of Art. 3 of the Enforcement Directive, in particular the obligation that the remedies shall be appropriate. When considering the proportionality of injunctive relief and corrective measures, not only the interests of the parties to the litigation but also the interests of third parties may be taken into account (UPC\_CoA\_464\_2024, Decision of 25 November 2025, Headnotes 14-16 – Meril v Edwards Lifesciences).
179. Following these principles, there is no reason to refrain from an injunction in the case at hand.

##### *Barrier to entry into the market/Anti-competitive behaviour*

180. There are no obvious antitrust reasons why an injunction should not be granted.
181. The Defendants compare the patent in suit with a standard essential patent. They argue that this creates a barrier to entry into the market, resulting in a monopoly that allows high prices to be imposed on consumers and restricting their freedom to choose different suppliers of consumables. The patent in suit is, however, undisputedly not a SEP. The Defendants' submission does not reveal any other antitrust reasons why an injunction should not be granted.
182. It is irrelevant whether the Claimant's own replacement cartridges make use of the patent in suit. The Claimant points out that this is not the case. Furthermore, there is no need to discuss whether, as a consequence, cartridges for the Claimant's printers can be offered without infringing the patent in suit. Even if it is not possible to offer replacement cartridges

for the Claimant's printers without making use of the patent's teachings, this would not constitute a violation of antitrust law.

#### *Grace period*

183. The Defendants also request a grace period in the event that the Court decides to order an injunction. They justify this request with the EU Ecodesign Directive (Directive 2009/125/EC), which establishes a framework to set mandatory ecological requirements for energy-using and energy-related products sold in the EU. According to the Defendants, the objectives set out in the directive and the voluntary agreements demonstrate that it is in the public interest to make environmentally sound decisions regarding printer cartridges. This can be achieved by avoiding a situation in which these products, having consumed energy in their manufacture, cannot be used because of an injunction, but have to be immediately destroyed.
184. However, this is contradicted by the fact that neither the Directive nor the Claimant's voluntary commitments confer any rights on individuals, particularly the Defendants. The Claimant pointed this out, and the Defendants did not contest it. Furthermore, the Defendants have been aware of the patent infringement for some time and could therefore have stopped production earlier.

#### II. Declaration of infringement

185. The finding of patent infringement is based on Art. 64(2) UPCA.

#### III. Information and accounting

##### 1. Claimant's request pursuant to R. 263 RoP

186. Leave to change the claim with regard to the extension of the requested information is granted, R. 263 RoP.
187. In the reply, the Claimant has extended the requested information to certain data necessary to calculate damages and has for the first time requested evidence to verify the accuracy of the provided information. The Claimant justifies the amendment on the grounds that, at the time the statement of claim was filed, the Kaldewei v. Bette decision (UPC\_CFI\_7/2023 (LD Düsseldorf), Decision of 3 July 2024) had not yet been issued and it was not clear to what extent such information and evidence could already be requested in the infringement proceedings.

##### *R. 263 RoP is applicable*

188. Pursuant to R. 263.1 RoP a party may at any stage of the proceedings apply to the Court for leave to change its claim or to amend its case, including by adding a counterclaim.
189. The extension of the request by the Claimant constitutes a change of claim.
190. The Claimant's argument that R. 263 RoP is not applicable because the requested provision of documents is already deemed to be owed in any case on the basis of good faith considerations is not convincing. Whether there is a legal basis for the amendment is irrelevant to whether the amendment constitutes a change of claim.

191. The Claimant's citation of a decision of the Munich Local Division (UPC\_CFI\_15/2023, Decision of 15 November 2024, p. 66 – Meril v. Edwards) does not support its argument. As can be seen from the cited passage, the Munich Local Division has rejected the late amendments.

*Requirements are met*

192. The requirements of R. 263 RoP are met.
193. Pursuant to R. 263 RoP, leave shall not be granted if, all circumstances considered, the party seeking the amendment cannot satisfy the Court that: (a) the amendment in question could not have been made with reasonable diligence at an earlier stage; and (b) the amendment will not unreasonably hinder the other party in the conduct of its action.
194. The Court is satisfied that the amendment could not have been made with reasonable diligence at an earlier stage, given that the Kaldewei v. Bette decision to which the Claimant is referring was issued after the statement of claim was filed.
195. The amendment did not unreasonably hinder the Defendants in conducting their action. As the amendment was made in the reply, the Defendants had the opportunity to respond to it in their rejoinder, as well as at the oral hearing.

## 2. On the merits

196. The request for information is reasonably justified.
197. The Claimant has a right to information pursuant to Art. 25(a) UPCA in conjunction with Art. 67 UPCA. Furthermore, pursuant to Art. 68(3)(a) and (b) UPCA in conjunction with R. 191.1 and 2 RoP, for the purpose of asserting its legal rights, the Claimant may request all information which it reasonably requires for the purpose of asserting its legal rights and which also enables it to verify the accuracy of the information provided and to obtain evidence for the calculation of its damages (UPC\_CFI\_7/2023 (LD Düsseldorf), Decision of 3 July 2024, p. 29 – Kaldewei v. Bette; UPC\_CFI\_210/2023 (LD Mannheim), Decision of 22 November 2024, para. 179 – Panasonic v. Oppo; UPC\_CFI\_16/2024 (LD Düsseldorf), Decision of 14 January 2025, p. 36 – Ortovox v. Mammut).
198. Within the scope of its right for information and accounting, pursuant to Art. 67 UPCA, the patent proprietor may request supporting documents, namely invoices and delivery notes if invoices are not available. Apart from the interest in the information itself, the patent proprietor has an interest in being able to verify its accuracy, at least on a random basis (UPC\_CFI\_7/2023 (LD Düsseldorf), Decision of 3 July 2024, p. 29 – Kaldewei v. Bette; UPC\_CFI\_210/2023, Decision of 22 November 2024, para. 179 – Panasonic v. OPPO; UPC\_CFI\_16/2024 (LD Düsseldorf), Decision of 14 January 2025, p. 36 – Ortovox v. Mammut).
199. The Claimant has the liberty to request the information in electronic form. Providing the information this way is in line with commercial practice and enables the Claimant to process the relevant information effectively. However, in terms of proportionality, there is no reason to provide the documents also in non-electronic form as the Claimant has requested.

#### IV. Recall and removal from distribution channels

200. The request for recall of the infringing products from the channels of commerce is justified under Art. 25(a) UPCA in conjunction with Art. 64(2)(b) and 64(4) UPCA.
201. The Panel understands that the Claimant is only claiming a recall and not the definitive removal of the goods from the channels of commerce, as defined in Art. 64(2)(d) of the UPCA. This was communicated to the Claimant's representatives at the oral hearing, who agreed. Therefore, to avoid any misunderstandings, the addition 'to definitively remove them from the channels of commerce' requested in the motion for recall was deleted.

#### V. Destruction

202. The order for destruction is based on Art. 25(a) UPCA in conjunction with Art. 64(2)(e) UPCA and Art. 64(4) UPCA.
203. In their rejoinder, the Defendants argue that modifying the challenged embodiments is feasible. They argue that a substantial portion of the product — specifically, the container and the developer, which constitute a significant part of the product's overall value — does not reflect the alleged technical effects of the patent. This portion of the container could be separated from the rest of the container and disassembled, allowing it to be reused.
204. Whether this argument is belated can remain open.
205. In any case, the Defendants have failed to demonstrate that destroying the challenged embodiments would be disproportionate. The Panel understands the Defendants to be arguing that the invention is embodied only in certain parts. However, claim 1 of the patent in suit covers the developer supply container as a whole.
206. At the oral hearing, the Defendants argued that all the claim features are located at the head of the cartridge and that it is possible to remove the top part and replace it by a non-infringing part. Even if this argument were accepted, it would not be convincing. The Defendants have not demonstrated how they will ensure that the cartridges will not be returned to a state that infringes the patent and then placed on the market (see UPC\_CFI\_16/2024, Decision of 14 January 2025, p. 37 – Ortovox v. Mammut).
207. They further argued that the toner could be reused. However, claim 1 does not cover the toner anyway.

#### VI. Determination of liability for damages

208. The finding of liability for damages is based on Art. 68(1) UPCA. The Defendants had at least reasonable grounds to know that they engage in an infringing activity. They do not dispute this.

#### VII. Interim award of damages

209. The Claimant requests an interim award of damages.
210. The Claimant leaves the amount of the damages at the discretion of the Court, 'whereby at a minimum, Claimant's expected costs of the proceedings for the award of damages and

compensation must be covered, whereby an amount of at least EUR 400,000.00 is suggested'. In the Panel's view, the Claimant cannot leave the amount of damages at the Court's discretion. However, the Claimant's request covers a claim for at least this amount.

#### 1. .... Claimant's request pursuant to R. 263 RoP

211. Leave to change claim with regard to the addition of the phrase 'jointly and severally' is rejected.
212. R. 263 RoP is applicable, as including joint and several liability of the Defendants would change the nature of their liability. The Court does not agree with the Claimant that a request for joint and several liability automatically follows from the fact that the Defendants were sued together and are jointly responsible for the infringement. Furthermore, if this were the case, the extension would not be necessary.
213. The Claimant has not satisfied the Court that the amendment could not have been made with reasonable diligence at an earlier stage. It basically argues that, firstly, the Defendants have not disputed the infringing actions set out by the Claimant in the statement of claim. Secondly, the Defendants have contested service on Defendant 3. The Claimant therefore seeks to ensure that their claim for interim damages can be enforced effectively. These arguments do not explain why a joint and several liability of the Defendants could not have been requested from the outset. Furthermore, effective service on Defendant 3 is no longer disputed.
214. At the oral hearing, the Claimant emphasised that the intended timeframe of the UPC had been exceeded and that the reply had been submitted one year prior to the oral hearing. However, the Claimant cannot derive any consequences with regard to R. 263 RoP from this.

#### 2. .... On the merits

215. Pursuant to R. 119 RoP the Court may order an interim award of damages to the successful party in the decision on the merits, subject to any conditions that the Court may order. Such award shall at least cover the expected costs for the award of damages and compensation on the part of the successful party.
216. When setting the damages, the Court shall take into account all appropriate aspects, such as the negative economic consequences, including lost profits, which the injured party has suffered, any unfair profits made by the infringer and, in appropriate cases, elements other than economic factors, such as the moral prejudice caused to the injured party by the infringement (Art. 68(3)(a) UPCA) or, alternatively, may decide to set the damages as a lump sum under certain conditions (Art. 68(3)(b) UPCA).
217. Even though R. 119 RoP permits the interim award of damages at a fixed rate, there must be sufficient facts to justify the award. Against this background, the claimant's submission must demonstrate that its claim is based on a plausible estimate of specific facts (UPC\_CFI\_316/2024, Decision of 10 December 2025, Headnote 3 and para. 308 – M-A-S v. Altech).
218. Based on this, the Court deems an interim award of damages totalling EUR 100,000 to be appropriate. This decision is based on the figures submitted by the Defendants. As the Defendants assumed a damages calculation period of 16 months between the publication of

the patent in suit on 13 March 2024 and the decision being made, the Court has extrapolated these figures to a period of two years and rounded them up. When doing so, the Court took into account that the Defendants had presented slightly different figures to those shown in the above table during the proceedings, and that the Claimant had further referred to the expected costs of the proceedings for the award of damages and compensation.

219. No better information is available. In particular, the Claimant itself states that it is unaware of the Defendants' actual turnover generated with the challenged embodiments, and therefore refers to the Defendants' net turnover. However, given the Defendants' wide range of products, the net turnover does not appear to be a suitable point of reference. The Claimant did not present own sales figures for printers for which the contested embodiments could serve as replacements.

## VIII. Publication

220. The Claimant seeks the right to display and publish the Court's decision (including the announcement thereof) on its website and in public media, including industry journals of its choice, and an order obliging the Defendants to publish the operative part of the decision on their website.
221. Pursuant to Art. 80 UPCA, the Court may order, at the request of the applicant and at the expense of the infringer, appropriate measures for the dissemination of information concerning the Court's decision, including displaying the decision and publishing it in full or in part in public media.

### 1. Right to display and publish the decision

222. The decision whether to permit publication should depend on a two step-test: (1) whether the claimant has a legitimate interest in publishing the decision and (2) whether the defendant's interests outweigh this interest (UPC\_CoA\_464/2024, Decision of 25 November 2025, para. 199-200 – Meril v. Edwards).
223. In the case at hand, the Claimant has demonstrated a legitimate interest (step 1). In addition to general considerations, it has pointed out that the Defendants have already chosen this communication channel by announcing the underlying proceedings on their US website including the following statement: 'Katun is confident the products it is selling and distributing for use in Canon applications are non-infringing.' The Claimant has thus demonstrated that it is necessary to correct the false impression created in the public domain regarding their authorisation to manufacture and sell the challenged products. Furthermore, the Claimant has convincingly pointed out that the Defendants supply approximately 8,000 customers worldwide, all of whom must be notified. This would not be feasible through private communication alone.
224. The Defendants, on the other hand, have not demonstrated that their interests outweigh those of the Claimant (step 2). They essentially argue that, in terms of public attention, no explanation or information is required. This is corroborated by the Industry Voluntary Agreement, which was endorsed by the Claimant and commits it to not designing machines that prevent the use of non-OEM cartridges. In the Defendants' view, a widely publicised decision to ban a non-OEM cartridge from the market would lead to further confusion rather than providing clarification, due to this long-standing voluntary commitment. However,

these arguments are not convincing. There is no indication that a publication would cause confusion among the public. The publication is only about the patent infringement by the Defendants, not the Agreement.

225. However, in the Court's view, there should be a restriction on the number of public media outlets in which the Claimant is allowed to publish the decision. Following discussion of this issue at the oral hearing, the Claimant voted in favour of restricting publication to five outlets. The Claimant justified this number by arguing that the area in question receives a lot of industry attention and affects many companies. As the Defendants did not specifically object to this number, the Court follows the Claimant's request.
226. Furthermore, in the Court's opinion, the period of publication on the internet must be limited. The Court considers a period of one month to be appropriate.

## 2. Obligation for the Defendants to publish on their own website

227. The Claimant is further seeking an order obliging the Defendants to publish the operative part of the Court's decision on their websites.
228. In the case at hand, such an order also appears justified under Art. 80 UPCA. As mentioned before, the Defendants have used their own website to report on the proceedings. They have expressed confidence that there has been no infringement. An obligation to publish the operative part of the Court's decision stating that an infringement has occurred is an appropriate measure to remove the impression created by the Defendants themselves.
229. Again, the Court deems a one-month publication period to be appropriate.

## IX. Threat of penalty payments

230. The threat of a penalty payments for non-compliance does not give rise to concern. This is also true from the point of view of proportionality.
231. The threatened penalty payment of up to EUR 10,000 for each case of violating the injunction and up to EUR 1,000 for each day of delay regarding information, recall and destruction provides the Court with the necessary flexibility to consider the circumstances of each case, including the behaviour of the infringer when determining an appropriate penalty payment pursuant to Art. 63(2), Art. 82(4) S. 2 UPCA in conjunction with R. 354.4 RoP.

## H. No order for security

### 1. Principles

232. Pursuant to Art. 82(2) UPCA, R. 118.8 S. 2 RoP, the Court may make any order or measure subject to the lodging of a security to be determined by the Court.
233. As the wording of the above provision makes clear, the Court has discretion when ordering security, whereby the interest of the Claimant in the effective enforcement of its patent must be weighed against the interest in effective enforcement of possible claims for damages in the event of a subsequent reversal of the judgment.

234. Each case must therefore be examined individually. When deciding whether to order security, factors to be taken into account include the financial situation of the claimant, as this may give rise to legitimate and real concerns that a possible claim for damages cannot be enforced and/or executed, or can only be enforced and/or executed at disproportionate expense, if the initial decision is overturned or amended. Whether and to what extent such factors exist must be determined based on the facts and arguments presented by the parties, as with an application for security under R. 158 RoP. If the Local Division makes an order or measure dependent on security, this protects the defendant's position and potential rights. This protection must be weighed against the burden placed on the claimant by the order to provide security. Against this background, it is incumbent on the defendant to present facts and arguments as to why it appears appropriate, in this specific case, to make the order or measure pursuant to R. 118.8 RoP dependent on security as determined by the court. Once the defendant has done so, the claimant must substantiate its challenge to these facts and reasons, especially since it generally has knowledge of and evidence regarding their financial situation. The claimant must also explain why their interest in enforcing its intellectual property right outweighs the need for security, despite the reasons put forward by the defendant (see UPC\_CoA\_328/2024, Order of 26 August 2024 – Ballino v. Kinexon Sports; UPC\_CFI\_16/2024 (LD Düsseldorf), Decision of 14 January 2025, p. 40 – Ortovox v. Mammut; UPC\_CFI\_373/2024 (LD Düsseldorf), Order of 5 August 2024 – SodaStream v. Aarke; UPC\_CFI\_514/2023 (LD München), Order of 23 April 2024 – Volkswagen v. NST).

## 2. Assessment

235. Based on these principles, the Defendants have not provided any justification for making enforcement in this case dependent on the provision of security.

236. The Defendants only provided a detailed explanation of their request in their rejoinder. This raises the question of whether it was submitted too late. Although the court can decide on the issue of enforcement security ex officio, the Defendants must present the grounds for this decision.

237. In any case, the Defendants arguments do not substantiate the need to order the provision of security. The Defendants did not contest the Claimant's statement in the reply that, as a global company, the Claimant has sufficient funds to compensate any potential claims for damages. Instead, they merely state that a claimant's financial solvency at the time of enforcement does not guarantee their future ability to repay obligations. Economic crises, unforeseen business difficulties or insolvency could arise, leaving the creditor unable to restore the defendant's position if the decision is reversed. In addition, the Defendants refer to general considerations and argue that providing security is crucial to ensuring fairness and balance between the parties involved, even when the creditor is solvent. In the present dispute, enforcing the requisite injunction would halt the distribution of the challenged embodiments, leading to the forfeiture of all revenue derived from its sale and engendering prospective commercial damage. Given that the solvency of the Claimant is undisputed, these general considerations are not sufficient.

238. For these reasons, the Defendants are not permitted to avert the enforcement of the decision by providing security, as they have also requested as an alternative.

## I. Cost decision

239. The Court shall decide in principle on the obligation to bear legal costs in accordance with Art. 69 UPCA, R. 118.5 UPCA.
240. Pursuant to Art. 69(1) UPCA, reasonable and proportionate legal costs and other expenses incurred by the successful party shall, as a general rule, be borne by the unsuccessful party. Exceptions apply where equity requires a different allocation of costs, in particular where a party succeeds only in part or in exceptional circumstances (Art. 69(2) UPCA), and where a party has caused unnecessary costs to the Court or another party (Art. 69(3) UPCA).

*No exception to the general rule of Art. 69(1) UPCA*

241. An exception to the general rule of Art. 69(1) UPCA may apply if a claimant initiates proceedings without first sending a warning letter and the defendant submits a cease-and-desist undertaking immediately at the beginning of the proceedings. In such a situation, it may be justified to award costs to the defendant on equitable grounds, in particular because the claimant caused unnecessary costs to the defendant and the Court (UPC\_CoA\_8/2025, Decision of 9 December 2025, para. 33 – Bhagat v. Oerlikon; UPC\_CoA 2/2024, Order of 4 October 2024, para. 15 – Meril v. Edwards).
242. The Defendants argue that they have proactively sought to avoid reasons for the initiation and continuation of the proceedings in good faith. The Claimant on the other hand has not even contacted them, e.g. by an enquiry or warning letter, before bringing the present action. Furthermore, they have continuously and right from the start tried to amicably terminate the matter.
243. However, the Defendants have not yet submitted a cease-and-desist-declaration. Therefore, an exception of the general rule of Art. 69(1) UPCA is not applicable from the outset.

## *Decision on costs*

244. Regarding the infringement action, it is reasonable to require the Claimant to cover 10 % of the costs. This takes into account the deductions in the interim damages award and some minor losses. The defendants must each pay 22.5 % of the infringement costs, totalling 90 %.
245. As Defendants 1, 2 and 3 were unsuccessful with their counterclaim for revocation, they must each bear 33.333... % (one third) of the costs. Defendant 4 did not file a counterclaim and therefore does not have to pay any costs in this respect.
246. Insofar as the Claimant requests the Court to order Defendants to pay the costs of the proceedings ‘including those relating to measures requested in items I. to X.’, there is no scope for a separate order. The costs of the measures to be ordered shall in any case be borne by the Defendants.

## J. Ceiling

247. Pursuant to Art. 69(1) UPCA, the costs are to be borne up to a maximum amount determined in accordance with the Rules of Procedure. In the oral hearing the parties agreed that the legal costs for both, the infringement action and the counterclaim for revocation, shall be

mutually recognised depending on the cost decision pursuant to R. 118.5 RoP up to the upper limits set in the decision of the Administrative Committee of 24 April 2023.

248. The maximum limit for reimbursable costs is determined at EUR 600,000.

K. Value of the dispute

249. The Panel considers an amount of EUR 2,500,000 as an appropriate amount for each, the infringement action and for the counterclaim for revocation. In doing so, the Panel has in particular taken into account the figures presented by both parties, the remaining term of the patent and the unitary effect. It was also taken into account that the Claimant's own products can be replaced by the challenged embodiments. The Defendants' statement during the oral hearing that they had discontinued sales does not affect the amount in dispute.

DECISION:

- I. Defendants 1, 2, 3 and 4 are ordered to refrain from offering, placing on the market, using or importing or storing for those purposes within the territory of the Agreement on a Unified Patent Court at the conclusion of the oral hearing (8 January 2026)  
a developer supply container detachably mountable to a developer receiving apparatus including a developer receiving portion provided with a receiving opening for receiving a developer, and a supported portion integrally displaceable with the developer receiving portion, said developer supply container comprising: a developer accommodating portion accommodating the developer; a discharging portion provided with a discharge opening in a bottom side of said discharging portion for discharging the developer accommodated in said developer accommodating portion; a supporting portion provided at said discharging portion and capable of supporting the supported portion, characterized in that said supporting portion is movable relative to said discharging portion, and in that said developer supply container further comprises a moving mechanism for moving said supporting portion upwardly relative to said discharging portion while supporting said supported portion to move the developer receiving portion toward said developer supply container so as to bring said receiving opening into communication with said discharge opening with a mounting operation of said developer supply container to the developer receiving apparatus

(Independent Claim 1 of the patent in suit),

especially when the developer supply container is designed as shown below:



- II. Defendants 1, 2, 3 and 4 are ordered for each case of violation of the order under item I. to make penalty payments of up to EUR 10,000 for each case of violation and per item to the Court.
- III. The Court declares that the patent in suit was infringed by Defendants 1, 2, 3 and 4 in respect to the developer supply containers shown above under item I.
- IV. Defendants 1, 2, 3 and 4 are ordered, under penalty of a periodic fine of up to EUR 1,000 for each day of delay, within a period of one month from the date of service of the decision, to inform the Claimant of the extent to which the Defendants have committed the actions referred to in item I. since 13 March 2024, by specifying:

- 1) the origin and distribution channels of the infringing products,
- 2) the quantities produced, manufactured, delivered, received or ordered, as well as the price obtained for the infringing products,
- 3) the identity of any third person involved in the production or distribution of the infringing products,
- 4) the number and product data of the infringing products offered,
- 5) the advertising carried out, broken down by advertising medium, its circulation, the marketing period and marketing area, including evidence for these advertising activities,
- 6) the costs, broken down by individual cost factors and the profit obtained,

whereby

- the list with the data has to be transmitted electronically in a form that can be evaluated by means of EDP (e.g. Excel table), and
- copies of the relevant purchase documents (namely invoices, alternatively delivery bills) are to be submitted as proof of the information provided, whereby confidential details outside the information subject to disclosure may be redacted.

- V. Defendants 1, 2 and 3 are ordered, under penalty of a periodic fine of up to EUR 1,000 for each day of delay, within a period of one month from the date of service of the decision, to recall from the channels of commerce the products referred to in item I. that have been placed on the market since 13 March 2024, with reference to the infringement of the products as determined by the Court and with the commitment to pay any fees and necessary packaging and transport costs, as well as customs and storage costs associated with the return, and to take back the products.
- VI. Defendants 1, 2 and 3 are ordered, under penalty of a periodic fine of up to EUR 1,000 for each day of delay, within a period of one month from the date of service of the decision, to destroy the products referred to in item I. in their direct and/or indirect possession and/or ownership (including any products that come into their direct and/or indirect possession and/or ownership pursuant to item V. or otherwise) in the territory of the Agreement on a Unified Patent Court at the conclusion of the oral hearing (8 January 2026) or, at their option, to hand them over to a bailiff to be appointed or commissioned by Claimant for the purpose of destruction.
- VII. The Court declares that the Defendants are obligated to reimburse the Claimant for any damages incurred by the Claimant since 13 March 2024 due to the actions referred to in item I. as well as those yet to be incurred.
- VIII. Defendants 1, 2, 3 and 4 are ordered to pay the Claimant EUR 100,000 as interim award of damages.
- IX. The Claimant is allowed to display the Court's decision and to publish it (including the

announcement thereof) in full or in part on its website for one month, and in public media, namely five industry journals of its choice.

- X. Defendants 1, 2, 3 and 4 are ordered to publish the operative part of the Court's decision on their websites for one month.
- XI. The infringement action is dismissed in all other aspects.
- XII. The counterclaim for revocation is dismissed.
- XIII. The Claimant shall bear the costs of the infringement action at a rate of 10 %, while Defendants 1, 2, 3 and 4 shall each bear the costs at a rate of 22.5 %.  
Defendants 1, 2 and 3 shall bear the costs of the counterclaim for revocation at a rate of 33.333... % (1/3) each.
- XIV. The value in dispute of the infringement action is set at EUR 2,500,000.  
The value in dispute for the counterclaim for revocation is also set as EUR 2,500,000.
- XV. The ceiling of recoverable representation costs is set at a total of EUR 600,000 for the infringement action and the counterclaim for revocation.
- XVI. The orders under items I., IV., V., VI., VIII., IX. and X. shall only be enforceable after the Claimant has informed the Court which part of the orders it intends to enforce and, if necessary, has submitted a certified translation of the orders into the official language of the Contracting Member State in which enforcement is to take place, after the Defendants have been served with the notification and the (respective) certified translation.

Düsseldorf on 11 February 2026

NAMES AND SIGNATURES

Presiding Judge Thomas	
Legally qualified judge Dr Schumacher	
Legally qualified judge Knijff	
Technically qualified judge Dr Philippss	
For the sub-registrar	

INFORMATION ON APPEAL:

An appeal against this decision may be brought before the Court of Appeal by any party whose claims have been unsuccessful, in whole or in part, within two months of service of the decision (Art. 73(1) UPCA, R. 220.1(a) RoP, 224.1(a) RoP).

INFORMATION ON ENFORCEMENT (Art. 82 UPCA, Art. 37(2) UPCS, 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 RegR.

INSTRUCTION TO THE REGISTRY:

A certified copy of the decision shall be sent to the European Patent Office and the German Patent and Trade Mark Office as soon as the decision on the revocation action has become legally binding.

This decision was read in open court on 11 February 2026.

Presiding Judge Thomas