



**Procedural Order
of the Court of First Instance of the Unified Patent Court
issued on 27/02/2026
(concerning the fee for a Counterclaim)**

Headnote: It follows from Rule 370.7 RoP that if a counterclaim for revocation is submitted on behalf of several defendants, only one court fee needs to be paid for that counterclaim. However, if one of the defendants submits their own counterclaim at a later stage (e.g. because the statement of claim was served much later), that defendant cannot rely on the fee already paid by the other defendants. In this situation, it is not the same action/counterclaim in the meaning of Rule 370.7 RoP, even if the content of the submission is the same. Therefore, a separate fee must be paid.

Keywords: counterclaim, court fee, Rule 370.7 RoP

CLAIMANT

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DEFENDANTS

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PATENT AT ISSUE

European Patent No. EP 2 831 787

PANEL/DIVISION:

Panel of the Local Division in Mannheim

DECIDING JUDGES:

This order was issued by legally qualified judge Johansson, acting as judge-rapporteur.

LANGUAGE OF PROCEEDINGS:

English

SUBJECT-MATTER OF THE PROCEEDINGS:

Infringement action and Counterclaims for revocation – Fee for a counterclaim

SUMMARY OF RELEVANT FACTS:

1. The Claimant initiated an infringement action against the Defendants in April 2025 (CFI_344/2025). Defendants 2–4 were served with the statement of claim in April and/or May 2025, and submitted a statement of defence, including a counterclaim for revocation (CFI_735/2025), on 13 August 2025. Since then, the written procedure has – as far as they are concerned – continued and the oral hearing is scheduled for 21 April 2026.
2. Defendant 1, who is based in China, was not formally served with the statement of claim until November 2025, and submitted their statement of defence, including a counterclaim for revocation, on 18 February 2026. Defendant 1's counterclaim is registered as PR-UPC-CFI-0000639/2026 and has not yet passed formal checks.
3. Defendant 1 has not paid a separate court fee for their counterclaim, which seems to have the same content as the counterclaim previously submitted by Defendants 2–4. Instead, Defendant 1 has argued as follows in the counterclaim (and referred to this statement when informally approached by the Court):

“Since the defendants 2) to 4) already paid the respective fee for the counter claim for revocation (UPC_CFI_735/2025), the defendant 1) assumes that no further court fees incurred. If this should not be the case, the defendant 1) will immediately pay the required amount.”.

4. In parallel to the ongoing formal checks of Defendant 1's counterclaim, the parties have been invited to comment – and submitted comments on – whether the proceedings against Defendant 1 should be separated from the proceedings against Defendants 2–4.

REASONS FOR THE ORDER:

5. According to Article 70 of the Agreement on a Unified Patent Court (UPCA), parties to proceedings before the Court shall pay court fees. This applies also to counterclaims for revocation, see e.g. Rules 26 and 370 of the Rules of Procedure (RoP).

6. There are certain limitations on the obligation to pay court fees. The limitation that may be relevant for this case is Rule 370.7 RoP, which stipulates that if an action has more than one Claimant and/or more than one Defendant, only one fixed fee and, if applicable, one value-based fee shall apply (Rule 370.7 RoP).
7. It follows from this provision that if a counterclaim for revocation is submitted on behalf of several Defendants, only one Court fee needs to be paid for that counterclaim.
8. In this case, Defendants 2–4 submitted a counterclaim for revocation on behalf of all of them, and therefore only had to pay one court fee. However, Defendant 1 is not a party to that action/counterclaim but has instead submitted its own action/counterclaim about six months later. Accordingly, it is not the same action/counterclaim in the meaning of Rule 370.7 RoP, even if the content of the submission is the same. Therefore, a separate fee must be paid.
9. For this reason, Defendant 1 shall be invited to pay the fee for the counterclaim for revocation, within 14 days. Defendant 1 shall also be informed that if the Defendant fails to pay the fee within the time stated, a decision by default may be given, in accordance with Rule 355 RoP. (Cf. Rule 27 RoP).

ORDER:

Defendant 1 is invited to pay the fee for the Counterclaim for revocation, within 14 days (i.e. by 13 March 2026, at the latest). If Defendant 1 fails to do so, a decision by default may be given in accordance with Rule 355 RoP.

Issued in Mannheim on 27 February 2026

Johansson