



Milan Local Division

UPC CFI no. 2216/2025
order
issued on 12.3.2026

CLAIMANT

Biopsafe ApS

DEFENDANT

Kaltek s.r.l.

DECIDING JUDGE

presiding judge and judge rapporteur Pierluigi Perrotti

LANGUAGE OF THE PROCEEDINGS

English

SUMMARY OF FACTS

On 27.2.2026 Kaltek s.r.l. filed an application pursuant to rule 9 RoP with the request to postpone its deadline for the filing of the statement of defence from 29.4.2026 to a date no earlier than 25.5.2026.

The defendant specified that:

- there was an opposition proceeding filed by Kaltek, currently pending before the EPO, in relation to EP'132 (one of the three patents-at-issue);
- in that proceeding the claimant filed six auxiliary requests;
- the Opposition Division set 8.5.2026 as the date for the oral hearing, i.e. only nine days after the current deadline for filing the statement of defence, which is supposed to expire on 29.4.2026;
- according to the Opposition Division's preliminary opinion, there was the reasonable possibility that EP'132 could be revoked or maintained in an amended form.

In this overall factual context, the defendant would be forced to defend itself on the validity and infringement of a patent that could be revoked or maintained in amended form.

The postponement of the deadline for filing the statement of defence was therefore necessary to protect the right of defence and to ensure the reasonable and efficient management of the proceedings.

By order filed on 2.3.2026, the judge-rapporteur invited the claimant to comment on the application.

Biopsafe noted that the opposition proceedings referred only to one of the three patents invoked in the statement of claim, meaning the postponement would affect the entire proceedings before the Court. Furthermore, the Opposition Division's decision would not be a final one, as it would be possible for the parties to appeal it, with a suspensive effect pending the appeal. The claimant was interested in having an expeditious trial, as provided for by the rules.

GROUNDS FOR THE ORDER

In general, the simultaneous pending of an opposition proceedings before the EPO concerning the same patent invoked for a case on the merits before the Unified Patent Court raises a coordination issue that must be resolved on a case-by-case basis, in the most efficient manner, taking due account of the interests of all parties to the proceedings and in compliance with the applicable procedural provisions.

R 9(3)(a) RoP provides that, on a reasoned request by a party, the Court may extend, even retrospectively, a time period referred to in the Rules. A similar provision is also contained in R. 334(1)(a) RoP.

In this case, the parties will be informed of the Opposition Division's decision on EP'132 after the oral hearing on 8 May 2026.

Clearly, even if not final, the outcome of the opposition proceedings may be relevant in the present proceedings. Therefore, regardless of the decision's content, it is necessary to ensure compliance with the adversarial principle in relation to the EPO's decision.

To avoid the need to 'revisit' this issue after the 29 April 2026 deadline, it is preferable to ensure that it is fully debated from the outset. This approach is in both parties' interests, as it prevents fragmented discussion and can be achieved with only a slight increase in the length of the proceedings.

The Court acknowledges that this additional time affects the entire case, including the other two patents invoked by the claimant. However, the Court notes that Biopsafe has exercised the free procedural choice of initiating patent infringement proceedings for three different patents simultaneously.

In the present case, therefore, taking into account the position of all parties, it is reasonable to postpone the deadline set by R. 23 RoP to 25 May 2026. This postponement (i) strikes a fair balance between efficiency and respect for the adversarial principle and (ii) allows all written defences to be based on the EPO Opposition Division's actual decision.

ORDER

Upon request of the defendant, the time period for lodging the statement of defence and, if applicable, any counterclaim for revocation is extended to **25 May 2026**. The following deadlines are extended accordingly.

Milan, 12 March 2026.

Pierluigi Perrotti
presiding judge and judge rapporteur