

UPC_CFI_360/2026
Procedural Order
of the Court of First Instance of the Unified Patent Court
delivered on 31/03/2026

HEADNOTES

1. Given that the current deadlines would deviate by only 20 days, the defendants' request for alignment of the time limit for filing the Statement of Defence is reasonable.
2. While a claimant is not obliged to proactively arrange payment for service in the U.S., it bears the risk of deviating service dates if it waited to arrange payment for service in the U.S. in due course after the request of the sub-registry.

KEYWORDS

Alignment of deadlines, R. 9.3 (a) RoP.

APPLICANT/S

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| 1. INFOBLOX INC.
(Defendant) - , 2390 Mission College Blvd Ste
501 95054-1554, Santa Clara, CA United
States | Statement of claim served on 11/03/2026
Represented by Léon Dijkman |
| 2. INFOBLOX GERMANY GMBH
(Defendant) - The Squire 12, Am Flughafen,
The Squire Business Center, 60549
Frankfurt am Main, Germany | Statement of claim served on 22/02/2026
Represented by Léon Dijkman |
| 3. NOMIOS GERMANY GMBH
(Defendant) - Stockholmer Allee 24, 44269
Dortmund, Germany, | Statement of claim served on 22/02/2026
Represented by Léon Dijkman |

RELEVANT PARTY

Nixu FL IP Protection LLC (Claimant) - 16690 Collins Avenue, Suite 1001, Sunny Isles Beach, FL 33160 , USA	Represented by Hosea Haag
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PATENT AT ISSUE

Patent no.

Proprietor/s

EP2005696

FusionLayer Oy

DECIDING JUDGE

Judge-rapporteur **Stefan Schilling**

LANGUAGE OF PROCEEDINGS:

English

PRESENT APPLICATION:

Request for the alignment of the time limit for the Statement of Defence

SHORT SUMMARY OF FACTS

On 31 January 2026, the Claimant filed an infringement action against three defendants. After formal deficiencies were cured on 4 February 2026 the sub-registry generated the access-codes for the defendants on 5 February 2026. The sub-registry requested the Claimant by communication dated 10 February 2026 to submit hard-copies of the statement of claim for all defendants in order to perform service of the SoC. Subsequently, the sub-registry initiated service on the two German defendants on 12 February 2026, which was performed the day after.

By e-mail dated 13 February the sub-registry informed the claimant that in order to initiate service on defendant 1) in the U.S. advance payment is required. Further details were provided. Again, with communication dated 17 February the sub-registry reminded the claimant that without advance payment service on defendant 1) will not be started. With e-mail dated 23 February the claimant informed the court that they had just arranged the bank transfer to ABC Legal. Service on Defendant 1) was then effected on 11 March 2026.

The Defendants requested the alignment of the time limit for the Statement of Defence. They argue that is established case law of the UPC that an alignment is appropriate to simplify the conduct of the proceedings. They claim that this is beneficial for the parties and the Court, as it leads to synchronization of the Claimant's future deadlines and consolidation of arguments, removing the need for cross-referencing between and comparison of individual filings. Without a

uniform time period regime, there would be different time periods in the individual procedural relationships throughout the entire written procedure.

In the Defendants' view, the deadlines for Defendants 2) and 3) should be aligned with (and therefore extended to) the deadline for Defendant 1), i.e. 11 June 2026. An out of court consultation of the representative of Claimant in advance did lead to an agreement.

The Defendants argue that in the event the alignment would cause any delay, such delay is entirely of the Claimant's own making. When lodging the Statement of claim, the Claimant chose not to make the advance payment required for service in the USA. Being an experienced patent litigator, the Claimant's representative must have known that service in the USA cannot proceed without payment of this fee, and the Registry informed the Claimant of this deficiency already on 17 February 2026. Yet the Claimant paid this fee only after a representative was appointed for Defendant 2), on 24 February 2026. The Defendants assert that this was doubtlessly done to save money for the event the case would be settled immediately. They argue that the Claimant is of course free to economize in this manner, but cannot complain that the proceedings are delayed as a consequence.

The Claimant objected the request for time extension. It is of the opinion that there is no procedural requirement under the Rules of Procedure of the Unified Patent Court that deadlines for different defendants must be aligned. The Claimant asserts that the extension sought would risk a material and unjustified delay. This is of particular significance in the present case, as the patent-in-suit is due to expire on 19 March 2027. The Claimant points out to have a legitimate and time-sensitive interest in obtaining effective relief prior to expiry. Any postponement of the procedural timetable would therefore risk impairing the practical value of the proceedings.

The Claimant argues that each Defendant benefits from the same time period calculated from the date of service. As evidenced by the Defendants' correspondence of 25 February 2026, Defendant 1) was already aware of the action and of the intended joint representation at the time of the legal service of the complaint on Defendants 2) and 3).

GROUND FOR THE ORDER

The request for the alignment of the deadline to file the Statement of defence and a possible Counterclaim for revocation for all Defendants uniformly to 11 June 2026 is justified.

The Rules of Procedure of the Unified Patent Court (RoP) contain a balanced time limit regime for the written procedure of an infringement action pursuant to R. 12 RoP with adequate time limits pursuant to R. 23 and 29 RoP. The longest time limit of three months is already provided for the statement of defense under R. 23 RoP. According to the calculation of the time limit for service in the Contracting Member States pursuant R. 271.6 (b) in conjunction with 271.4 (a) RoP service on the two German defendants is deemed to be effective 22 February 2026 (10 days fiction). Service on Defendant 1), as stated above, was effected on 11 March 2026.

On a general note, discrepancies in service dates for multiple defendants can result in variations in deadlines. This is an inherent aspect of legal proceedings involving multiple parties. However, given that the current deadlines would deviate by only 20 days, the defendants' request for alignment of the time limit is reasonable. It facilitates case administration by the court and the monitoring of deadlines, thereby enhancing the efficiency of proceedings. This also helps to streamline the workflow for all users. Without a uniform time period regime, there would be different time periods in individual procedural relationships throughout the entire written

procedure. Furthermore, also the claimant would be obliged to respond to the defendants' submission on two separate occasions. On the other hand, it is clear that a deviation of 20 calendar days does not provide sufficient grounds for splitting the proceedings or scheduling two different hearing dates. In this instance, the procedural relationship with the latest time period will set the pace, meaning that the overall proceedings will not be delayed by the harmonisation of the time periods, after all. While individual defendants may have more time to respond to the statement of claim, this is not generally considered to place the claimant at an unreasonable disadvantage, as the claimant has had the ability to control the timing of its statement of claim.

The most efficient way at hand is to prolong the deadlines for Defendants 2) and 3) by those deviating 20 days and align them with the deadline for Defendant 1), which is due on 11 June 2026.

The claimant's objection has to be dismissed. While a claimant is not obliged to proactively arrange payment for service in the U.S., it remains in its own interest to cooperate with the court's registry as quickly as possible, if timely service is of special importance. Hence, the claimant has to bear the risk of deviating service dates, if it waited 10 calendar days to arrange payment for service in the U.S. in due course after the request of the sub-registry. In the present case, this equated to half of the deviation in service dates.

The competence of the Judge-rapporteur for this order follows R. 331.1 and 334 (a) RoP.

ORDER

The deadline for lodging the Statement of defence and a possible Counterclaim for revocation is set for all Defendants uniformly to 11 June 2026.

Issued in Hamburg, 31 March 2026

Legally qualified Judge Dr. Schilling
Judge-rapporteur