



**Düsseldorf local division**  
**UPC\_CFI\_47/2025**  
**UPC\_CFI\_68/2025**

**Procedural order**  
**of the Court of First Instance of the Unified Patent Court,**  
**Düsseldorf local division**  
**issued on 28 April 2026**  
**concerning EP 3281569**

Claimant:

**CUP&CINO Kaffeesystem-Vertrieb GmbH & Co. KG**, legally represented by its  
general partner, Paderborner Straße 33, D-33161 Hövelhof

represented by: Dr Martin Wirtz, Attorney-at-law, Dr Michal Rüberg, Attorney-at-law,  
Boehmert & Boehmert Law Firm mBB,  
Jägerhofstraße 21, D-40479 Düsseldorf,

Tarik Kapic, European Patent Attorney, BOVARD Patent Attorneys,  
Optingenstrasse 16, CH-3013 Bern

email address: rueberg@boehmert.de

defendant:

**ALPINA Coffee Systems GmbH**, Tiroler Straße 32, A-6322 Kirchbichl, Austria

represented by: Patent Attorney and European Patent Litigator Markus Gangl,  
Wilhelm-Greil-Straße 16, 6020 Innsbruck, Austria,

PATENT AT ISSUE:

European Patents Nos. EP 3 281 569

JUDICIAL PANEL/CHAMBER:

2. Düsseldorf local division JUDGES:

This order was issued by the presiding judge, Dr Thom, acting as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: German

SUBJECT: Rule 332 of the RoP – Measures to facilitate proceedings

ORDER:

- I. The subject matter of the dispute is determined primarily by the claimant's applications. The alternative application regarding equivalence is likely to be too vague.
- II. The parties are required to interpret the patent at issue uniformly with regard to infringement and the scope of protection. With regard to infringement, only feature 1.5 is in dispute. If other features require interpretation with regard to validity, such an interpretation must also be provided, and it must be made clear in the submissions to which parts of the claim and counterclaim they are relevant. The mode of operation of the contested embodiment must also be explained.
- III. With regard to the challenges to the validity of the patent, the following applies: The defendant initially bears the burden of proof regarding the lack of validity. In the case of a challenge to novelty, the defendant does not meet this burden if they merely cite a document, insert a figure and list the feature analysis of the patent at issue, with citation references inserted in brackets after each feature (e.g. Figure 1, p. 1, lines 22–28). This does not constitute a substantiated submission. Rather, a brief overview of the document's content should be provided. Thereafter, feature by feature, it must be explained where and at what point in the prior art the person skilled in the art perceives the feature of the contested patent to be directly and unambiguously disclosed, and why. It is not the court's task to search through the document on the basis of quotations without further explanation. The same applies to the level of inventiveness. Inventive step must be assessed in accordance with the criteria established by the case law of the Court of Appeal. In view of its largely inadequate submission, the defendant may confine itself to what it considers to be its strongest arguments.
- IV. With regard to the alternative claims, the following applies: The alternative claims must be formulated in such a way that the court can readily identify which features have been added and where they originate from (sub-claims, etc.). This is usually set out by the Claimant by means of a transcript in edit mode. Furthermore, for each auxiliary claim, it must be argued separately, sequentially and in an orderly manner why the Claimant is convinced of its validity. It is unlikely to be sufficient to append a statement to a large number of auxiliary claims such as 'Auxiliary claims 2, 6, 10 and 14 contain the following feature, which is not shown in the cited documents'. Such a submission is confusing and disjointed and therefore incomprehensible in itself. It is not the court's task to consider which unspecified documents are meant and to piece together submissions regarding individual alternative claims. Against this background, the Claimant may also limit herself to those alternative claims which she considers particularly promising. Six alternative claims may serve as a guide in this regard.

- V. It is expected that a response to each substantiated submission will be equally well-structured and substantiated. It goes without saying that the subject matter of the dispute is limited to what the parties have submitted in the concluded written procedure.
- VI. The claimant is granted a period **until 15 May 2026** to amend its statement of claim and counterclaim accordingly. The defendant is then granted a period **until 5 June 2026** to submit its response. The claimant is then granted a further short period until **12 June 2026** to reply, and the defendant **until 19 June 2026**.
- VII. Both parties are requested, in the event of any out-of-court efforts to settle the dispute, to report on the status thereof **by 19 June 2026** and to indicate whether a judicial decision is required.

Issued in Düsseldorf on 28 April 2026

NAMES AND SIGNATURES

Presiding Judge Dr Thom