



**Düsseldorf local division**  
**UPC\_CFI\_52/2025**  
**UPC\_CFI\_67/2025**

**Procedural order**  
**of the Court of First Instance of the Unified Patent Court,**  
**Düsseldorf local division**  
**issued on 28 April 2026**  
**Re: EP 3610762**

Claimant:

**CUP&CINO Coffee System Distribution 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 3 610 762

DECISION-MAKING PANEL/CHAMBER:

2. Adjudicating Panel of the 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 direct the proceedings

ORDER:

- I.
  - I. The subject matter of the dispute is largely determined by the claimant’s applications. The 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, features 4.3.4 and 4 are in dispute. Insofar as other features require interpretation with regard to the validity of the patent, 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 challenges to the validity of the patent, the following applies: The defendant initially bears the burden of proof regarding the lack of validity. The challenge to inventive step must be substantiated in accordance with the requirements of the Court of Appeal’s case law. The defendant does not fulfil its burden of proof in a challenge to the inventive step if it displays a figure and sets out the feature analysis of the patent at issue, using the reference numbers of the figure in the features and then claiming that the order shown displays all the essential features of claim 1 with the exception of one feature. This does not constitute a comprehensible presentation of the disclosure passages and applies to all challenges to inventive step. In view of its largely insufficient submission, the defendant may confine itself to what it considers to be the strongest challenges.
  - 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, the Claimant must set out separately, sequentially and in an organised manner why it is convinced of the claim’s validity. In the CMS, the last document filed by the Claimant in the counterclaim is the Reply to the defence for nullity dated 26 June 2025.
  - 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 state whether a judicial decision is still required in these proceedings.

Issued in Düsseldorf on 28 April 2026

NAMES AND SIGNATURES

Presiding Judge Dr Thom