



Munich local division UPC_CFI_1148/2026

Headnote

Where the application for leave to withdraw an application for provisional measures is made in response to a suggestion by the Court, it is generally a matter of proper discretion not to make use of Rule 370.9(e) of the Rules of Procedure [refusal of a pro rata refund of court fees paid].

Keywords

Application for leave to withdraw an application for provisional measures; pro rata refund of court fees paid

UPC_CFI_1148/2026

DECISION
of the Court of First Instance of the Unified Patent Court,
Munich local division
made on 4 May 2026

Applicant

Miele & Cie. KG, Carl-Miele-Straße 29, 33332 Gütersloh, represented by the managing director, at the same address

represented by: Ole Dirks
(Wildanger Kehrwald Graf von Schwerin & Partner mbB)

Contributor: Dr Jochen Kapfenberger
(Cohausz & Florack Patent and Attorney-at-law Consultants PartG mbB)

Respondent

Melitta Europa GmbH & Co. KG, Ringstraße 99, 32427 Minden, Germany, legally represented by Melitta Europa Beteiligungs GmbH, the latter represented by its managing directors, at the same address,

represented by: Axel Verhauwen and Jens Künzel
(Krieger Mes & Graf v. der Groeben)

also represented by: Jan Dantz and Dr Jan Specht
(Loesenbeck Specht Dantz)

PATENT AT

ISSUE EP 4 676

295 B1

DECIDING JUDGE

This decision was issued by the full panel.

language of the proceedings

German

SUBJECT MATTER OF THE PROCEEDINGS

Application for provisional measures dated 2 April 2026

here: Application to withdraw the application of 30 April 2026 (Rule 265 of the RoP)

UPC_CFI_1148/2026

Facts and applications

1.

On the afternoon of 2 April 2026 (Maundy Thursday), Miele filed an application for provisional measures. In it, Miele asserts that, by manufacturing and distributing vacuum cleaner filter bags bearing the designation 'SWIRL M60', Melitta infringes claims 7 to 11 of the European patent with unitary effect EP 4 676 295 B1 as granted or in accordance with several limited combinations of features.

2.

The formal checks were completed on 7 April 2026 (the Tuesday after Easter). On the same day, the judge-rapporteur invited Melitta to file a preliminary objection within two weeks. The date of 7 May 2026 was communicated as the date for a possible oral hearing.

3.

Melitta filed the notice of opposition on 27 April 2026. In it, Melitta argues, inter alia, that the claims asserted are anticipated by the prior art DE 3403121 A1, thereby lacking novelty.

4.

Following preliminary deliberations on 28 April 2026, the court announced that, in view of the prior art DE 3403121 A1, the legal validity of the asserted claims, including the limited combinations of features, was to be regarded as undermined. It therefore intended to decide the matter without an oral hearing. Miele was given the opportunity to state within two working days whether, in these circumstances, it wished to maintain its application.

5.

On 30 April 2026, Miele filed a request to withdraw the application.

In it, Miele requests that the court

- allow the withdrawal of the application;
- issue a decision declaring the proceedings closed;
- order that the claimant be reimbursed 50% of the court fees paid by her in these proceedings, amounting to €7,300.00;
- order the entry of the decision in the register.

UPC_CFI_1148/2026

Miele states:

The application for reimbursement of the court fees paid is justified under Rule 370(9)(b) and (11) of the RoP, as in the event of the withdrawal of an application for provisional measures, the party obliged to pay the court fees is entitled to a refund. As the withdrawal took place before the conclusion of the written procedure, a refund of 50% of the court fees may be granted, cf. Munich local division, decision of 1 April 2025, UPC_CFI_614/2024 – Mann+Hummel v Sotras).

6.

Melitta consented to the withdrawal on 4 May 2026.

Melitta requests in this regard:

- that the withdrawal of the application be permitted in accordance with Rule 265 of the RoP and that the proceedings be declared closed;
- that the applicant be ordered to pay the costs of the proceedings and the full court fees;
- that the order be entered in the register.

Melitta states:

In so far as the applicant seeks and justifies a 50% refund of court fees by reference to the decision UPC_CFI_614/2024 – MANN+HUMMEL v Sotras (Munich local division, GRUR-RS 2025, 5860), this is contested. The case cited by the applicant is not comparable to the present circumstances. The reimbursement of court fees is governed by Rule 370.9(b) of the RoP, pursuant to which reimbursement may be granted. In this regard, it must be taken into account to the detriment of the applicant that the applicant did not issue a warning letter. Had she issued a warning, the respondent would have referred to the prior art DE 34 03 121 A1 – which was in any case sufficiently known to the applicant from the previous interim injunction proceedings before the Munich Regional Court – even before the opposing application was filed. In that case, the applicant would either not have filed an application or would have had to draw the court's attention to this, so that it might then not have been necessary to submit a statement of opposition. It can be inferred from the court's communication of 28 April 2026 that the entire panel dealt with the matter, which is why it appears appropriate to impose the full burden of court fees on the applicant.

UPC_CFI_1148/2026

GROUNDS

7.

As Melitta has agreed to the withdrawal of the application, the application is to be granted and the proceedings declared closed. Miele is to reimburse Melitta for the costs incurred, in accordance with Rule 118.5 of the RoP. The value in dispute is to be set at EUR 350,000 in accordance with the information provided by Melitta, which remains uncontested.

8.

A pro rata refund of the court fees may be granted in the present case.

9.

Pursuant to Rule 250 of the RoP, provisional measures are to be implemented by way of summary proceedings, comprising the following stages:

(a) written procedure and

(b) an oral procedure, which may include an oral hearing of the parties or one of the parties.

Under Rule 270.9(b) of the RoP, in the event of the withdrawal of the claim [Rule 265], the party liable for the court fees shall receive a refund of 50 per cent if the claim is withdrawn before the conclusion of the written procedure.

Under Rule 270.9(e) of the RoP, in exceptional cases the court may, taking into account in particular the stage of the proceedings and the conduct of the party in the proceedings, refuse or reduce the refund payable under sub-rules (b) and (c).

10.

Where the application for leave to withdraw an application for provisional measures is made in response to a suggestion by the court, it is generally a matter of discretion not to make use of this provision. This is because the party that follows the suggestion acquiesces in the (provisional) opinion of the panel and, depending on the circumstances of the case, waives an oral hearing and/or a written decision setting out detailed reasons. It is therefore generally justified to grant the partial refund of court fees paid, as provided for in Rule 270.9(b) of the RoP.

UPC_CFI_1148/2026

11.

In the present case, at the court's suggestion and prior to the conclusion of the written procedure, Miele waived its right to a written decision with detailed reasons, thereby saving the court a considerable amount of work. There appear to be no grounds for refusing the partial refund of the court fees paid. The failure to issue a pre-litigation warning, as argued by Melitta, would likely not have led Miele to refrain from filing the present application for provisional measures. For Miele had already addressed citation DE 34 03 121 A1 in the application itself, in the context of the discussion of the legal validity of the patent in question (para. 80 there), albeit with a different conclusion.

DECISION

1. The withdrawal of the application for provisional measures is granted.
2. The proceedings are hereby declared closed.
3. This decision is to be entered in the register.
4. The value in dispute is set at EUR 350,000.
5. Miele shall reimburse Melitta for the reasonable and appropriate costs of the proceedings up to the ceiling applicable to a value in dispute of EUR 350,000.

INSTRUCTIONS TO THE REGISTRY

The Registry is ordered to reimburse Miele 50 per cent of the court fees paid by Miele in these proceedings (EUR 7,300.00).

UPC_CFI_1148/2026

Signed in Munich on 4 May 2026

<p>DR ZIGANN PRESIDING JUDGE AND JUDGE-RAPPORTEUR</p>	<p>Matthias ZIGANN  Digitally signed by Matthias ZIGANN Date: 04/05/2026 13:17:53 +02'00'</p>
<p>MLAKAR LEGALLY QUALIFIED JUDGE</p>	<p>MOJCA MLAKAR  Digitally signed by MOJCA MLAKAR Date: 04/05/2026 14:25:47 +02'00'</p>
<p>PICHLMAIER LEGALLY QUALIFIED JUDGE</p>	<p>TOBIAS GÜNTHER PICHLMAIER  Digitally signed by TOBIAS GÜNTHER PICHLMAIER Date: 04/05/2026 13:26:11 +02'00'</p>
<p>SCHENKL TECHNICALLY QUALIFIED JUDGE</p>	<p>Selma Irene Schenkl  Digital signed by Selma Irene Schenkl Date: 04/05/2026 13:34:19 +02:00</p>
<p>FOR THE DEPUTY-REGISTRAR</p>	<p>Digitally signed Anja Mittermeier 4 May 2026 14:45:20 +0200</p> 