Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Hamburg local division

UPC_CFI_388/2025

Decision

of the Court of First Instance of the Unified Patent Court
issued on 6 May 2026
concerning EP 4 117 857 B1

HEADNOTE

1. In order to substantiate claims relating to countries outside the UPC Agreement, sufficiently specific facts must be presented to enable the Court to reliably determine whether there has been a patent infringement in non-UPC countries.

2. A right to publication of the judgment exists if the claimant has a legitimate interest therein. This may be the case where the claimant's product and the contested embodiment are described negatively in a comparison on the patent infringer's website, whilst the contested embodiment is positively highlighted in terms of its features in a specialist journal.

KEYWORDS

Patent infringement in non-UPC countries; burden of proof; publication of the judgment

HEADNOTES

1. In order to substantiate claims relating to countries outside the UPCA, sufficiently detailed facts must be presented to enable the court to make a reliable assessment of patent infringement in non-UPCA countries.

2. A right to publication of the judgment exists if the claimant has a legitimate interest in such publication. This may be the case if the claimant's product and the contested embodiment are described negatively in a comparison on the patent infringer's website, whilst the contested embodiment is highlighted positively in terms of its characteristics in a specialist journal.

PARTIES:

Horl 1993 GmbH, represented by the management, Mr Timo Horl and Ms Marjorie Horl, Breisacher Straße 86, 79110 Freiburg,

Claimant,

Legal representatives: The lawyers and patent attorneys admitted to practise before the Unified Patent Court
, in particular the Attorneys-at-law Sebastian Ochs and Björn-Alexander Bockelmann, and patent attorney Christian Meisinger, of the law firm Grünecker PartG mbB, Leopoldstraße 4, 80802 Munich,
Service requested at rechtsanwaltspostfach@grunecker.de

against

Magna-Tec e.K., Owner Mr Stefan Stegschuster, Max-Joseph-Weg 3, 85399 Hallbergmoos,

Defendant,

Legal representatives: The attorneys-at-law and patent attorneys
, from the law firm rwzh Rechtsanwälte Wachinger Zoebisch Partnerschaft mbB, led by Dr Eckart Warnke and Stephan Höfs, Barthstraße 4, 80339 Munich
Service to be effected on muenchen@rwzh.com

PATENT IN DISPUTE: EP 4 117 857 B1

LANGUAGE OF THE PROCEEDINGS:

German

PANEL/CHAMBER:

Panel of the Hamburg local division

DECIDING JUDGES

The decision was issued with the participation of Presiding Judge Klepsch as judge-rapporteur, legally qualified judge Dr Schilling, legally qualified judge Agergaard and technically qualified judge Tilmann.

SUBJECT MATTER OF THE PROCEEDINGS:

Patent infringement action

ORAL HEARING

19 March 2026

FACTS

1. The claimant, as the registered proprietor, brings proceedings against the defendant for infringement of European patent EP 4 117 857 B1 (hereinafter also referred to as the ‘patent at issue’) with unitary effect, which protects a roller grinder.

2. The application for the patent at issue, drafted in the language of the proceedings, which claims the priority of DE 10 2020 203 144 dated 11 March 2020, was filed on 9 March 2021. The application was published on
18 January 2023 and the grant of the patent was published on 24 April 2024. The unitary effect was registered on 3 May 2024. No preliminary objection was filed against the grant of the patent at issue. The patent at issue is in force in the Contracting Member States of the Federal Republic of Germany, Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Italy, Lithuania, Luxembourg, Latvia, Malta, the Netherlands, Portugal, Sweden and Slovenia, as well as in Switzerland, Liechtenstein, Spain, the United Kingdom of Great Britain, Ireland, Norway and Turkey (Annex GRU 12/12Ü).

3. The subject-matter of the patent at issue relates to a roller grinder.

4. Claim 1 of the patent at issue reads as follows in its granted version:

> “Device (1) for sharpening and/or polishing a cutting edge of a cutting tool, preferably a household knife, comprising: a handle (2), at least one roller (3) rotatable relative to the handle (2) and at least one disc (4) rotatable relative to the handle (2) for grinding and/or polishing the cutting edge of the cutting tool, wherein the device (1) is movable by applying force to the handle (2) via a support (U), such that the roller (3) – rotating relative to the handle (2) – rolls along the support (U) and the disc (4) can be set in rotation,
>
> characterised in
>
> that the disc (4) can be rotated at a different rotational speed/angular velocity to the roller (3).

5. Claim 14 of the patent at issue reads as follows in its granted version:

> “System comprising a device (1) according to one of the preceding claims and a means (8) for fixing the cutting edge (9) of the cutting tool relative to the disc (4) during grinding and/or polishing, preferably such that a flank and/or plane of extension of the cutting edge (9) of the cutting tool is aligned relative to the disc (4) at an angle (α) in the range of 5° to 30°, preferably in the range of 10° to 20°, and most preferably at 15°.”

6. With regard to the wording of sub-claims 3, 9 and 10, which are asserted solely in the context of ‘in particular’ applications, as well as all other sub-claims, reference is made to the specification of the contested patent.

7. Figures 1 and 2, shown below, illustrate the technical teaching of the patent at issue by means of selected embodiments. Figure 1 shows a schematic partial view of a device according to the invention based on the preferred embodiment, wherein the left half of the figure is shown in section along the

central axis of the device and the right-hand half of the figure is shown as an external view of the device. Figure 2 shows a schematic cross-sectional view of the device according to the invention as shown in Figure 1 along line II-II, wherein the components of the device are shown in simplified form.

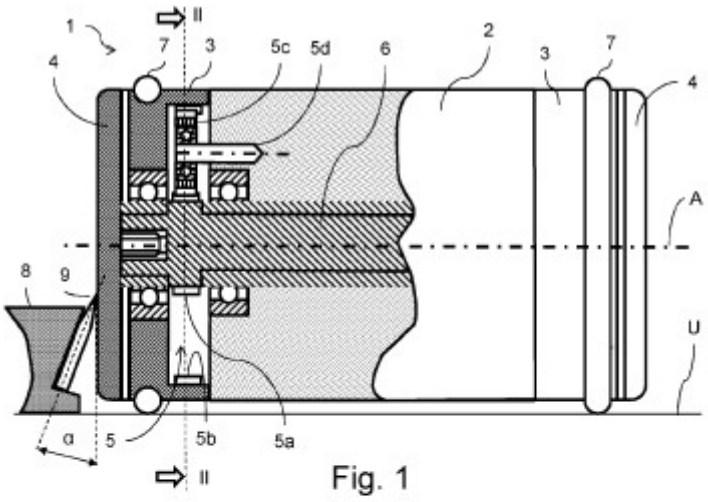


Fig. 1

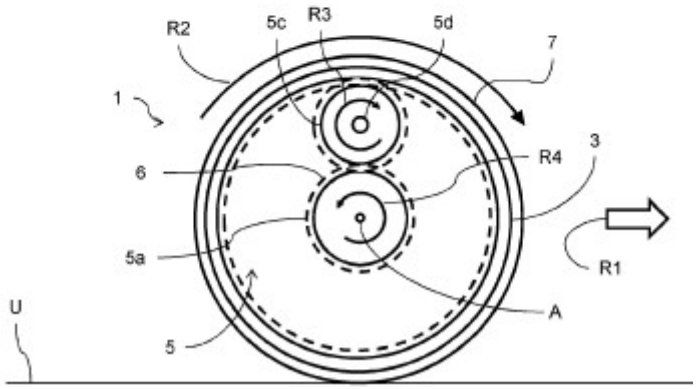


Fig. 2

8. The claimant is a family-run business specialising in the manufacture of sharpening devices for cutting tools and related accessories. These include the so-called roller sharpener. Since its launch by the claimant, the roller sharpener has enjoyed ever-increasing popularity, now in its third generation, because it offers users, in particular, a simple and reliable way of sharpening items such as kitchen knives.

9. The defendant, a registered trader, has been developing and marketing knife sharpeners since 2011, including the product ‘Trinity-S’ (hereinafter the contested embodiment), which is illustrated below.

10. The claimant considers the offering and sale of the contested embodiment to constitute a direct infringement of claims 1 and 14 of the patent at issue. The claimant issued a cease-and-desist letter to the defendant dated 3 March 2025; the defendant denied any patent infringement and refused to provide a declaration of discontinuance subject to a penalty clause.

APPLICATIONS OF THE PARTIES

The claimant requests (verbatim):

I. The defendant is ordered to refrain from

1. a device (1) for sharpening and/or polishing a cutting edge of a cutting tool, preferably a household knife, comprising: a handle (2), at least one roller (3) rotatable relative to the handle (2) and at least one disc (4) rotatable relative to the handle (2) for grinding and/or polishing the cutting edge of the cutting tool, wherein the device (1) is movable by applying force to the handle (2) via a support (U), such that the roller (3) – whilst rotating relative to the handle (2) – rolls along the support (U) and the disc (4) can be set in rotation,

characterised in

that the disc (4) can be rotated at a different rotational speed/angular velocity to the roller (3),

in the Federal Republic of Germany, Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Italy, Lithuania, Luxembourg, Latvia, Malta, the Netherlands, Portugal, Sweden, Slovenia, as well as in Switzerland/Liechtenstein, Spain, the United

Kingdom, Ireland, Norway and Turkey;

(direct infringement of claim 1 EP 4 117 857 B1)

in particular where

the device is characterised in that, upon rotation of the roller, the disc rotates in the same direction as the handle relative to the direction of rotation of the roller;

(direct infringement of claim 3 of EP 4 117 857 B1)

and/or

where the device is characterised in that the handle, the roller and/or the disc are ordered coaxially with one another;

(direct infringement of claim 9 of EP 4 117 857 B1)

and/or

if the device is characterised in that the axes of rotation of the roller and the disc coincide directly, preferably with a central axis of the handle;

(direct infringement of claim 10 of EP 4 117 857 B1)

2. a system comprising

a device according to claim 1 and, in particular, according to claims 3, 9 and 10, as well as a means for fixing the cutting edge of the cutting tool during grinding and/or polishing relative to a disc, preferably such that a flank and/or extension plane of the cutting edge of the cutting tool is aligned relative to the disc at an angle in the range of 5° to 30°, preferably in the range of 10° to 10°, preferably 15°,

in the Federal Republic of Germany, Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Italy, Lithuania, Luxembourg, Latvia, Malta, the Netherlands, Portugal, Sweden, Slovenia, as well as in Switzerland/Liechtenstein, Spain, the United Kingdom of Great Britain, Ireland, Norway and Turkey, to manufacture, offer, place on the market, use, or import and/or possess for the aforementioned purposes.

(direct infringement of claim 14 of EP 4 117 857 B1)

II. In the event of a breach of the order under Section I, the defendant shall pay a penalty of EUR 1,000.00 to the court for each instance of breach and for each infringing product.

III. It is hereby declared that the defendant has infringed the patent in suit in respect of the acts described in Section I.

IV. The defendant is ordered, on pain of a penalty payment of EUR 500.00 for each day of delay, to provide the claimant, within a period of three weeks from service of the judgment,

1. to provide the claimant with information as to the extent to which it has committed the acts described in Section I since 24 April 2024, specifying

a) the origin and distribution channels of the specified products;

b) the quantities delivered, received or ordered and the prices paid for the specified products;

c) the identity of all third parties involved in the manufacture or distribution of the specified products.

2. to submit the following documents in electronic form to the Claimant for the purpose of verifying the information provided under Section IV.1. and to provide information on the profits generated by the infringing products:

a) invoices – or, alternatively, delivery notes – for the individual deliveries, with the respective deliveries broken down by quantities, delivery times and prices offered, as well as product codes, and the names and addresses of the commercial recipients of the sales offers for all products sold or otherwise distributed;

b) Evidence of the advertising carried out, broken down by advertising medium, circulation figures, period of distribution and distribution area;

c) Evidence of the profit achieved and the costs incurred, with the costs to be broken down by individual cost factors;

d) Invoices – or, alternatively, delivery notes – and corresponding statements of costs incurred, to which the defendant refers in determining the profit.

V. The defendant is ordered, on pain of a penalty payment of EUR 500.00 for each day of delay, to recall within one week of service of the judgment the products referred to in paragraph I, which have been placed on the market since 24 April 2024, with reference to the patent-infringing state established by the court, with a binding undertaking to to reimburse any fees and to bear the necessary packaging and transport costs as well as the customs and storage costs associated with the return, and to take the products back into its possession, whereby the Claimant is to be provided with a sample of the recall letters and a list of the addressees with names and postal addresses or – at the defendant’s discretion – a copy of all recall letters.

VI. The defendant is ordered, on pain of a penalty payment of EUR 500.00 for each day of delay, within one week of service of the judgment, to destroy the products referred to in paragraph I which are in its direct and/or indirect possession and/or ownership (including any products whose possession or ownership it has acquired in accordance with paragraph V), or to hand them over

a bailiff to be appointed by the Claimant for the purpose of destruction.

VII. The claimant is permitted, at the defendant's expense, to publicise and publish the decision in whole or in part in the media, in particular on the internet, in compliance with the General Data Protection Regulation.

VIII. It is hereby ordered that the Defendant is obliged to compensate the Claimant for all damages incurred and to be incurred as a result of the acts described in Section I. committed since 24 April 2024.

IX. The defendant is ordered to pay the claimant provisional damages in the amount of EUR 41,000.00.

X. The defendant shall bear the costs of the proceedings, including those costs arising from the aforementioned measures.

XI. The decision is immediately enforceable against the claimant in the countries referred to in Section I without the provision of security.

The defendant submits:

1. The claim is dismissed in its entirety.

2. In the alternative:

a. The action be dismissed in so far as the claims relate to states that are not contracting member states of the Agreement on a Unified Patent Court, namely Switzerland, Liechtenstein, Spain, Ireland, Norway, the United Kingdom of Great Britain and Northern Ireland, and Turkey.

b. The claim is dismissed in so far as the claims set out in points IV and VIII relate to acts referred to in the claim set out in point I which took place prior to 24 May 2024.

c. The action is dismissed in so far as the claim under V. seeks to recall products also from non-commercial recipients and/or to provide the Claimant with a sample of the recall letters and a list of addressees with names and postal addresses or – at the defendant's discretion – a copy of all recall letters.

d. The claim is dismissed in so far as the claim under point VI. encompasses the destruction of a system as set out in the claim under point I.2.

e. The defendant reserves the right to

(1) carry out the recall, destruction and provision of information within a period of 30 days following service of the notice within the meaning of Rule 118.8(1) of the UPC RoP and, where applicable, the certified translation;

(2) to make all information and documents listed in claims IV.1 and IV.2 available only to the claimant's representatives, namely Mr Sebastian Ochs, Attorney-at-law, and/or Mr Björn-Alexander Bockelmann, Attorney-at-law, upon whom an appropriate duty of confidentiality is imposed;

(3) to redact details requiring confidentiality in all documents listed in claims IV.1 and IV.2, excluding information subject to disclosure and notification obligations;

(4) instead of recalling the system referred to in claim I.2, to bring it into a state that does not infringe European Patent EP 4 117 857 by replacing the device according to claim 1 of European Patent EP 4 117 857 with a non-patented device and/or recalling only a part of the system, namely the device according to claim 1 without the means for fixing the cutting edge of the cutting tool, is recalled.

f. The claimant is permitted to publish a summary of the decision, not exceeding half a page, on a one-off basis and in compliance with the General Data Protection Regulation, at the defendant's expense, in both a printed edition and an online edition of the trade journal "MESSER MAGAZIN" published by Wieland Verlag GmbH. In all other respects, the claim under point VII is dismissed.

g. The defendant is ordered to pay the claimant provisional damages in the amount of EUR 3,000.00. The decision or order awarding the claimant provisional damages is made conditional upon the claimant providing the defendant with security in the amount of 120% of the respective sum to be enforced. In all other respects, the claim under point IX is dismissed.

h. Decisions and orders shall only be enforceable against the defendant once the claimant has notified the court of which part of the decisions or orders it intends to enforce and, where applicable, has submitted a certified translation of the orders into the official language of the Member State in which enforcement is to take place, and once the notification and, where applicable, the (relevant) certified translation have been served on the defendant.

i. The decision or order is subject to the claimant providing the defendant with security in the amount of EUR 300,000.00.

KEY PROCEDURAL STEPS

11. By document dated 15 April 2026, the defendant filed an application pursuant to Rule 9 of the RoP. Accordingly, the defendant is to be given the opportunity, in a document, to comment in writing on what it considers to be the Claimant's new submission made at the oral hearing on 19 March 2026 concerning the video submitted in Annex GRU 10 and the advantage of the contested embodiment advertised therein when following the cutting edge of a knife to be sharpened. The defendant submits in support of this that, as a result of the Claimant's new submission – which was accordingly challenged as precluded and contested at the oral hearing –

regarding the advantage of the contested embodiment, as advertised in the video submitted as Annex GRU 10, when following the cutting edge of a knife to be sharpened, he was only able to respond to this submission spontaneously and insufficiently at the hearing. The statement therefore requires correction, clarification or supplementation in any event if this submission is not to be regarded as precluded but is to form the basis of the court's decision.

12. The claimant was given the opportunity to submit comments, which it did by document dated 20 April 2026. It argues, firstly, that the video in Annex GRU 10 originated from the defendant itself and that it is therefore questionable that the defendant was unable to comment on its own video and the advantages advertised therein during the oral hearing. Furthermore, the submission suggests that the aim is merely to continue the discussion already held on the interpretation of the patent at issue.

13. The judge-rapporteur rejected the defendant's application by order of 20 April 2026, stating as grounds that it was not clear on what basis the defendant should have been prevented from engaging in a substantive debate on the Claimant's submissions during the oral hearing – irrespective of whether the relevant submission was late – regarding the advantage of the contested embodiment advertised in the video attached as Annex GRU 10. The video originates from the defendant itself and has already been the subject of the statement of claim. Furthermore, it concerns the contested embodiment, the operation and functioning of which the defendant must undoubtedly be aware of.

14. By document of 24 April 2026, the defendant filed an application for the panel to review the order of 20 April 2026 pursuant to Rule 333 of the RoP and requested that an amended order be issued giving the defendant the opportunity to comment on the Claimant's new submission at the oral hearing on 19 March 2026 concerning the advantage of the contested embodiment, as advertised in the video submitted as Annex GRU 10, when following the cutting edge of a knife to be sharpened. The Claimant was given the opportunity to submit a statement, which it did by document dated 26 April 2026.

KEY POINTS OF CONTENTION AND SUMMARY OF THE PARTIES' SUBMISSIONS

A. Scope of protection

Subject matter of claims 1 and 14

15. The claimant is of the view that claim 1 of the patent at issue, as well as claim 14, protects a device for grinding and/or polishing the cutting edge of a cutting tool, comprising a handle, a roller rotatable relative to the handle, and a disc rotatable relative to the handle for grinding and/or polishing the cutting edge of a cutting tool. The device itself can be moved by applying force to the handle via a support, so that the roller

rolls and the disc can be set in rotation. In this context, the claim does not require the movement of the roller and the disc to be necessarily coupled. The roller and the disc could therefore also rotate completely independently of one another relative to the handle.

16. The patent at issue further provides that the disc is rotatable at a different rotational speed/angular velocity than the roller. This can be achieved by means of an appropriate gear ratio. However, the patent at issue is not limited to such a configuration. According to the technical teaching of the patent in suit, an improved grinding and/or polishing effect resulting from different rotational speeds/angular velocities of the roller and the disc can be achieved in various ways, for example by adjusting the size of the disc and roller.

17. The patent at issue makes no mention of the specific combination of disc and roller which are to have different rotational speeds/angular velocities. This is left to the discretion of the person skilled in the art. Provided that a disc can have a different rotational speed/angular velocity to any of the rollers, this is sufficient.

18. The defendant, on the other hand, takes the view that the patent at issue provides for a specific allocation of disc and roller. Otherwise, the problem underlying the invention would not be solved. The term ‘roller’ therefore refers only to the roller assigned to the respective disc, i.e., in the described embodiments, the one ordered between the respective disc and the handle. Which roller this is follows from the statement that the roller, rotating relative to the handle, rolls along the base and the disc can be set in rotation. Accordingly, the rolling movement of a specific roller is the cause of the disc’s rotational movement. This roller is the roller associated with the disc. The patent at issue attaches no significance to other rollers, so that the associated roller is the one which is in an operative connection with the disc. A roller which has no influence on the disc’s rotational movement is to be disregarded.

B. Action for infringement

Implementation of claims 1 and 14 of the patent at issue

19. In the claimant’s view, the contested embodiment directly fulfils, in the literal sense, claims 1 and 14 of the patent at issue. According to this, the roller sander comprises a substantially conical or truncated conical body, which serves as a handle. At one axial end of the handle there is a (grinding) disc with a replaceable abrasive layer (referred to by the defendant as a ‘carrier plate’ and ‘grinding element’). At the other axial end (at the tapered end face of the handle) there is a significantly smaller roller. The disc and roller at the different axial ends of the device rotate relative to the handle when the latter is moved manually across a surface.

20. The grinding jig (‘blade holder’) essentially consists of an approximately triangular support element, the inclination or grinding angle of which can be adjusted by means of a vertical rod (see the illustration reproduced above). Various magnetic holders (highlighted in blue above) are inserted into guides in the front section of the support element and secured with screws, which come into contact with the blade to be ground. The correct grinding angle can be set accordingly using a wheel (referred to as the ‘grinding angle lock’).

21. The roller and the disc are each rotatable relative to the handle of the embodiment described. The device can be moved by applying force to the handle via a support surface. The roller and the disc rotate (independently of one another) relative to the handle. The disc can also be rotated at a different rotational speed or angular velocity to that of the roller. In the above illustration, the disc is on the left-hand side and the roller on the right-hand side. Consequently, during the grinding movement—i.e. when the device is moved by applying force to the handle via a support—the roller inevitably rotates at the same circumferential speed but with a higher, i.e. different, angular velocity than the grinding disc. A uniform speed would result in the roller sander moving in a circular path.

22. The defendant, on the other hand, denies any patent infringement. The contested embodiment corresponds – which is ultimately undisputed between the parties — in its design to an embodiment from German utility model DE 20 2022 001 390 U1. As shown below, this features, on the left-hand side, an abrasive carrier 20 with an abrasive disc 21 and an associated roller (roller 22).

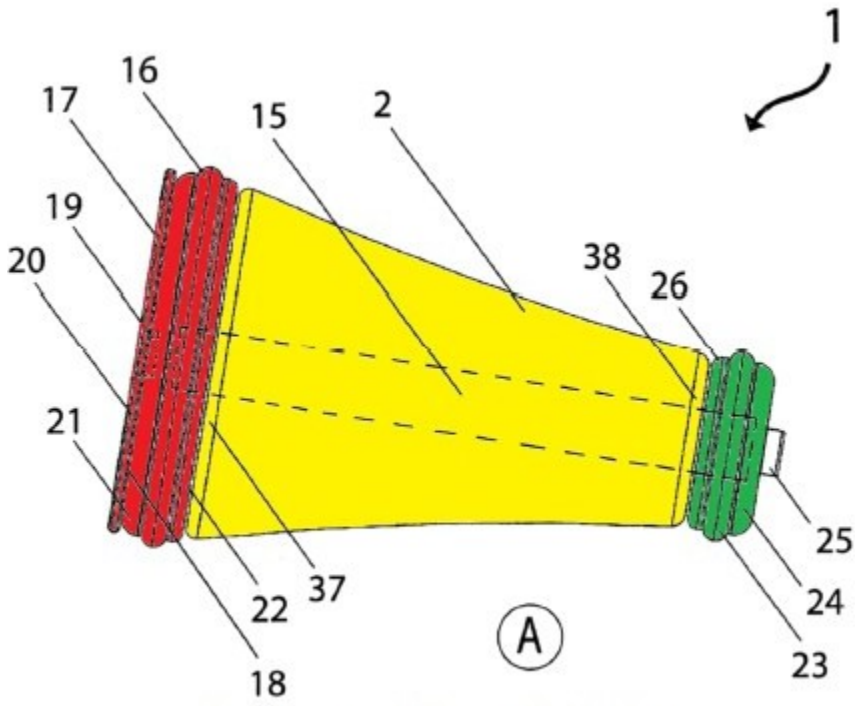


Abb. 1 – angegriffener Rollschleifer

23. The disc (20 + 21) is connected in a rotationally fixed manner to this roller 22, which corresponds to the the state of the . A therefore exists no difference in rotational speed/angular velocity between the disc (20 + 21) and the roller 22, which is rigidly connected to it.

C. Claims and legal consequences

Specificity

24. The defendant criticises that the statement of claim is seriously flawed and contravenes fundamental principles of procedural law. The claim under point I.2 is not sufficiently specific. This is because it refers to a system comprising a device according to claim 1 and, in particular, claims 3, 9 and 10. In particular, the addition makes it unclear whether devices according to sub-claims 2, 4 to 8 and 11 to 13 are also covered. With regard to the claim under point IV.2.c), it is unclear what constitutes evidence of the profit achieved. The profit is determined on the basis of turnover and deductible costs. Evidence exists for these figures, for example in the form of invoices. However, there is no evidence of a profit made that the defendant could produce. Furthermore, it is unclear what 'statements' of costs incurred under IV.2.d) are supposed to be, given that a breakdown of the individual cost factors is already required under claim IV.2.c).

25. The application under Section VII for the publication of the judgment, which is to be made in accordance with the General Data Protection Regulation, is vague because it is unclear what measures for the publication of the judgment arise from the application of the General Data Protection Regulation. Upon enforcement, the relevant

national enforcement body would have to examine whether and to what extent the publication is compatible with the Regulation. With regard to Switzerland, Liechtenstein, Norway, Turkey and the United Kingdom of Great Britain and Northern Ireland, which are not EU Member States, the question of territorial applicability under Article 3 of the GDPR would also arise. Such legal questions could not be left to the national enforcement bodies. Furthermore, the application is also vague because it is based solely on the wording of Article 80 of the UPC Agreement. The medium of publication, the duration of the publication, its content and other details must form part of the application.

26. Furthermore, pursuant to Rule 13.1(l)(i) of the RoP, the date and place of alleged or threatened acts of infringement must be specified. This is largely lacking simply because, with the exception of the offering on the defendant's website, alleged acts of infringement have not been alleged at all. Nor has any submission been made regarding the date on which the website was accessible.

Acts of use

27. The application seeking a prohibition on manufacture or import remains unclear. According to the Claimant's submissions, it is unclear what constitutes the defendant's manufacture of the contested embodiments and whether this is intended to refer to one or both of the contested embodiments. With regard to importation, the claimant even argues that the defendant's suppliers are based exclusively in Germany, which would actually argue against importation into Germany. Nor is it apparent from the claimant's submissions what acts of infringement are alleged to have taken place outside Germany or even outside the contracting member states of the UPC Agreement.

Non-UPC Agreement contracting states

28. The claimant further seeks an order against the defendant with effect outside the contracting member states of the UPC Agreement, namely in Switzerland, Liechtenstein, Spain, Ireland, Norway, Turkey and the United Kingdom of Great Britain. However, apart from the entry into force of the relevant national parts of the patent at issue in those countries, there is no factual or indeed legal basis for a patent infringement in those countries.

Standing to sue/need for legal protection

29. The Claimant submits that it is the proprietor of the national parts of the patent at issue in Switzerland, Liechtenstein, Spain, Ireland, Norway, Turkey and the United Kingdom of Great Britain and Northern Ireland. However, the Claimant's lack of standing is not even relevant. This is because, pursuant to Article 34 EPC, the decisions of the Court in the case of a European patent apply (only) to the territory of those Contracting Member States for which the European patent has effect. However, Contracting Member States are solely those which are both Member States of the European Union and Contracting Parties to the UPC Agreement (see Article 2(b) and (c) of the UPC Agreement). The claimant cannot have any legal interest in obtaining a title that would in any event have no validity in Switzerland, Liechtenstein, Spain, Ireland, Norway, Turkey and the United Kingdom of Great Britain and Northern Ireland.

Recall and destruction

30. The claim under point V seeking the recall of products is too broadly formulated. Furthermore, the recall and destruction are subject to an unreasonably short deadline and are disproportionate. The claim under point V seeks a recall that is to be issued without restriction to all purchasers. However, the right to recall under Article 64(2)(b) of the UPC Agreement does not apply to the recall of the relevant products from any third parties in possession of those products. It applies solely to the recall of products from commercial customers, as it is expressly directed at their recall from the distribution channels. Apart from the fact that the time limits for recall and destruction do not commence upon service of the judgment pursuant to Rule 118.8 of the RoP, time limits of merely one week are unreasonably short. The Düsseldorf local division had deemed a time limit of 30 days to be reasonable (see GRUR-RS 2024, 17732, Operative Part II.).

31. The order for withdrawal relates both to the roller grinder as a device for grinding and/or polishing (claim I.1.) and to a system comprising such a device (claim I.2.) and, in addition, a device for fixing the cutting edge. However, insofar as the recall relates to the system (claim V in conjunction with claim I.2.), it is disproportionate. This is because the device for fixing the cutting edge can be used without infringing any patent. It can therefore remain with the purchaser. In this respect, no recall is necessary. Just as a recall of the entire system pursuant to Claim I.2. is disproportionate, so too is the destruction of the entire system pursuant to Claim VI. This is because the device for fixing the cutting edges of a cutting tool can be used without infringing any patent and would therefore place an unnecessary burden on the defendant. Added to this are the interests of third parties to be taken into account under Article 64(4) of the UPC Agreement. It is neither in the interests of the UPC member states nor of civil society for these fixing devices, as component parts of the system, to be destroyed and thus lead to increased waste, even though the allegedly patent-infringing situation is already resolved by the destruction of the other component part, namely the device referred to in Claim I.1.

Disclosure and submission of evidence

32. In claim IV.1, the claimant asserts claims for information and accounting. However, the time limit for fulfilling these two claims is once again too short. With regard to the accounting, there is no relevant legal basis. In some cases, the requested evidence is not even required.

33. Apart from its vagueness, the claim for information is also too broad. The right to information under Article 67(1)(a) to (c) of the UPC Agreement extends solely to the information sought in claim I.4.a) to c). As regards the scope of the claim under I. 4. d) to f) and the subsequent application for the submission of supporting documents, there is no legal basis and, should such a basis be erroneously deemed to exist in R. 191 of the RoP, the conditions for it are not met.

34. Should the claim under point IV.1 or the subsequent application for the production of evidence under IV.2 – as is not the case (see above) – be granted pursuant to Rule 191(1) Alt. 2 RoP were to be granted, the defendant would be required to disclose highly sensitive information and documents without the Claimant having fulfilled the stricter requirements of R. 141 RoP in conjunction with R. 131 RoP. This information and these documents relate to the defendant's internal affairs and its customer data, and thus to sensitive commercial data concerning both the defendant and third parties. Disclosure to the claimant could result in the claimant, as a direct competitor, exploiting this information for its own commercial purposes in order to analyse the defendant's business activities and customer orders. Furthermore, the defendant should in any event be permitted to redact details requiring confidentiality that fall outside the scope of the information and disclosures required to be provided.

Provisional damages

35. In so far as the claimant seeks the award of provisional damages pursuant to Rule 119 of the RoP for the anticipated court and legal costs of determining the amount of damages, there is already a lack of the grounds required for a discretionary decision in favour of the claimant. Furthermore, the provisional damages sought in the amount of EUR 41,000.00 are completely excessive. Moreover, even a lower amount of provisional damages would only be awarded subject to conditions, and alternatively, a security deposit would be required.

Declaration of liability for damages

36. The claim under VIII. seeking a declaration of liability for damages, in turn, goes too far, at the very least because it covers acts from 24 May 2024, the date of publication of the notice of grant of the patent at issue. However, the defendant could only be held responsible for culpable ignorance from 24 May 2025 onwards.

Publication of the decision

37. Apart from the fact that the application for publication of the decision in the media under claim VII is vague, it must be dismissed for lack of overriding interests on the part of the Claimant. This is because, given its additional punitive nature, such publication is generally only considered if the claimant's protection is not already ensured by other measures (Düsseldorf local division, GRUR-RS 2025, 526 para. 184 – Avalanche victim search device with voice output). In so far as the claimant argues that the defendant compares the contested embodiment with the claimant's product on the internet – albeit without expressly naming the claimant – this cannot give rise to an interest worthy of protection in the publication of the decision. This is because the injunction prohibits the offering of the product and thus also comparative advertising, and the recall eliminates the consequences of the product having been placed on the market. There is therefore no need for an additional publication of the judgment.

38. Furthermore, the customer base and the needs of the customers of the Claimant's products are clearly distinct from those of the customers of the contested embodiment

differ significantly, so that there is no direct competition. Publication would therefore have no additional effect on the Claimant's customers or on those of the defendant.

39. Should the court nevertheless conclude that a right to publication should in principle be granted, the publication should remain within the framework defined in the alternative claim under point 2.f. MESSER MAGAZIN is the journal which the Claimant considers relevant, and the restriction on the size of the advertisement serves to prevent the costs of publication from being imposed on the defendant without limit.

Imposition of penalty payments

40. There is no claim for the (minimum) imposition of penalty payments as set out in claim II. Penalty payments should merely be threatened as such in the judgment on the merits. Furthermore, the minimum penalty payments sought would also be unreasonably high.

No direct enforceability without the existence of the conditions for enforcement

41. Claim XI, seeking an order of immediate enforceability pursuant to Rule 354.1(1) of the RoP, fails to take account of the fact that such enforceability is subject to the provisions of Rule 118.8 and Rule 352 of the RoP. The conditions for enforcement under Rule 118.8, sentence 1, of the RoP serve to protect both parties equally (see Tilmann/Plassmann, loc. cit., Rule 118 of the RoP, para. 48) and must therefore be ordered in a decision on the merits (see Düsseldorf local division, GRUR-RS 2024, 17732, operative part under D.).

42. The claimant has submitted comments on this matter. Reference is made to those submissions.

LEGAL ASSESSMENT

A. Admissibility

43. The action for infringement is admissible. The international jurisdiction of the Hamburg local division arises from Article 31 of the UPC Agreement in conjunction with Article 71b(1) in conjunction with Articles 4 and 7(2) of Regulation (EU) No 1215/2012 (hereinafter: Brussels Ia Regulation). Pursuant to Art. 32(1a) UPC Agreement, the Unified Patent Court (EPG) also has exclusive jurisdiction over actions for actual or threatened infringement of European patents. The jurisdiction of the EPG is not excluded in the present case pursuant to Article 83(3) of the UPC Agreement. The Claimant has not made any declaration to the effect of excluding the exclusive jurisdiction of the court. Since the defendant did not file a preliminary objection within the opposition period, both the jurisdiction of the UPC pursuant to Rule 19(1)(a) of the RoP and the jurisdiction of the Hamburg local division pursuant to Rule 19(1)(b) of the RoP are deemed to be accepted, Rule 19(7) of the RoP.

44. The statement of claim does not contravene Rule 13.1(k) of the RoP in conjunction with Article 76(1) of the UPC Agreement. According to the aforementioned provisions, the applications contained in the statement of claim must satisfy the requirement of specificity. The application under point I.2. is a standard ‘in particular’ application. It relates to the claims of the patent at issue specified therein and not to any claims that were not mentioned.

45. With regard to the evidence of profit under points IV. 2. c) and d) and the question of the statements of account, it applies that, for the profit under IV. 2. c), in addition to an explanation of the deductible, itemised costs, invoices must be submitted showing the turnover, so that the profit can be determined. The statements of account under IV. 2. d) include evidence of the itemised costs (e.g. invoices for material and manufacturing costs).

46. With regard to the defendant’s further criticism that there is no indication of the date and place of the infringing act, nor any submission regarding the facts that may constitute an infringement of the patent claims, the Claimant has indeed not explicitly highlighted this. However, the temporal and geographical context of the alleged infringing act is unquestionably apparent from its submissions. Furthermore, facts substantiating an act of infringement were presented by reference to the defendant’s website and sales brochures; thus, the plaintiff did not merely put forward legal assertions.

47. The claimant also has standing to bring the action.

48. In principle, standing to bring an action for the enforcement of claims arising from European patents is determined by substantive entitlement (see Federal Court of Justice, judgment of 7 May 2013 – X ZR 69/11, GRUR 2013, 713, para. 57 et seq. – Milling Method). On the basis of the UPC Agreement, nothing to the contrary applies to European patents, Rule 8.5 of the RoP. If a person is entered as the patent proprietor in the relevant national register in respect of a European patent, there is a rebuttable presumption that the person entered in the relevant national register is entitled to registration, Rule 8.5(c) of the RoP. If the claimant can refer to its entry in the registers relevant to the respective legal dispute, it is for the defendant to demonstrate and, where necessary, prove that the claimant lacks the entitlement to such an entry (Düsseldorf local division, Order of 30 April 2024, UPC_CFI_463/2023 – 10x Genomics, Inc. v. Curio Bioscience Inc). The Chamber must therefore apply a rebuttable presumption in respect of European patents (Hamburg local division, Order of 4 June 2024 – UPC_CFI_54/2023 – Avago v. Tesla).

49. In the case of patents with unitary effect, the Court of Appeal has held that, by virtue of their corresponding entry in the Register for Unitary Patent Protection, that person is to be treated as the proprietor of the patent, Rule 8.4 of the RoP. As such, they are entitled to apply for the ordering of appropriate measures, Article 47(1) of the UPC Agreement (UPC_CoA_335/2023, Order of 26 February 2024, p. 24). Insofar as a distinction must therefore be made between European patents on the one hand and those

with unitary effect on the other (see The Hague local division, Order of 1 September 2025 – UPC_CFI_374/2025, para. 34), this is not relevant in the present case because the claimant here relies both on the unitary effect for the UPC member states (Rule 8.4 of the RoP) and, for the non-UPC Member States, to the European patent without such effect (Rule 8.5 of the RoP), so that the presumption is rebuttable in the latter case.

50. The claimant has submitted, as Annex GRU 12/12Ü, extracts from the national registers together with a machine translation, from which it appears that the claimant is entered in the register. In this respect, there is a rebuttable presumption that she is the proprietor. The defendant argued against this at the oral hearing, contending that the reference to annexes was insufficient and that a more detailed submission was required. The court cannot agree with this in the present case. This is because a further submission could merely relate to the reproduction of the content of the specific annexes, which would amount to nothing more than a formality.

B. Scope of protection of the patent at issue

51. 1. Background to the patent at issue

52. According to paragraph [0001] of the patent specification, the patent at issue relates to a device for grinding and/or polishing the cutting edge of a cutting tool, preferably a household knife, comprising a handle and at least one disc for grinding and/or polishing the cutting edge of the cutting tool. When the device is pulled along a surface, such as a table surface, by handling the handle, the disc rotates relative to the handle. If the cutting edge of the cutting tool is placed against the disc in the process, the disc grinds the applied cutting edge due to its rotation.

53. With regard to the prior art, the patent at issue refers to DE 297 03 326 U1 and EP 3 278 928 A2, which relate to roller grinders. EP 3 278 928 A2 discloses the general concept of claim 1. The patent at issue explains in this regard that such devices can achieve a particularly uniform grind of the cutting edge of the cutting tool. The patent at issue describes its objective as further improving the grinding and polishing effect of such devices.

54. To solve this problem, the patent at issue proposes, in claim 1, a device having the following features:

1. A device for grinding and/or polishing the cutting edge of a cutting tool, preferably a household knife.
2. The device comprises:
2.1 a handle,
2.2 at least one roller rotatable relative to the handle,
2.3 at least one disc, rotatable relative to the handle, for grinding and/or polishing the cutting edge of the cutting tool,
3. The device can be moved by applying force to the handle via a support surface, so that the roller – rotating relative to the handle – rolls along the support surface and the disc is set in rotation.

4. The disc can be rotated at a different rotational speed/angular velocity to that of the roller.

55. Claim 14 may be structured as follows:

1. A system comprising a device according to one of the preceding claims, and:
2. a means for fixing the cutting edge of the cutting tool relative to the disc during grinding and/or polishing,
2.1 preferably such that a flank and/or extension plane of the cutting edge of the cutting tool is aligned relative to the disc at an angle in the range of 5° to 30°, preferably in the range of 10° to 20°, and most preferably at 15°.

56. 2. Principles of interpretation

57. Pursuant to Article 69 EPC in conjunction with Article 1 of the Protocol on its interpretation, the patent claim is not merely the starting point but the decisive basis for determining the scope of protection of a European patent. The interpretation of a patent claim does not depend solely on its exact wording in the linguistic sense. Rather, the description and the drawings must always be taken into account as aids to the interpretation of the patent claim and must not be used merely to resolve any ambiguities in the patent claim. However, this does not mean that the patent claim serves merely as a guideline and that its subject-matter also extends to what, following an examination of the description and the drawings, constitutes the patent proprietor's claim for protection (Court of Appeal, UPC_CoA_335/2023, Order of 23 February 2024; UPC_CoA_1/2024, Order of 13 May 2024; UPC_CoA_182/2024, Order of 25 September 2024; UPC_CoA_382/2024, Order of 14 February 2025; Munich Central Chamber, UPC_CFI_1/2023, Decision of 16 July 2024; Paris local division, UPC_CFI_230/2023, decision of 4 July 2024; Munich local division, UPC_CFI_233/2023, decision of 31 July 2024; Hamburg local division, UPC_CFI_54/2023, decision of 26 August 2024; Düsseldorf local division, UPC_CFI_363/2023, decision of 10 October 2024; Central Division, Paris, decision of 5 November 2024, UPC_CFI_309/2023; Local Division, Mannheim, UPC_CFI_340/2023, decision of 31 January 2025; Hamburg local division, UPC_CFI_58/2024, decision of 19 February 2025). Patent claims and the description and drawings explaining them must be interpreted as a coherent whole.

58. The patent claim must be interpreted from the perspective of a person skilled in the art. The application of these principles is intended to combine adequate protection for the patent proprietor with sufficient legal certainty for third parties. These principles for the interpretation of a patent claim apply equally to the assessment of infringement and the validity of a European patent. This follows from the function of the patent claims, which, under the European Patent Convention, serve to define the scope of protection of the patent pursuant to Article 69 EPC and thus the rights of the patent proprietor in the designated Contracting States pursuant to Article 64 EPC, taking into account the requirements for patentability under Articles 52 to 57 EPC (Court of Appeal, UPC_CoA_335/2023, Order of 26 February 2024, UPC_CoA_1/2024, Order of

13 May 2024; UPC_CoA_182/2024, Order of 25 September 2024; UPC_CoA_382/2024, Order of 14 February 2025; Munich local division, UPC_CFI_443/2024, Decision of 25 November 2024).

59. The expert always interprets a feature of a patent claim in the light of the claim as a whole (Court of Appeal, UPC_CoA_335/2023, Order of 26 February 2024, UPC_CoA_1/2024, Order of 13 May 2024, UPC_CoA_297/2024
Order of 3 December 2024, UPC_CoA_768/2024, Order of 30 April 2025; Munich Central Chamber, UPC_CFI_1/2023, Decision of 16 July 2024; Munich local division, UPC_CFI_443/2024, decision of 25 November 2024; Düsseldorf local division, UPC_355/2023, decision of 28 January 2025). From the function of the individual feature in the context of the patent claim as a whole, the person skilled in the art will deduce the technical function of the feature, both individually and in its entirety. With regard to the terminology used in a patent specification, this may lead the person skilled in the art to attribute a meaning to a term that differs from its general linguistic usage. The patent specification may define terms independently and, in this respect, constitutes its own lexicon (Central Chamber, Munich, UPC_CFI_1/2023, decision of 16 July 2024; Central Chamber, Paris, UPC_CFI_309/2023, decision of 5 November 2024).

60. The meaning of a sub-claim may, in principle, contribute to the correct interpretation of the main claim, although a sub-claim generally merely illustrates the possibility of a particularly advantageous embodiment of the main claim (Munich local division, Order of 25 November 2024, UPC_CFI_443/2024). Examples of implementation do not, in principle, limit a broader claim (Court of Appeal, UPC_CoA_335/2023, Order of 26 February 2024; UPC_CoA_8/2024, Order of 13 May 2024; UPC_CoA_523/2024, Order of 3 March 2025).

61. In view of the dispute between the parties, this means the following in the present case:

62. 3. Interpretation of the claims

63. a) Person skilled in the art

64. As is undisputed between the parties, the person skilled in the art is a mechanical engineer (university or university of applied sciences) with several years' experience in the design of grinding tools.

65. b) Feature 3

66. Feature 3 provides that the device for grinding and/or polishing a cutting edge, comprising a handle, a roller rotatable relative to the handle and a disc also rotatable relative to the handle, is movable via a support by applying force to the handle. In this way – 'so that' – the roller rolls off the support whilst rotating relative to the handle, and the disc can be set in rotation.

67. The device is therefore movable by applying force to the handle via a support surface, the roller rolls off and the disc can be set in rotation. By using the phrase ‘can be set in rotation’, the claim makes it clear that a direct causal link between the movement of the device via the support surface or the movement of the roller and the disc that can be set in rotation is not required. This may be the case, but the claim does not necessarily require it.

68. The same can be inferred from the general description in the patent at issue. Paragraph [0003], column 1, lines 57 ff. (emphasis added) states:

> “The rotation of the disc may be coupled to the rotation of the roller temporally and/or mechanically, e.g. where the disc is driven via a gearbox coupled to the roller, or it may be decoupled from the rotation of the roller, e.g. where the disc is driven by an electric motor or a spring-winding motor.”

69. This is further clarified in column 2, lines 19 to 23, where it is described:

> “However, it is also possible for the roller and the disc to rotate completely independently of one another relative to the handle, e.g. where the disc is driven by an electric motor whilst the roller remains stationary.”

70. The use of the word ‘may’ makes it clear that this is a specific embodiment.

71. Similarly, it is a form of the invention where the rotation of the roller and the disc is linked. This is clarified in paragraph [0003], column 2, lines 5 ff., where it is stated:

> “Preferably, the rotation of the disc is causally determined by the rotation of the roller, as, for example, when the disc is driven via a gearbox coupled to the roller or when the disc is driven by a spring-winding motor.”

72. Such a preferred causal relationship is also described and illustrated in the examples of embodiment. Thus, paragraph [0032] explains that the discs arranged at the front are coupled via a separate gearbox 5 to the roller 3 arranged between said disc 4 and the handle 2. This is illustrated in Fig. 3 (colour highlighting by the defendant).

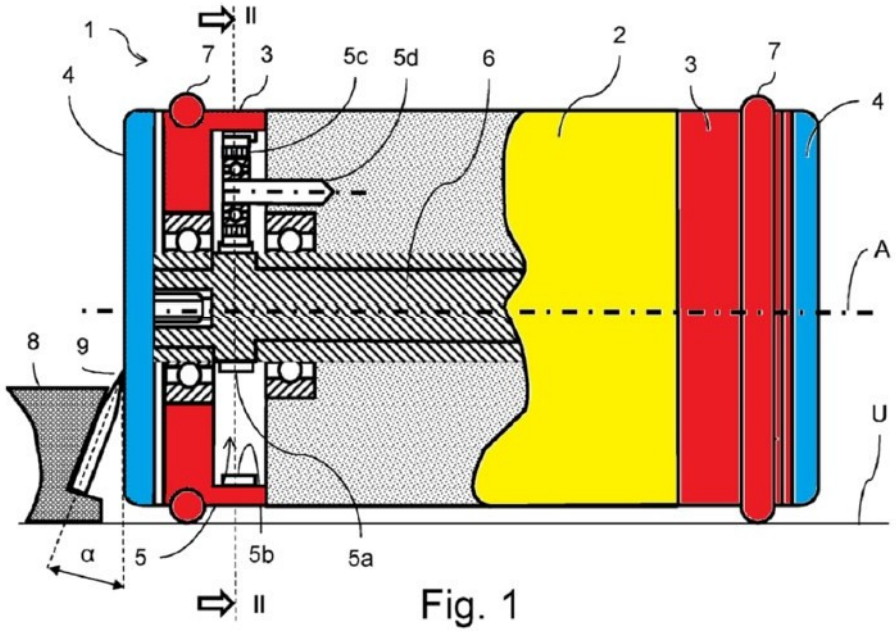


Fig. 1

73. Paragraph [0033], a further embodiment, describes that only the disc 4 and the roller 3 associated with it on the left-hand end face are configured in accordance with the invention, whilst the roller 3 and the disc 4 on the right-hand end face are firmly coupled to one another.

74. That the patent at issue describes, as specific embodiments, only coupled embodiments, which the defendant particularly emphasises (Defence, paras. 67 to 71 and para. 50), and does not describe uncoupled embodiments, such as the possibility of achieving different rotational speeds/angular velocities by using rollers of different sizes, does not result in the scope of protection being limited to the expressly described embodiments. The scope of protection to be determined by way of interpretation is not generally limited to the specific examples described. These do not, in principle, limit a broader claim. Nor does the absence of a specific example limit a claim. A broader claim need not be interpreted in such a way that it excludes solutions not supported by specific examples.

75. The functional coupling described in feature 3—where the device's mobility is mediated by a support (through the application of force to the handle), via which the disc can be set in rotation—is entirely based on this cause-and-effect principle. The movement of the device is a (contributing) cause of the disc being set in rotation. Feature 3 does not impose any further requirements. For example, the claim does not preclude the rotational speed/angular velocity of the disc being determined by the translational velocity v_R. For the defendant's contrary view to hold, the claim would have to contain – as it does not – further specifications as to how the movement of the device, and in particular the movement of the handle, is to be translated into rotation of the disc.

76. It can therefore be held that the defendant is correct in stating that the patent at issue regards a coupling/causality between the rotation of the roller and the disc as preferred. The patent at issue also describes only embodiments in which the roller and the disc are coupled to one another. However, the scope of protection of the patent at issue is not limited to this due to the broader claim and the passages in the description referring to optionality. A broader claim cannot be restricted to the configuration of preferred embodiments without further indications, which are not apparent in the present case.

77. c) Feature 4

78. The patent at issue leaves open in its claim how the different rotational speed/angular velocity of the disc 4 relative to the roller 3 is achieved in accordance with feature 4, leaving this to the discretion of the person skilled in the art. The claim merely provides that the at least one disc rotatable relative to the handle is to be rotatable at a different rotational speed/angular velocity than the at least one roller.

79. When interpreting feature 4 in the light of the claim as a whole, it follows for the disc referred to and for the roller referred to that it is the disc introduced in feature 2.3 and further developed in feature 3 with regard to its functional design which rotates at a different rotational speed/angular velocity than the roller introduced in feature 2.2 and further developed in feature 3 with regard to its functional design. This follows simply from the fact that the claim describes ‘at least’ one disc and one roller.

80. Since the rolling of the roller is not a causal factor in the disc being capable of being set in rotation, as is apparent from feature 3, the claim also does not refer to an ‘associated roller’, as the defendant suggests, namely a roller operatively connected to the disc.

81. The claim leaves the specific number of rollers and discs – ‘at least one’ – open and thus merely states that the at least one disc can rotate at a different rotational speed/angular velocity than the at least one roller. Since the claim does not require any association in the sense of an operative connection even for the roller and disc expressly mentioned therein, an operative connection of any kind between one of the rollers and the disc is not required even in embodiments comprising multiple rollers. As long as the claim includes a roller and a disc to which the specifications of the claim apply, the teaching of the claim is realised.

82. Accordingly, an embodiment comprising a disc and a roller connected to it in a rotationally fixed manner, which consequently has the same rotational speed/angular velocity, but in which a further roller is present that is rotatable at a different rotational speed/angular velocity, is also covered by the scope of protection of the patent at issue.

83. In so far as the defendant argues that the problem underlying the invention cannot be solved by an embodiment corresponding to the broad interpretation, it misinterprets the problem. The patent at issue itself formulates the problem as improving the grinding and/or polishing effect of devices known from the prior art. The defendant incorrectly assumes that the task lies in the fact that the rotational speed/angular velocity of the disc is no longer – as in the prior art – necessarily determined by the translational movement speed v_R with which the roller sander is guided by the user over the substrate. However, since the claim also protects embodiments in which the rotational speed/angular velocity of the disc is necessarily determined by the translational movement speed v_R with which the user guides the roller sander across the workpiece, the objective formulated by the defendant cannot be correct. In this respect, it is also unconvincing when the defendant takes the view that, in the presence of several rollers, the rotational speed/angular velocity of the disc must the rotational speed/angular velocity of all (both) rollers. For this view is also based on the incorrect assumption that the rotational speed/angular velocity of the disc is no longer – as in the prior art – necessarily determined by the translational speed v_R at which the roller sander is guided by the user across the work surface.

84. The defendant further refers to paragraph [0003], column 1, lines 40 to 51, which states:

> “By varying the rotational speed of the disc relative to the roller, the grinding effect can be specifically adjusted to individual requirements. For example, by increasing the rotational speed of the disc relative to the rotational speed of the roller, an enhanced grinding and/or polishing effect can be achieved, as the disc rotates faster than the roller rolls along the base. Reducing the rotational speed of the disc relative to the rotational speed of the roller enables particularly precise grinding and/or polishing.”

85. Here, the grinding effect of the disc (which, according to the invention, rotates at a different speed) is merely compared to the grinding effect the disc would achieve if it were rotating at the same speed as the roller. No statement is made regarding the possible association of a specific roller with the disc. It is therefore merely described that the enhancement of the grinding and/or polishing effect would not be achieved if the disc rotated at the same speed as the roller rolls along the substrate. The same applies to the reduction in rotational speed also described; if the rotational speed of the disc is reduced relative to the rotational speed of this roller, particularly precise grinding and/or polishing is made possible. If the disc were to rotate at the same rotational speed, particularly precise grinding and/or polishing would not be made possible according to the view of the patent at issue. It therefore only matters that there is a roller which rotates at a different rotational speed.

86. The claimed relative effects (enhancement of the grinding and/or polishing effect; particularly precise grinding and/or polishing) are described in a comparison between the disc rotating at the same rotational speed and the disc rotating at a rotational speed that is increased or decreased relative to the rotational speed of this roller. The roller therefore has the sole function of specifying a rotational speed relative to which the claimed effect is described. In a device with several rollers, the claimed effect is achieved if there is at least one roller which (as claimed in feature 4) rotates at a different rotational speed/angular velocity than the disc, since the description of the effect in the said passage of the text is then relative to the rotational speed of this roller.

C. Infringement of Claim 1

87. The contested embodiment unproblematically fulfils all the features of claim 1 and claim 14.

88. 1. Contested embodiment

89. The claimant alleges an infringement of the patent at issue in the sale of the knife sharpening device offered and sold by the defendant under the name ‘Trinity-S’. A representation of the contested embodiment from the defendant’s website – https://www.magna-tec.de/contents/de/p266.html – is reproduced (again) below:

90. 2. Infringement

91. Based on the above interpretation, the contested embodiment makes use of the teaching of the patent at issue in accordance with the asserted claims 1 and 14.

92. The embodiment in question is a device for sharpening and/or polishing the cutting edge of a cutting tool, preferably a household knife (feature 1). This device comprises a handle (highlighted in yellow above), as well as a roller 22 (highlighted in red) and a roller 26 (highlighted in green). Both roller 22 and roller 26 are rotatable relative to the handle. An abrasive carrier 20 with an abrasive disc 21 attached thereto, for example magnetically, which in turn is provided with abrasives 17/18, is a disc rotatable relative to the handle for grinding and/or polishing the cutting edge of the cutting tool (feature group 2). The device can be moved by applying force to the handle via a support surface, so that both roller 22 and roller 26 – rotating relative to the handle – roll along the support surface. The disc 21 connected to the roller 22 can therefore be set in rotation by applying force to the handle via a support surface (feature 3). The roller 22 and the roller 26 have different rotational speeds/angular velocities relative to one another. Consequently, the disc 21, which is rotationally fixed to the roller 22 is disc 21 has a different rotational speed/angular velocity to roller 26 and, consequently, a running roller. Feature 4 is therefore also fulfilled.

93. The contested embodiment also consists of an identical construction with regard to the features of claim 14 of the patent at issue. The defendant rightly does not dispute that the contested embodiment comprises a device for fixing the cutting edge of the cutting tool relative to the disc during grinding and/or polishing. The defendant defends itself with regard to system claim 14 solely on the grounds that system claim 14 presupposes a device according to claim 1, which – in the defendant's (incorrect) view – is lacking.

D. Locus standi

94. a) UPC countries

95. The defendant has standing to be sued as an infringer. By manufacturing, offering and distributing the contested embodiment, the defendant has also committed acts of infringement within the meaning of Article 25(a) of the UPC Agreement. In this context, the offering and placing on the market simultaneously give rise to a rebuttable presumption that the defendant also uses the contested embodiment or imports or possesses it for the purposes of offering, placing on the market or using it (Düsseldorf local division, UPC_CFI_7/2024, decision of 3 July 2024; UPC_CFI_363/2023, decision of 10 October 2024). Similarly, the defendant has standing to be sued in respect of manufacturing. According to the defendant's own statements on its website, it manufactures knife sharpening devices '100% in Germany' (see the Claimant's documents of 13 October 2025, para. 92). In the absence of any contrary submission by the defendant, manufacturing must therefore be assumed.

96. b) Other countries (Switzerland, Liechtenstein, Spain, Ireland, Norway, Turkey and the United Kingdom of Great Britain and Northern Ireland

97. Locus standi cannot be established for the other countries.

98. The applicable law must be distinguished from the general jurisdiction of the Hamburg local division to assess an infringement in the aforementioned countries. It cannot be inferred from the UPC's jurisdiction that the UPC Agreement always applies to every issue. With regard to the applicable law, the principle of lex loci protectionis applies instead. Accordingly, the relevant substantive law of Switzerland, Liechtenstein, Spain, Ireland, Norway, Turkey and the United Kingdom of Great Britain and Northern Ireland is to be applied.

99. The claimant did not address these in the statement of claim; it was only in the Reply that a submission was made, setting out the legal framework in the individual countries in general terms by reproducing the statutory provisions. The defendant rightly points out that neither the listed legal provisions nor the alleged possible alignment of the fundamental principles of national law with the UPC Agreement says anything about whether, in the specific case, there has been an infringement under the law of the respective country and whether national law permits a judgment to the extent sought.

100. Notwithstanding this, it is questionable whether the defendant can be accused of any action at all in all the countries mentioned. The claimant points out that the defendant has not disputed that it has carried out relevant acts such as offers, deliveries, etc. in the listed countries. However, a denial is irrelevant, as the claimant has not even begun to argue in the statement of claim that the defendant has carried out such acts or that there is at least a threat of such acts. The claimant's submissions in the statement of claim are limited to a reference to the decision of the European Court of Justice in the case of BSH./.Electrolux (judgment of 25 February 2025, C-339/22, GRUR 2025, 568) and a decision of the Milan local division (UPC_CFI_472/2024, order of 8 April 2025). The decision of the Milan local division, however, deals with the question of jurisdiction, but says nothing about whether any patent-infringing acts were committed.

101. Furthermore, the claimant has argued that the defendant advertises its products online via the website https://www.magna-tec.de/contents/de/terms.html without a disclaimer. According to its terms and conditions, the defendant offers to ship the contested product at least to Switzerland and the EU. However, this fact does not provide any indication of a possible act of infringement in Liechtenstein, Norway, Turkey or the United Kingdom of Great Britain and Northern Ireland.

102. Even if one assumes that the offering of the contested product on the defendant's website with a '.de' top-level domain, which contains a

shipping cost overview in German, or the sale to customers within Germany and Austria as well as to a dealer based in Germany, could constitute a connecting factor under the law of Switzerland, Spain or Ireland, or even be sufficient to assume an (alleged) patent infringement, there is no evidence whatsoever in the Claimant's submissions. The German-language website in particular argues against such actions in countries where German is not the official language.

103. Ultimately, the claimant's submissions are far too general to substantiate claims relating to countries outside the UPC Agreement. This is because no sufficiently concrete facts have been put forward to enable the court to reliably rule on a patent infringement in non-UPC Agreement countries.

104. With regard to a possible patent infringement in the other EU Member States as well as Switzerland and Liechtenstein, the following was submitted, as set out below:

> "National law in Switzerland and Liechtenstein is essentially consistent with the UPC Agreement, at least with regard to the aspects relevant to the present case. Swiss national law, in particular the Federal Act on Patents for Inventions (PatG), is also applicable to Liechtenstein under the Switzerland–Liechtenstein Patent Protection Agreement. Pursuant to Section 72 PatG, any person who is threatened by or whose rights are infringed by one of the acts referred to in Section 66 may bring an action for an injunction or for the removal of the unlawful situation. Section 66 PatG provides, inter alia, that the unlawful use of a patented invention may be prosecuted under civil law. Damages are governed by Art. 73 PatG; a right to information arises in Switzerland under Art. 66b PatG. Art. 69 PatG governs confiscation and destruction; a right to publication of the judgment arises under Art. 70 PatG. Insofar as a right to recall is not expressly regulated in the PatG, it is in practice granted as part of the removal under Article 72 PatG. The claims asserted in the action are therefore also available to the Claimant under Swiss law."

105. This argument is far too general to allow the conclusion that an offer on the internet – which can only be inferred from the defendant's statement that it also delivers to Switzerland – constitutes a patent infringement under patent law in Switzerland and Liechtenstein.

E. Legal consequences

106. The established patent infringement justifies the following legal consequences.

107. 1. Injunction

108. Taking into account the circumstances of the case, the claimant is entitled to an injunction prohibiting the continuation of the infringement pursuant to Art. 25(a) of the UPC Agreement in conjunction with Art. 63(1) of the UPC Agreement.

109. 2. Recall/destruction

110. The fundamental decision regarding the recall from the distribution channels of the products directly infringing the patent is justified under Article 64(2)(b) and (4) of the UPC Agreement. The decision regarding destruction is justified under Article 64(4) of the UPC Agreement.

111. However, the claimant's application in paragraph V regarding recall is too broadly formulated, as the defendant rightly points out. This is because the application does not imply a recall from the distribution channels which implicitly provides only for a recall from commercial customers.

112. The defendant's view that the claim for the recall of products relating to the system claim is disproportionate, on the grounds that the willingness to bring the contested embodiment into a patent-free state argues against proportionality, is unfounded. Claims for recall and destruction constitute the standard practice unless there are substantial grounds of proportionality to the contrary (Court of Appeal, Order of 3 October 2025, UPC_CoA_534/2024). The defendant has not put forward any such grounds. No details have been provided as to how this is to be achieved.

113. Furthermore, the objection is unfounded because the defendant itself submits that it has so far sold only a very small quantity of the contested products. Where the quantity is small, the effort required to implement the recall claim is correspondingly minimal. Furthermore, the claim is directed solely at a recall from commercial customers; in this respect, the wording is in line with the case law of the Düsseldorf local division (GRUR-RS 2024, 17732).

114. 3. Permanent removal from the distribution channels

115. The same applies with regard to the sought-after permanent removal from distribution channels. In this respect, the sought-after order is based on Article 64(2)(d) and Article 64(4) of the UPC Agreement.

116. 4. Information

117. The obligation to provide information arises from Article 67 of the UPC Agreement. The information is necessary for the calculation and assessment of the method by which damages will be claimed. In this context, the claimant may also request the submission of supporting documents, namely invoices or, if these are not available, alternatively delivery notes. The claimant has a legitimate interest in being able to verify the accuracy of the information on a random basis (Düsseldorf local division, UPC_CFI_7/2023, decision of 3 July 2024; Düsseldorf local division, UPC_CFI_16/2024, decision of 14 January 2025; Mannheim local division, UPC_CFI_210/2023, decision of 22 November 2024). In so far as the defendant, in its statement of defence, alleged a lack of legal basis for the information under section IV.2, it did not maintain this objection in its rejoinder. Furthermore, this information is based on Article 68(3)(a), (b) of the UPC Agreement
in conjunction with Rule 191(1), Alternative 2 of the RoP. Accordingly, a defendant must provide, already in the infringement proceedings, information which the Claimant requires in order to be able to verify the validity of the information and to establish grounds for its

calculation of damages . . This includes also the submission of supporting documents (Munich local division, UPC_CFI_248/2024, decision of 22 August 2025).

118. Insofar as the defendant intends to provide the information solely to the Claimant's representative in person, this alternative claim by the defendant is unfounded. For the fact that the information to be provided constitutes sensitive data of the defendant does not in itself mean that special confidentiality orders are required, such that the data may only be transmitted to the Claimant's legal representative. Neither the rules of the UPC Agreement nor the RoP provide any basis for this. Furthermore, should there be a change in legal representation, the claimant would once again no longer have access to the necessary information.

119. In so far as the defendant considers the three-week deadline for providing information to be too short, this objection is unfounded. Since, according to the defendant's own submission, only small quantities were sold, a three-week deadline appears reasonable.

120. The further objection that a grace period of one month should be granted is also unfounded. Contrary to German law, the case law of the UPC does not provide for a grace period of one month (see, for example, Düsseldorf local division, decision of 14 January 2025, UPC_CFI_16/2024; decision of 31 October 2024, UPC_CFI_373/2024; decision of 10 October 2024, UPC_CFI_363/2023). Insofar as a grace period of one month was granted in other decisions of the Court (see, for example, Düsseldorf local division, decision of 16 June 2025, UPC_CFI_140/2024), this followed a corresponding application by the claimant.

121. 5. Provisional damages

122. Under Rule 119 of the RoP, the Court may, in its decision on the merits, award provisional damages to the successful party. The claimant estimates the recoverable legal costs plus court fees at EUR 41,000.00, based on a notional value of the claim of EUR 250,000.00 for the main proceedings, in accordance with the court's scale of fees.

123. The cost estimate is, in principle, plausible and not open to criticism. However, it is based on the value of the claim in the infringement proceedings, which the Claimant assesses at EUR 250,000.00. In this context, it must be borne in mind that the value of the claim in the damages proceedings does not necessarily correspond to that of the infringement proceedings (see Court of Appeal, decision of 17 February 2026, UPC_CoA_302/2025, para. 132 bullet point 3). Rather, the value in dispute is determined by the calculation of the damages to which the claimant is entitled, to be made by the claimant in accordance with Rule 131.2(e) of the RoP.

124. However, it is not yet possible to estimate the value of the claim in the damages proceedings. The claimant's estimate that this amounts to EUR 250,000.00 on the basis of lost profits is too general. This is because this general assumption is contradicted by the defendant's assertion that only a very small number of the contested embodiments

were sold. Whilst this is an unsubstantiated claim, there are no apparent grounds for the value in dispute assumed by the Claimant. The Claimant itself has estimated the total value in dispute of the present infringement proceedings at EUR 250,000.00, which suggests that the claim for damages itself accounts for only a fraction of this amount. In this respect, only the fixed fee of EUR 3,000, which is always payable, can be taken into account in favour of the Claimant (see Rule 132 of the RoP in conjunction with Section I of the Court Fees Schedule).

125. Insofar as the defendant envisages an application for security in the event of a corresponding order, such an order is not warranted. It is true that the court may award damages subject to conditions, such as the provision of security pursuant to Rule 352.1 of the RoP. However, there is no reason to do so in the present case.

126. 6. Award of damages

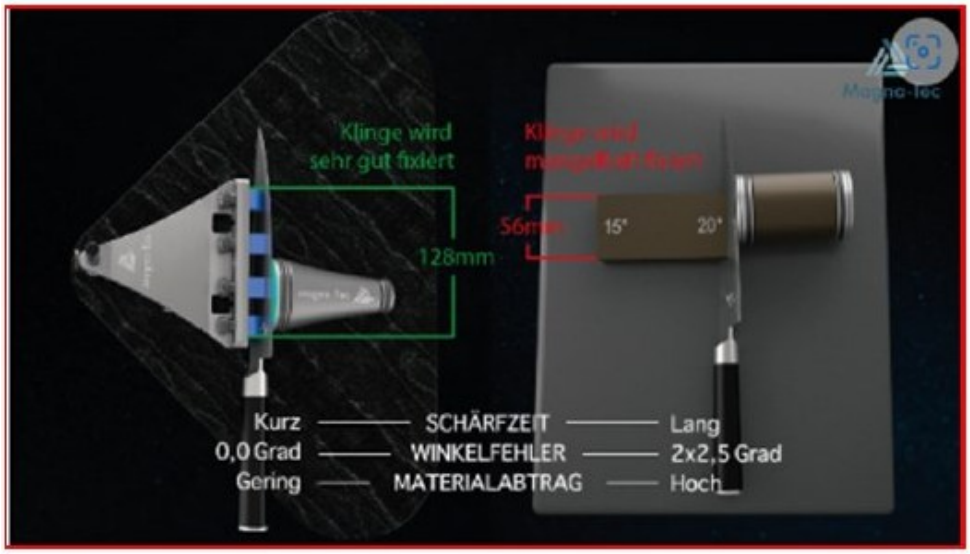
127. The determination of the award of damages on the merits is made on the basis of Article 26 in conjunction with Article 68(1) of the UPC Agreement (claim I.6.). The defendant should have realised, had it exercised due care, that its actions infringed the patent at issue.

128. 7. Publication of the judgment

129. The application for an order requiring the publication of the decision at the defendant’s expense pursuant to Article 80 of the UPC Agreement is, exceptionally, well-founded.

130. In addition to establishing patent infringement, the claimant must also demonstrate a legitimate interest in the requested order for the publication of the decision at the defendant’s expense. In this context, all the circumstances of the individual case must be taken into account, such as the scope and severity of the infringement, the public nature of the dispute, the public interest in information, and the question of whether the publication of the decision can help to dispel misconceptions in the market caused by the infringement or prevent future infringements (Court of Appeal, decision of 17 February 2026, UPC_CoA_302/2025, para. 126).

131. In the present case, the claimant has a legitimate interest in the publication of the judgment. The defendant, albeit without specifically naming the claimant, presented the contested embodiment on its website alongside the claimant’s roller grinder and as a negative example.



132. In contrast, the contested embodiment was described on several pages and highlighted in a positive light.

133. Furthermore, the defendant depicted and described the contested embodiment on several pages in the journal ‘MESSER MAGAZIN’ (2025), which is recognised within professional circles. In this respect, the claimant has a legitimate interest in the patent infringement by the contested embodiment being published.

134. In this respect, the Claimant’s legitimate interest must be affirmed, as its own product is portrayed unfavourably in comparison to the contested embodiment.

135. However, the claimant’s application under point VII is vague:

> “The claimant shall be permitted, at the defendant’s expense, to publicise and publish the decision in whole or in part in public media, in particular on the internet, in compliance with the General Data Protection Regulation.”

136. The reference to public media, in particular on the internet, allows for a wide range of options which cannot be required. The operative part would thus also encompass a full-page publication in any national newspaper, which would be disproportionate. In this respect, the defendant’s alternative claim is to be upheld. The claimant did not contest this any further during the oral hearing.

137. 8. Threat of a penalty payment

138. The imposition of a penalty payment in the event of non-compliance (Art. 63(2) UPCA) gives no cause for concern. This also applies from the perspective of proportionality. As a general rule, the imposition of a penalty payment for non-compliance (Art. 63(2) UPC Agreement) does not give rise to any concerns. The basis for the

threat of a penalty payment in respect of the provision of information and accounting is Article 82(1), (4) of the UPC Agreement and Rule 354.3 of the RoP.

139. The threatened penalty payment of up to EUR 1,000.00 gives the court the necessary flexibility to take into account the circumstances of each individual case, including the conduct of the infringer, when determining an appropriate penalty payment in accordance with Article 82(4), second sentence, of the UPC Agreement in conjunction with Rule 354.4 of the RoP.

140. The defendant's objections are directed solely against an order for penalty payments; however, the claimant has merely applied for a threat of such a penalty.

141. 9. Value of the claim

142. The claimant has stated the value in dispute of the infringement claim as EUR 250,000.00. The defendant objected to this in its statement of defence and argued that the contested embodiment is sold in quantities in the low double-digit range per year. For the remaining term of 16 years, total turnover is therefore estimated at EUR 250,000.00. With a licence rate of 10%, this results in a value in dispute of EUR 25,000.00. The claimant, on the other hand, objected that the defendant had not provided concrete evidence to support the claim, meaning that the value in dispute could not be calculated on the basis of a notional licence rate. As the defendant has not provided any further comments on this matter, the value in dispute proposed by the claimant must be upheld.

143. 10. Review pursuant to Rule 333 of the RoP

144. The application for the panel to review the order issued by the judge-rapporteur on 20 April 2026 is unsuccessful.

145. The panel shares the judge-rapporteur's view that the defendant was afforded sufficient opportunity to comment on the video originating from him, as set out in Annex GRU 10, and on the configuration of the contested embodiment. Notwithstanding the fact that the Claimant's submissions at the oral hearing are not relevant to the decision, as can be seen from the above considerations, it appears to be the defendant's intention to comment once again on the interpretation of the patent at issue against the background of the advantages of the contested embodiment. However, sufficient opportunity for this has already been provided.

Order:

I. The defendant is ordered to refrain from

1. a device (1) for sharpening and/or polishing a cutting edge of a cutting tool, preferably a household knife, comprising: a handle (2), at least one roller (3) rotatable relative to the handle (2) and at least one disc (4) rotatable relative to the handle (2) for grinding and/or polishing the cutting edge of the cutting tool, wherein the device
(1) is movable by applying force to the handle (2) via a support (U),

so that the roller (3) – rotating relative to the handle (2) – rolls along the support surface (U) and the disc (4) can be set in rotation,

characterised in

that the disc (4) can be rotated at a different rotational speed/angular velocity to the roller (3),

to be manufactured, offered, placed on the market, used, or imported and/or possessed for the aforementioned purposes in the Federal Republic of Germany, Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Italy, Lithuania, Luxembourg, Latvia, Malta, the Netherlands, Portugal, Sweden and Slovenia;

(direct infringement of claim 1 of EP 4 117 857 B1)

in particular, where

the device is characterised in that, when the roller rotates, the disc rotates in the same direction as the handle relative to the direction of rotation of the roller;

(direct infringement of claim 3 of EP 4 117 857 B1)

and/or

where the device is characterised in that the handle, the roller and/or the disc are ordered coaxially with one another;

(direct infringement of claim 9 of EP 4 117 857 B1)

and/or

if the device is characterised in that the axes of rotation of the roller and the disc coincide directly, preferably with a central axis of the handle;

(direct infringement of claim 10 of EP 4 117 857 B1)

2. a system comprising

a device according to claim 1 and, in particular, according to claims 3, 9 and 10, as well as a means for fixing the cutting edge of the cutting tool during grinding and/or polishing relative to a disc, preferably such that a flank and/or extension plane of the cutting edge of the cutting tool is aligned relative to the disc at an angle in the range of 5° to 30°, preferably in the range of 10° to 10°, preferably 15°,

in the Federal Republic of Germany, Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Italy, Lithuania, Luxembourg, Latvia, Malta, the Netherlands, Portugal, Sweden and Slovenia, to manufacture, offer, place on the market, use, or import and/or possess for the aforementioned purposes.

(direct infringement of claim 14 of EP 4 117 857 B1)

II. In the event of a breach of the order under Section I, the defendant shall pay a penalty of EUR 1,000.00 to the court for each instance of the breach and for each infringing product.

III. It is hereby declared that the defendant has infringed the patent at issue in respect of the acts described in Section I.

IV. The defendant is ordered, on pain of a penalty payment of EUR 500.00 for each day of delay, to provide the claimant, within a period of three weeks from service of the judgment, with

1. provide the claimant with information as to the extent to which it has committed the acts described in
I. since 24 April 2024, specifying

a) the origin and distribution channels of the specified products;

b) the quantities delivered, received or ordered and the prices paid for the specified products;

c) the identity of all third parties involved in the manufacture or distribution of the specified products.

2. to submit the following documents in electronic form to the Claimant for the purpose of verifying the information provided under point IV. 1. and to provide information on the profits generated by the infringing products:

a) invoices – or, alternatively, delivery notes – for the individual deliveries, with the respective deliveries broken down by quantities, delivery times and prices offered, as well as product codes, and the names and addresses of the commercial recipients of the sales offers for all products sold or otherwise distributed;

b) Evidence of the advertising carried out, broken down by advertising medium, circulation figures, period of distribution and distribution area;

c) Evidence of the profit achieved and the costs incurred, with the costs to be broken down by individual cost factors;

d) Invoices – or, alternatively, delivery notes – and corresponding statements of costs incurred, to which the defendant refers in determining the profit.

The defendant reserves the right to redact details requiring confidentiality in the documents listed in the applications under points IV. 1. and 2., excluding information subject to disclosure and notification requirements.

V. The defendant is ordered, on pain of a penalty payment of EUR 500.00 for each day of delay, to recover from commercial customers

within one week of service of the judgment, the products referred to in point I, which have been placed on the market since 24 April 2024, with reference to the patent-infringing state established by the court, with a binding undertaking to to reimburse any fees and to bear the necessary packaging and transport costs as well as the customs and storage costs associated with the return, and to take the products back into its possession, whereby the Claimant is to be provided with a sample of the recall letters and a list of the addressees with names and postal addresses or – at the defendant's discretion – a copy of all recall letters.

VI. The defendant is ordered, on pain of a penalty payment of EUR 500.00 for each day of delay, within one week of service of the judgment, to destroy the products referred to in paragraph I which are in its direct and/or indirect possession and/or ownership (including any products whose possession or ownership it has acquired in accordance with paragraph V), or to hand them over to a bailiff to be appointed by the Claimant for the purpose of destruction.

VII. The claimant is permitted, at the defendant's expense, to publish a summary of the decision of no more than half a page, on a one-off basis and in compliance with the General Data Protection Regulation, in both a printed edition and an online edition of the trade journal "MESSER MAGAZIN" published by Wieland Verlag GmbH.

VIII. It is hereby declared that the defendant is obliged to compensate the Claimant for all damage incurred by her as a result of the acts described in Section I, committed since 24 April 2024 and yet to be incurred.

IX. The defendant is ordered to pay the claimant provisional damages in the amount of EUR 3,000.00.

X. In all other respects, the action is dismissed.

XI The application for review by the panel of the procedural order of the Court of First Instance of the Unified Patent Court, UPC_CFI_388/2025, issued on 20 April 2026, is dismissed.

XII. The defendant shall bear two-thirds of the costs of the proceedings; the remainder shall be borne by the Claimant.

XIII. The value in dispute is set at EUR 250,000.00.

XIV. The orders under points I, IV to VI and IX shall only be enforceable once the claimant has notified the court of which part of the orders it intends to enforce and has submitted a certified translation of the orders into the official language of the Member State in which enforcement is to take place, and once the defendant has been served with the notification and the (relevant) certified translation.

Sabine Klepsch, Presiding Judge and judge-rapporteur	Sabine Maria Klepsch Digitally signed by Sabine Maria Klepsch Date: 3 May 2026 14:14:53 +02'00'
Dr Stefan Schilling legally qualified judge	Stefan Schilling Digitally signed by Stefan Schilling DN: cn=Stefan Schilling, c=DE, email=stefan.schilling@unifiedpatentcourt.org Date: 04/05/2026 10:41:42 +02'00'
Peter Agergaard legally qualified judge	Peter Juul Agergaard Digitally signed by Peter Juul Agergaard Date: 04/05/2026 08:16:00 +02'00'
Max Tilmann technically qualified judge	Max Wilhelm Tilmann Digitally signed by Max Wilhelm Tilmann Date: 03/05/2026 15:18:44 +02'00'
For the Deputy-Registrar	Sarah Brecht Digitally signed by Sarah Brecht DN: cn=Sarah Brecht, c=DE, email=sarah.brecht@lg-justiz.hamburg.de Date: 04/05/2026 14:11:00 +02'00'

INFORMATION ON APPEALS

Any party whose applications have been rejected in whole or in part may lodge an appeal against this decision with the Court of Appeal within two months of the decision being served (Art. 73(1) UPC Agreement, R. 220.1(a), 224.1(a) RoP).

INFORMATION ON ENFORCEMENT

A certified copy of the enforceable decision shall be issued by the Deputy-Registrar on application by the enforcing party, Rule 69 of the Rules of Procedure.

The decision was pronounced in open court on 6 May 2026.

Dr Stefan Schilling legally qualified judge	Stefan Schilling Digitally signed by Stefan Schilling DN: cn=Stefan Schilling, c=DE, email=stefan.schilling@unifiedpatentcourt.org Date: 06/05/2026 10:10:57 +02:00