



Düsseldorf local division
UPC_CFI_779/2024

Order
of the Court of First Instance of the Unified Patent Court issued on
27 May 2026
concerning EP 1 748 830 B1

Claimant:

Brita SE, legally represented by the Management Board comprising Markus Hankammer, Stefan Rudolf Jonitz and Dr Rüdiger Kraege, Heinz-Hankammer-Straße 1, 65232 Taunusstein, Germany

represented by: Patent Attorney Constantijn van Lookeren Campagne, Attorney-at-law, Nils Schuh, Attorney-at-law, Andreas Kabisch, Patent Attorney, Dr Jasper Werhahn, and all patent attorneys and Attorney-at-laws registered with the Unified Patent Court of Meissner Bolte Patentanwälte Rechtsanwälte Partnerschaft mbB, Kaiserswerther Str. 183, 40474 Düsseldorf, Germany

Electronic service address: mail@duesseldorf.mb.de

DEFENDANT:

Wessper Sp. z o.o., Przemysłowa 3, Rzeszawa, Małopolskie 32-765, Poland

represented by: Dr Karsten Königer, Attorney-at-law, Harmsen Utescher, Neuer Wall 80, 20354 Hamburg, Germany

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PATENT AT ISSUE:

European Patent No. EP 1 748 830 B1

TRIAL PANEL/CHAMBER:

Panel 1 of the Düsseldorf local division

JUDGES:

This order was issued by Presiding Judge Thomas as judge-rapporteur. LANGUAGE OF THE PROCEEDINGS:

German

SUBJECT MATTER: Rule 262.2, Rule 262A of the RoP – Protection of confidential information

BRIEF SUMMARY OF THE FACTS:

1. The claimant brought proceedings against the defendant for infringement of European patent EP 1 748 830 B9 (submitted as Annex MB 4, hereinafter: the patent at issue).
2. In a decision announced on 16 April 2026, the Düsseldorf local division found that the contested filter cartridges constituted an indirect infringement of the patent at issue and ordered, inter alia, the following:
 - I. *The defendant is ordered, within a period of 30 days of service of the notice within the meaning of Rule 118(8) sentence 1 of the RoP and, where applicable, the certified translation,*
 1. *to provide the claimant, in a statement structured by month of the calendar year and by patent-infringing products, with information from 10 December 2019 up to 27 April 2025 regarding*
the offering and/or delivery
into the territories of Austria (AT), Belgium (BE), Germany (DE), France (FR), Italy (IT) and Lithuania (LT)
of filter cartridges,
which are suitable for use in a device for the filtration of liquids,
 - *with a filter cartridge*
 - *comprising an inlet funnel with a peripheral wall, a funnel base wall and a receiving opening arranged in the funnel base wall, into which the filter cartridge can be inserted from above, wherein the sealing rim of the filter cartridge abuts the rim of the receiving opening and wherein a receptacle chamber with a peripheral wall and a base wall,*
 - *the inlet funnel comprises at least one first fixing means below the receiving opening, wherein at least the first fixing means forms the throttling device to reduce the flow rate predetermined by the filter cartridge,*
 - *the base wall of the receiving chamber comprises at least one first indentation, which is a cylindrical or truncated conical hollow body moulded onto the base wall of the receiving chamber and facing inwards, on the free edge of which at least one first bead, which is curved in the shape of a circular arc and faces inwards, is ordered, leaving at least one outlet opening free,*
wherein the filter cartridge

- *comprises a cartridge upper part with at least one inlet opening, a cartridge lower part with at least one outlet opening and a sealing rim,*
- *and comprises, below and spaced from the sealing rim, at least one second fixing means which, when the filter cartridge is inserted into the receiving opening, cooperates with the first fixing means, so that the fixing means define the position of the filter cartridge,*
- *the base wall of the filter cartridge has at least one second indentation which overlaps the first indentation, within which an outward-facing pin is ordered, which engages with the cylindrical or truncated conical hollow body when the filter cartridge is inserted into it,*
- *wherein the first and second intakes are ordered at a distance from one another at least in partial areas,*

(indirect infringement of the combination of claims 1, 13, 14 and 15 of EP 1 748 830 B9)

whereby information is to be provided regarding

- a) *the origin and distribution channels of the products;*
 - b) *the quantities delivered, received or ordered and the prices paid for the products;*
 - c) *the identity of all third parties involved in the manufacture or distribution of the products;*
2. *the Claimant is to provide, in electronic form suitable for computer analysis, the following to substantiate the information provided under Section I.1, together with details for each month of a calendar year from 10 December 2019 to 27 April 2025 and for each patent-infringing product:*
- a) *invoices – or, if these are not available, delivery notes – for the individual deliveries, breaking down the respective deliveries by quantities offered, times of offer, prices of the goods offered and type designations, as well as the names and addresses of the commercial recipients of the sales offers for all products sold or otherwise disposed of;*
 - b) *Evidence of the advertising carried out, including proof of these advertising activities, breaking down the advertising carried out by advertising medium, its reach, the distribution period and the distribution area;*
 - c) *Evidence of costs, breaking these down by individual cost factors and the profits achieved;*

d) *Invoices – or, if these are not available, delivery notes – and corresponding statements of all costs incurred, which the defendants appeal to in calculating their profits.*

3. On 18 May 2026, the defendant filed an application for the issuance of confidentiality orders. It seeks the classification of the information and documents it is required to provide pursuant to the aforementioned decision as subject to confidentiality and, on that basis, the issuance of confidentiality orders pursuant to Rule 262A of the RoP by analogy, as well as Rule 262.2 of the RoP.
4. The claimant has opposed this request.

THE PARTIES' APPLICATIONS:

5. The defendant requests, by analogy with Rule 262A of the RoP:
 1. The information to be disclosed to the claimant in fulfilment of the defendant's (applicant's) obligation under paragraphs I.1 and I.2 of the operative part of the decision of 16 April 2026 (UPC_CFI_779/2024) is classified as confidential.
 2. The claimant may only disclose the information disclosed in fulfilment of the obligation under points I.1 and I.2 of the operative part of the decision of 16 April 2026 (UPC_CFI_779/2024), may only be made available to its representatives in this proceedings and, internally, only to those employees who require this information for the conduct of the present proceedings. Internal access must be restricted to a maximum of three trusted persons. The representatives in this legal dispute and the internal staff on the Claimant's side must be named to the court and the applicant. The designated information must also be treated as strictly confidential within the group and must not be disclosed to third parties, unless this is necessary for an assessment and use consistent with the purpose of the asserted patent claims. Any access to the specified information beyond this is to be declared inadmissible. This does not apply if knowledge of the information was obtained outside the scope of this legal dispute. The Claimant's obligation shall continue to apply even after the conclusion of the present legal dispute.
6. Furthermore, the defendant moves pursuant to Rule 262.2 of the RoP:
 3. Insofar as the parties or the Court refer, in the further course of these proceedings, to information which the defendant (applicant) has disclosed in fulfilment of the obligation under points I.1 and I.2 of the operative part of the decision of 16 April 2026 (UPC_CFI_779/2024), in particular in pleadings, evidence and decisions, third parties may only be granted access to the relevant file contents in such a way that the file contents are rendered unrecognisable.
7. The claimant claims:
 1. The applications are dismissed.
 2. The decision on application 3 is reserved pending an application pursuant to Rule 262(3) of the RoP.

REASONS FOR THE ORDER:

8. The defendant's admissible request for protection of confidentiality is unsuccessful on the merits.
9. Pursuant to Rule 262A.1 of the RoP, a party may make an application to the court for an order to restrict access to certain information contained in its documents or to prohibit the taking and use of evidence in the proceedings, or to limit access to such information or evidence to specific persons.
10. Strictly speaking, the information and documents to be provided by the defendant in the course of its disclosure do not fall within the scope of this provision. In particular, these are not contained in its pleadings. Rather, the defendant seeks protection for information and documents which it is obliged to disclose pursuant to the operative part of the court's decision.
11. However, Rule 262A of the Rules of Procedure may, in such cases, at least be applied *mutatis mutandis* (UPC_CoA_930/2025, Order of 29 January 2026, para. 26 – EOFLOW v. Insulet). If a defendant can reasonably foresee that the orders and evidence sought by the claimant might oblige it to disclose confidential information, it should, as a rule, raise this in the main proceedings so that, where necessary, appropriate measures to protect such confidential information can be taken in the order or decision (UPC_CoA_699/2025, Order of 14 October 2025, para. 45 – Kodak v. Fujifilm).
12. Even if, on the basis of these principles, subsequent applications for confidentiality are not excluded *per se*, this does not mean that applications for confidentiality can be made at any time and without detailed justification, even after the conclusion of the proceedings. If the grounds on which confidentiality measures are sought are already present in the main proceedings and it could reasonably be assumed that there are confidentiality interests regarding this information, a corresponding application for confidentiality must instead be made in the main proceedings. Only in this way can the confidentiality interests be discussed at that stage and given appropriate consideration in the decision. If the party seeking confidentiality fails to do so and opts to submit an application after the main proceedings, it is incumbent upon them to provide a comprehensible justification as to why they are now seeking confidentiality for the first time following the main proceedings (UPC_CFI_351/2024 (LD Düsseldorf), Order of 30 April 2026, para. 17 – Canon v. Katun).
13. The defendant has failed to demonstrate such grounds. In so far as it refers to the aforementioned order of the Court of Appeal of 29 January 2026 and to a further order of 18 March 2026 in the same proceedings, both decisions were already available at the time of the oral hearing in the present proceedings. The defendant therefore had the opportunity to raise the question of the necessity of confidentiality orders at the latest during the oral hearing. However, it did not make use of this opportunity. The defendant does not claim that it only became aware, or could have become aware, after the event that the information and documents it had requested were or might be subject to confidentiality.

14. Since neither the information provided by the defendant out of court in the meantime nor the supporting documents submitted by it out of court currently form part of the file, the order additionally sought by the defendant under Rule 262.2 of the RoP currently lacks any basis from the outset. It is not foreseeable whether, and if so to what extent, there will be a further exchange of documents. A purely hypothetical order for the protection of confidentiality is out of the question from the outset.

ORDER:

The defendant's applications of 18 May 2026 for the order for confidentiality measures are dismissed.

Issued in Düsseldorf on 27 May 2026 NAMES

AND SIGNATURES

Presiding Judge Thomas