UNIFIED PATENT COURT
COURT OF FIRST INSTANCE
MILAN LOCAL DIVISION

UPC CFI No. 2046/2025
judgment
issued on 8 June 2026

PLAINTIFFS
1) MORELLO FORNI ITALIA S.R.L.
2) MORELLO FORNI S.A.S. OF MORELLO MARCO & C.
both with registered offices at Via Bartolomeo Parodi 35, 16014 - Ceranesi (GE), Italy
represented and defended by
Solicitors Vittorio Cerulli Irelli and Lorenzo Battarino, *Trevisan & Cuonzo*, Via Brera 6, 20121 - Milan, Italy

DEFENDANTS
1) GASTROTEAM ABBE AB
Mekanikervägen 6, 564 35, Bankeryd, Sweden
2) SALVATORE MARCIULIANO, PROPRIETOR OF THE SOLE PROPRIETORSHIP MARCIULIANO ATTREZZATURE
Via Montegrappa 15, 75012, Bernalda (MT), Italy

ADJUDICATING BODY
Presiding Judge and Judge-Rapporteur Pierluigi Perrotti

LANGUAGE OF THE PROCEEDINGS
Italian

SUBJECT OF THE DECISION
Application for a decision on costs R. 150 et seq. RoP

SUMMARY OF THE FACTS OF THE CASE
By decision of 19 November 2025 issued in the context of UPC CFI proceedings No 802/2024, the Unified Patent Court – Court of First Instance, Milan Local Division, upheld the application for a declaration of infringement of patent No EP3691454 brought by

Morello Forni Italia s.r.l. and Morello Forni s.a.s. di Morello Marco & C. (hereinafter, collectively, 'Morello' or 'the plaintiffs') against Gastroteam Abbe AB and Salvatore Marciuliano, proprietor of the sole proprietorship Marciuliano Attrezzature (hereinafter, respectively, 'Gastroteam' and 'Marciuliano'). The decision ordered, inter alia, that the defendants are liable to reimburse the costs of the proceedings incurred by the plaintiffs, to be determined in separate proceedings, pursuant to Rule 151 et seq. of the Rules of Procedure.
On 18 December 2025, the plaintiffs filed an *application for a cost decision*, setting out the following.
The legal costs incurred by the plaintiffs amounted to a total of €62,719.20, broken down as follows:

- €45,359.88 for fees payable to representatives;
- €8,500 for fees payable to the technical expert;
- €6,602 for court fees;
- €2,257.32 for the costs of translating the documents.

They attached supporting documentation for each of the expenditure items listed.

On 2 April 2026, the claimants then filed a *request for a declaration of service,* in which they highlighted that the Sub-Registry had attempted to serve the documents by post in accordance with EU Regulation No 1784/2020 at Gastroteam's registered office. The envelope had been returned to the sender as *'unclaimed*'.
The other party's refusal to accept delivery could not result in a standstill in the proceedings for the settlement of legal costs.
In any event, Gastroteam was certainly aware of the publication of the judgment, since on 2 January 2026 it had sent the plaintiffs a letter aimed at exploring the possibility of reaching a settlement agreement.

REASONS FOR THE DECISION

1. Service of the decision of 18 November 2025 on the defendants

The *application for a cost decision* was filed by Morello on 18 December 2025.
The decision in the main proceedings, UPC CFI No 802/2024, was published on 19 November 2025.

Rule 276.1 of the Rules of Procedure provides that *"any order or decision of the Court shall be served on each of the parties in accordance with the provisions of Sections 1, 2 or 3 of this Chapter 2, as the case may be* [Rules 270–275 of the Rules of Procedure]"

As regards the defendant Marciuliano, it is established that the decision was served on 20 November 2025 via certified email, using an address extracted from the public database of the Register of Companies (see doc. 31 of the case file for the UPC CFI case no. 802/2024). As further proof of the successful delivery of the aforementioned notification, on 15 December 2025 Marciuliano sent a communication *"in response to the certified email you* sent", addressed, amongst others, to the Sub-Registry of the Milan Local Division.

As regards the defendant Gastroteam, the Sub-Registry made two separate attempts at service by post, pursuant to Article 18 of EU Regulation No 1784/2024, in accordance with the provisions of Rule 271.4(a) of the Rules of Procedure (RoP).
Both items were sent to Gastroteam's registered office, as shown in the certificate of registration from the Swedish Companies Registration Office (see doc. 6 of the case file for UPC CFI case No. 802/2024).
The first consignment was dispatched on 28 November 2025 and was returned to the sender between 22 December 2025 and 21 January 2026. The second consignment was dispatched on 30 January 2026 and was returned to the sender between 20 February and 9 March 2026.
In both cases, the notation *'Unclaimed'* appears. This means that the parcel was made available to the recipient, who, however, did not collect it.
As correctly noted by the plaintiffs, the defendant's passive or even merely disinterested conduct cannot constitute an obstacle to the continuation of these proceedings.
Pursuant to Rule 2716(b) of the Rules of Procedure (RoP), *"where service takes place by registered letter with acknowledgement of receipt or equivalent, such letter shall be deemed to have been served on the addressee on the tenth day following posting unless it has failed to reach the addressee, has in fact reached him on a later date, or the acknowledgement of receipt or equivalent has not been returned*".
Therefore, the Court considers that the decision was duly served on the defendant Gastroteam on 8 December 2025, ten days after the date of the first dispatch.

In light of the above considerations, there is clear evidence of service of the decision, which was effected on 20 November 2025 in respect of Marciuliano and on 8 December 2025 in respect of Gastroteam.
In view of these dates, it is equally established that the plaintiffs filed the application for a cost decision in good time, on 18 December 2025, and therefore within the one-month time limit (*"within one month of service of the* decision") laid down in Rule 151 of the Rules of Procedure

2. Service of the application for a cost decision on the defendants
The decision of 19 November 2025 is a default judgment, made against the defendants who (both) failed to appear.
The provisions contained in Rule 150 et seq. of the Rules of Procedure do not contain specific guidance on the service of the application initiating separate proceedings for a costs decision.
There is no doubt that the application must be served on the opposing parties. Pursuant to the combined provisions of Rule 151.1(a) and 13.1(d), the applicant must in fact state in their application, inter alia, *"postal and, where available, electronic addresses for service on the defendant and the names of the persons authorised to accept service, if known*".
Service is also essential in order to allow the judge rapporteur to *"allow the unsuccessful party an opportunity to comment in writing on the costs* requested", as provided for in Rule
156.1 RoP.

Having established that service of the application for costs on the opposing parties is necessary, it is necessary to determine which rules should apply to the execution of such service.
Rule 270.2 RoP clarifies that the provisions on the service of the statement of claim contained in Rules 270–275 RoP apply to *"all originating pleadings in actions referred to in Article 32(1) UPCA*". The list in Article 32 UPCA does not expressly mention proceedings for the determination of litigation costs.
Nevertheless, the application for a cost decision is – for all intents and purposes – the first *originating* pleading in the proceedings for the determination of costs, governed by Rule 150 et seq. RoP. This characterisation allows the rules laid down in Rules 270 et seq. of the Rules of Procedure (RoP) for the service of the statement of claim to be applied by extension to the application for a cost decision as well.

Having clarified the relevant legal framework as set out above, the Court observes that the application for a cost decision filed by the plaintiffs was duly served on both defendants, in accordance with the provisions of Rule 270 et seq. of the Rules of Procedure.

As regards the defendant Marciuliano, it is established that the application was served on 23 December 2025 via certified email, using an address extracted from the public database of the Register of Companies (see doc. 31 of the case file for the UPC CFI case no. 802/2024).

As for the defendant Gastroteam, the Sub-Registry also made two separate attempts at service by post in this case, pursuant to Article 18 of EU Regulation No. 1784/2024, in accordance with the provisions of Rule 271.4(a) of the Rules of Procedure (RoP).
Both items were sent to Gastroteam's registered office, as shown in the certificate of registration from the Swedish Companies Registration Office (see doc. 6 of the case file for UPC CFI case no. 802/2024).
The first dispatch was sent on 2 February 2026 and was returned to the sender between 23 February and 9 March 2026. The second consignment was dispatched on 3 April 2026 and was returned to the sender between 30 April and 8 May 2026. In both cases, the notation *'Unclaimed'* appears. This means that the parcel was made available to the addressee, who, however, did not collect it.

As noted above, the defendant's passive or even merely disinterested conduct cannot constitute an obstacle to the continuation of these proceedings. Pursuant to Rule 271.6(b) of the Rules of Procedure, the Court therefore finds that the application was duly served on the defendant Gastroteam on 12 February 2026, ten days after the date of the first dispatch.

The defendants have not inspected the file.

3. On the merits of the application for a cost decision

In accordance with Article 14 of Directive 2004/48/EC on the enforcement of intellectual property rights, Article 69(1) of the UPCA provides that *"Reasonable and proportionate legal costs, as well as other*

costs incurred by the successful party shall, as a rule, be borne by the unsuccessful party, unless the principle of equity requires otherwise, up to a ceiling set in accordance with the Rules of Procedure". Rule 152.1 RoP provides that *"the applicant shall be entitled to recover reasonable and proportionate costs for representation*".
The criterion of reasonableness aims to exclude the reimbursement of costs deemed excessive due to unusually high fees agreed between the successful party and their lawyer, or arising from the provision of services by the lawyer that are not considered necessary to ensure the protection of the intellectual property rights in question (see CJEU judgment of 28 April 2022, Koch Media, C-559/20; CJEU judgment of 28 April 2022, NovaText, C-531/20; CJEU judgment of 28 July 2016, United Video Properties, C-57/15).
To that end, an expense is deemed necessary where its incurrence is closely linked to the need to pursue one's claims in litigation to the extent required by the circumstances of the case, and without exceeding them, on the basis of an *ex ante* assessment by a diligent and prudent person.

The criterion of proportionality implies that the successful party is not necessarily entitled to full reimbursement of the reasonable costs incurred, but must receive, as a minimum, a significant and appropriate portion thereof (see the CJEU case law cited above). In this regard, the value of the claim, the importance of the case, and the difficulty and complexity of the legal and factual issues at stake must be taken into account (see UPC CFI No 40/2025, LD Hamburg, decision of 1 August 2025; UPC CFI No 186/2025, LD Düsseldorf, decision of 9 July 2025).
In order to ensure that the reimbursement of costs is proportionate, Rule 152.2 of the Rules of Procedure provides that *"the Administrative Committee shall adopt a scale of ceilings for recoverable costs by reference to the value of the proceedings*".
On 24 April 2023, the Administrative Committee adopted the *Scale of ceilings for recoverable costs*, implementing the aforementioned rule.
The default judgment of 19 November 2025 set the value of the patent infringement action, for the purposes of applying the scale of ceilings for recoverable legal costs, at €500,000 and ordered Gastroteam and Marciuliano to pay the costs of the proceedings as the unsuccessful parties. Taking into account the value of the case thus determined, the applicable ceiling under the Scale of ceilings is €56,000.

An examination of the documentation submitted by the plaintiffs shows that all the costs indicated in the invoices attached to the application were actually incurred by the plaintiffs and relate to defensive activities carried out in UPC CFI case No 802/2024.
In accordance with the general principle of proportionality, the Court observes that the maximum limit set by the Scale of ceilings may be reached only in limited situations, for example due to the complexity of the issues involved, the number of patents examined, the parties involved or the use of multiple languages.

In particular, as already stated in previous decisions of the Court, the costs must not be disproportionate to the value of the claim, the importance of the issues, and the degree of difficulty and complexity of the legal and factual points at issue relevant to the decision (UPC CFI No. 16/2024, 115/2025 and 116/2025, LD Düsseldorf, decision of 22 April 2025; UPC CFI No 761/2024, LD Milan, decision of 9 May 2025).

Building on these general principles, the following circumstances must be taken into account in the present case:

- the maximum reimbursable amount is €56,000;
- the proceedings concluded with a default judgment, without the defendants submitting any defence regarding either the infringement or the validity of the patent;
- no preliminary investigations were carried out;
- the plaintiffs asserted a single patent;
- the case was brought against two defendants, each of whom was alleged to have committed independent and separate acts of patent infringement.

Taking all these factors into account, the Court considers that this is a case of limited complexity, in respect of which the application of the maximum limit provided for in the Scale of Ceilings is not justified, and therefore considers it fair and proportionate to award the claimants the sum of €45,000 as reimbursement of their legal costs.

As regards the costs of the parties' experts, Rule 153 of the Rules of Procedure (RoP) provides that the reimbursement of the parties' costs exceeding the amounts set out in Rule 180.1 of the RoP must be calculated on the basis of the usual rates in the relevant sector, taking due account of the expertise required, the complexity of the matter and the time spent by the expert in providing the services.
The amount claimed by the plaintiffs in this regard, amounting to €8,500, is fully in line with the statutory provisions, taking into account the accuracy and level of complexity of the technical analysis carried out by the party-appointed experts.

Entirely similar considerations also apply with regard to translation costs, quantified at €2,257.32, in accordance with the provisions of Rule 155 of the Rules of Procedure.

To these amounts must be added the sums advanced by the plaintiffs in respect of court fees, amounting to €6,602.

DECISION

The Unified Patent Court – Court of First Instance – Milan Local Division:

- sets the total litigation costs incurred by Morello Forni Italia s.r.l. and Morello Forni s.a.s. di Morello Marco & C. in proceedings UPC CFI No. 840/2024;
- orders Gastroteam Abbe AB and Salvatore Marciuliano, proprietor of the sole proprietorship Marciuliano Attrezzature, to pay the sum as quantified above

within thirty days of the date of service of this decision.

The unsuccessful party in a decision of the judge rapporteur on costs issued pursuant to Rule 157 RoP may submit an application to the Court of Appeal for leave to appeal the decision, within 15 days of the notification of the decision (see Rule 221.1 RoP).

Milan, 8 June 2026.

Pierluigi Perrotti
Presiding Judge and Judge Rapporteur

Pierluigi Perrotti
Digitally signed by Pierluigi Perrotti Date: 08.06.2026 10:11:37 +02:00