



Milan - Central Division - First Instance -

UPC_CFI_1230/2026

Cost Decision

of the Court of First Instance of the Unified Patent Court

delivered on 12/06/2026

Applicant

INSULET Corporation, 100 Nagog Park - MA 01720 - Acton – US Massachusetts

Represented by Marc Grunwald and Frank Peterreins, Maximilian Gross and all other attorneys of the law firm Peterreins-Schley, Hermann-Sack-Str. 3, 80331 Munich,

Hereinafter INSULET

Respondent

EOFLOW Co. Ltd 302Ho, HUMAX VILLAGE, 216 - 13595 - Hwangsaеul-ro, Bundang-gu, Seongnam-si, Gyeonggi-do - KR

Represented by Mirko Weinert, Hoyng Rokh Monegier, Steinstr. 20, 40212 Düsseldorf

Hereinafter EOFLOW

- The decision relates to **EP4201327** (not affecting the patent)
- The decision is issued by the judge-rapporteur Andrea Postiglione
- The language of the proceedings is English.

1. On 13 April 2026, INSULET lodged before this Central Division an application for a decision on costs in respect of: (i) the costs allegedly incurred in the proceedings before the Milan Central

Division arising from EOFLOW's application for leave to appeal (UPC_CFI_1167/2025); (ii) the costs incurred in the appellate proceedings before the Court of Appeal in relation to EOFLOW's appeal against the order imposing a penalty (UPC_CoA_930/2025); and (iii) the ancillary remedies pursued before the Court of Appeal, as referred to in the order of this Central Division of 13 March 2026 and the order of the Court of Appeal of 18 March 2026).

2. Together with that application, INSULET sought confidential treatment pursuant to Rules 262.2 and 262A RoP for certain cost items highlighted in grey in the application and in the supporting exhibits, including an unredacted cost schedule and counsel's invoices addressed to INSULET Corporation in the USA.

3. By order of 24 April 2026, the judge-rapporteur granted the respondent temporary access to the relevant documents under a provisional confidentiality regime and authorised the filing of written observations within fifteen days.

4. EOFLOW filed its observations on 8 May 2026, submitting, first, that the application was out of time under Rule 151.1 RoP because the appeal had already been rejected by the CoA in February 2026 and, secondly, that the application was unfounded on the merits. In substance, EOFLOW argued that the costs relating to the leave-to-appeal proceedings (UPC_CFI_1167/2025) either belonged exclusively to the appellate phase or, alternatively, had already been absorbed by the earlier cost award of EUR 10,000 made in connection with the first-instance proceedings closed by order of 4 December 2025.

5. EOFLOW further contended that the sums claimed were disproportionate, observing that it had itself invoiced its client a considerably lower amount for the corresponding proceedings, and that the value attributed to the proceedings for the purpose of recoverable costs was overstated.

6. EOFLOW further opposed INSULET's confidentiality request, arguing that the narratives contained no information beyond the preparation of pleadings and the coordination work ordinarily associated with litigation, and therefore did not disclose any trade secret or other protectable confidential information.

7. INSULET was thereafter permitted to file further written observations and maintained that the cost application had been lodged on time and that the costs now claimed were not covered by the earlier award. By submission dated 1 June 2026, EOFLOW reiterated its earlier position.

The application for a cost decision is admissible.

8. INSULET's application complies, in substance, with Rule 151(a) to (e) RoP, read together with Rule 13.1(a) to (d) RoP. It identifies the parties, the underlying decisions, the file references, the costs for which compensation is sought.

9. Under Rule 151.1 RoP, an application for a cost decision must be lodged within one month of service of the decision concluding the proceedings. Rule 150.1 RoP, moreover, makes clear that the determination of costs may form the subject of separate proceedings following a decision on the merits and, where applicable, a decision on damages.

10. In the present case, as regards the costs related to UPC_CoA_930/2025, the relevant decision is the order of the Court of Appeal of 18 March 2026, by which the appeal against the penalty order was dismissed and the costs of the appeal proceedings were, in principle, imposed on EOFLOW.

11. As regards the costs related to UPC_CFI_1167/2025, namely the application for leave to appeal, the relevant decision was issued by this Court on 13 March 2026.

12. Both applications are, therefore, timely filed.

13. It should further be noted that reference UPC_CFI_1167/2025 concerns both the proceedings that resulted in the penalty order of 4 December 2025 and the subsequent, ancillary proceedings by which EOFLOW sought leave to appeal. As emerged in the appellate phase, any request for leave to appeal ought to have been addressed to this Central Division within fifteen days of the order of 4 December 2025, in accordance with Rule 220.2 RoP, and necessarily remained attached to the first-instance file in terms of application number.

14. Contrary to what is asserted by EOFLOW, a request for leave to appeal is, by its nature, ancillary to the first-instance proceedings. Leave to appeal can be granted either in the final decision itself or immediately thereafter.

15. The fact that EOFLOW filed that request late, thereby generating an additional exchange of submissions and a hearing, does not alter the procedural character of those proceedings, as related to the final decision, nor does it displace the application of Article 69 UPCA to the costs thereby occasioned.

16. The earlier order of this CD issued on 4 December 2025 covered only the costs of the dispute then decided. It did not extend to the separate costs incurred by INSULET in resisting the later and belated attempt by EOFLOW to obtain leave to appeal.

17. Under point 10.4 of the decision issued on 4 December 2025 (UPC_CFI 1167/25) EOFLOW has already been ordered to reimburse INSULET for the legal costs incurred in preparing the defence briefs in those proceedings¹, reasonably assessed by the Court at EUR 10,000.

INSULET’s application is partially well-founded.

18. Both this Central Division, by order of 13 March 2026 in UPC_CFI_1167/2025, and the Court of Appeal, in UPC_CoA_930/2025 (see in particular points 34 and 35 of the final decision issued on 18 March 2026), have already decided that the costs of the respective proceedings are, in principle, to be borne by EOFLOW (pursuant to Art. 69 UPCA). In proceedings under Rules 150 et seq. RoP, the Court is not called upon to revisit that allocation in principle, but to determine the amount recoverable by applying the standards of reasonableness and proportionality laid down in Article 69 UPCA and Rule 152.1 RoP.

¹ As regards non-compliance with the obligations set out in Section II.I. of the ruling contained in the Court of Appeal’s Order in the preliminary injunction proceedings dated 30 April 2025 (ORD_69078/2024, UPC_CoA_768/2024, APL_64374/2024);

19. Article 69(1) UPCA provides that reasonable and proportionate legal costs and other expenses incurred by the successful party shall, as a general rule, be borne by the unsuccessful party, unless equity requires otherwise. Rule 152.1 RoP mirrors that principle, while Rule 152.2 RoP entrusts the Administrative Committee with adopting a scale of ceilings for recoverable representation costs by reference to the value of the proceedings.

20. For the purpose of determining the applicable ceiling, reference must be made to Rule 370.6 RoP, according to which the assessment of the value of the action shall reflect the objective interest pursued by the filing party at the time of filing, the Court being entitled to take into account the Guidelines adopted by the Administrative Committee.

21. Those Guidelines further state that the ceiling applies to each instance of proceedings and is to be determined by reference to the main remedies claimed, and that the method of determining a value-based fee should be as simple as possible.

22. Under the Administrative Committee's scale of ceilings for recoverable costs, proceedings with a value of up to and including EUR 250,000 are subject to a ceiling of EUR 38,000 in respect of representation costs. That ceiling constitutes a maximum only. It does not relieve the successful party of demonstrating that the specific costs claimed were necessary, reasonable and proportionate in the concrete case.

23. In the present case, the objective interest pursued in both the appellate proceedings and the leave-to-appeal proceedings was whether the penalty imposed on EOFLOW would be maintained. The relevant economic interest therefore corresponds, in this Court's assessment, to the amount of the penalty at stake, namely EUR 150,000.

24. It follows that the applicable ceiling for recoverable representation costs is EUR 38,000 per instance. INSULET is therefore wrong insofar as it seeks recovery of representation costs in excess of that ceiling.

25. That the objective interest was to set aside the penalty in the amount to be assessed by the Court, appears clearly in the submission of INSULET of 14 October 2025 (penalty application), where INSULET requested:

"I. The Respondent be ordered to pay penalty payments for non-compliance with the obligations contained in Section II.I. of the ruling of the Court of Appeal's Order in the preliminary injunction proceedings dated 30 April 2025 (ORD_69078/2024, UPC_CoA_768/2024, APL_64374/2024) and in item a) of the ruling of the Decision on the Merits of the Central Division Milan dated 22 July 2025 (ORD_22491/2025, ACT_56003/2024). As expressly stated in the respective rulings, penalty payments are requested for each violation and for each day on which the infringement continues, with the exact amount of the penalty left to the discretion of the Court; II. The Respondent bears the costs of the proceedings."

26. That said, the ceiling is not the measure of the award. The Court must still determine what amount, within that outer limit, is justified by the actual complexity, importance, and procedural

course of the case. Only costs that were objectively necessary for the effective pursuit or defence of the party's position may be regarded as reasonable; and only amounts commensurate with the nature and difficulty of the issues may be regarded as proportionate.

27. The Court accepts that INSULET, as the successful party, is entitled in principle to recover the costs incurred in defending the appeal and in responding to the subsequent application for leave to appeal. However, the procedural issues raised in both phases were limited in scope. They are concerned, in essence, with the admissibility and timeliness of an appeal in penalty proceedings, rather than technically or legally complex patent issues.

28. The Court therefore does not consider that this case falls within the limited situations in which representation costs approaching the applicable ceiling would be justified, such as particularly complex matters, proceedings involving multiple patents or languages, or unusually burdensome factual or legal issues.

29. As already stated by this Central Division in UPC_CFI 382/24² (points 10 and 11) reasonableness concerns the necessity of the expense, whereas proportionality concerns the amount charged for that expense³. An item may be fairly priced yet unnecessary; equally, it may be necessary yet claimed in an excessive amount. The Court must therefore assess both dimensions cumulatively when determining the amount recoverable under Rule 150 et seq. RoP.

30. The dispute at issue here turned essentially on procedural compliance with the requirements governing leave to appeal and the timeliness of the appellate steps taken by EOFLOW. Against that background, the Court considers that the preparation of the defence in the appeal proceedings could not reasonably have exceeded 25 hours at the average hourly rate evidenced by the applicant's file (400euro/h), that is, approximately EUR 10,000.

31. The same approach applies to the costs allegedly incurred in relation to EOFLOW's late application for leave to appeal. That application was filed only on 5 February 2026, after the Court of Appeal had already made clear that the appeal was inadmissible for lack of prior leave under Rule 220.2 RoP.

32. The response required from INSULET was therefore confined to a relatively straightforward objection of inadmissibility and untimeliness.

33. As to the leave-to-appeal phase, the Court is satisfied that a lump-sum award of EUR 4,000 (corresponding to 10 billable work hours) adequately reflects the work that was objectively necessary to oppose an application whose lack of merit was, in the circumstances, readily apparent.

² Decision on costs of the Court of First Instance of the Unified Patent Court Central Division Milan delivered on 31/07/2025

³ The CJEU, in C-559/20, held that reasonableness "reflects the general obligation laid down in Article 3(1) of Directive 2004/48, according to which the Member States must ensure, inter alia, that the measures, procedures and remedies necessary to ensure the enforcement of the intellectual property rights covered by that directive are not unnecessarily costly".

34. Although a party is free to advance multiple or alternative arguments, the opposing party is not entitled, in cost proceedings, to recover every item billed without scrutiny. The Court must confine recovery to costs that were necessary and sufficient for the effective defence of the successful party's position.

35. Eventually, the Court reiterates that confidentiality under Rule 262A RoP and 262.2 does not extend, as a matter of course, to costs information merely because such information appears in communications between client and counsel or in internal descriptions of legal work. The protection afforded by Article 58 UPCA and Rules 262.2 and 262A RoP is narrower and is directed to trade secrets and other genuinely confidential commercial information. It follows that ordinary cost narratives and invoices are not, in themselves, confidential unless they concretely reveal protected information of the party concerned.

36. It follows that the costs incurred in filing the confidentiality applications are likewise not recoverable, as they cannot be regarded as reasonable or proportionate in the circumstances of the case.

For these reasons, the Court orders:

- EOFLOW Co. Ltd shall pay INSULET Corporation EUR 14,000 as reasonable and proportionate legal costs related to (i) the costs incurred in the proceedings before the Milan Central Division arising from EOFLOW's application for leave to appeal (UPC_CFI_1167/2025); (ii) the costs incurred in the appellate proceedings before the Court of Appeal in relation to EOFLOW's appeal against the order imposing a penalty (UPC_CoA_930/2025); and (iii) the ancillary remedies pursued before the Court of Appeal, as referred to in the order of this Central Division of 13 March 2026 and the order of the Court of Appeal of 18 March 2026).
- This amount shall be paid within two weeks of the date of this order.
- Cost decision is immediately enforceable.
- The request for confidentiality under Rule 262A RoP and the application under Rule 262.1 RoP filed by the parties are dismissed.

Milan 12 June 2026

Andrea Postiglione

Judge-rapporteur

Under Rule 157 RoP, the decision of the judge-rapporteur as to costs only may be appealed to the Court of Appeal in accordance with Rule 221 RoP.

Leave to appeal is granted.