Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Hamburg – local division

UPC_CFI_1881/2025
Order
of the Court of First Instance
of the Unified Patent Court,
issued on: 15 July 2026

PARTIES:

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

Applicant,

authorised representative for the proceedings and for service of process:

Bird & Bird LLP, Carl-Theodor-Straße 6, 40213 Düsseldorf, in particular Attorney-at-law Oliver Jan Jüngst and Lucas Brons, email:oliver.jan.juengst@twobirds.com Also acting on behalf of the applicant: Patent Attorney Dr Jörn Felix Harbsmeier, Bird & Bird LLP, Am Sandtorkai 50, 20457 Hamburg

v

Ningbo Blue Pluser Appliance Co. Ltd., represented by its legal representative, No. 1506 Sanbei West Street (Shuangxi Garden), Zonghan Subdistrict, Cixi City, Zhejiang Province, People's Republic of China,

Respondent,

authorised representative for proceedings and service of process:

SZA Schilling, Zutt, Anschütz, Otto-Beck-Straße 11, 68165 Mannheim, in particular Dr Jonathan Drescher, Attorney-at-law, and Philipp Herrmann,
Email: jonathan.drescher@sza.de

PATENT: EP 2 131 940 B1

PANEL:

Panel of the local division of the Hamburg

JUDGES INVOLVED:
This order was issued by the presiding judge and judge-rapporteur, Sabine Klepsch, the legally qualified judge Dr Stefan Schilling and the legally qualified judge Mojca Mlakar.

LANGUAGE OF THE PROCEEDINGS: German

SUBJECT-MATTER: Rule 354 of the RoP – renewed imposition of coercive measures

BRIEF SUMMARY OF THE FACTS:

By order of 9 December 2025, the Hamburg local division, on the applicant's application, ordered the respondent, amongst other things, to

I. to refrain from

in Belgium, Bulgaria, Denmark, Germany, Finland, France, Italy, Luxembourg, the Netherlands, Austria, Portugal, Romania, Sweden and/or Slovenia

a device for treating water, in particular a filter device, comprising a cartridge (1), which comprises a container (2) for holding a water treatment agent, in particular for holding a filter medium, and a connection head (10) arranged on the container (2), and comprising a connection element (40) which includes a receptacle (50) for the connection head, characterised in that at least one locking shaft (70a,b) is provided in the connection element (40), by means of which the connection head (10) can be secured in the connection element (40), wherein the locking shaft (70a,b) is rotatably mounted and can be rotated from a locked position to an unlocked position and vice versa, and in that the connection head
(10) has at least one recess (30) into which the locking shaft (70a,b) engages in the locked position,

offering, placing on the market, using, or importing or possessing for the aforementioned purposes.

[…]

IV. The respondent is further ordered to provide the claimant, within three (3) weeks of service of this order, to provide the claimant, in writing and in electronic form capable of being processed by a computer, with a breakdown structured by calendar month and by patent-infringing products, commencing from 9 November 2011, regarding the products referred to in paragraph I, specifying

1. the origin and distribution channels of the products referred to in Section I, specifying
   - the names and addresses of the manufacturers, suppliers and other previous owners;
   - the names and addresses of the commercial customers and the points of sale for which the products were intended;
   - the individual quotations, broken down by quantities, dates and prices, as well as model designations and the names and addresses of the commercial recipients of the quotations;
   - the individual deliveries, broken down by delivery quantities, times and - prices, as well as model designations and the names and addresses of the customers;
2. the identity of all third parties involved in the manufacture and distribution of the products referred to in Section I. The respondent shall bear the costs of the proceedings.

The order was sent to the respondent by email on 11 December 2025, together with a final letter from the applicant, and the respondent was informed that the order was enforceable without the provision of security. At the same time, the respondent was requested to submit a final declaration by 23 December 2025.

In a letter dated 19 December 2025, the law firm SZA Schilling Zutt & Anschütz indicated that it had taken on the representation of the respondent. Following the granting of an extension to the deadline, the respondent submitted a substantive response by letter dated 30 December 2025. In the course of the ongoing out-of-court negotiations, the respondent expressly waived, in writing, by letter dated 7 January 2026, its right to apply for the revocation of the order issued by the Hamburg local division on 9 December 2025.

Following the failure of the settlement talks, the claimant, by letter dated 10 February 2026, issued a final demand to the respondent to fulfil its enforceable obligations. Specifically, the respondent was required to provide the information owed under paragraph IV of the operative part within a period of two weeks – that is, by 24 February 2026. Furthermore, with reference to paragraph V of the operative part, the respondent was required to pay costs amounting to EUR 34,700 by the same date.

To date, the respondent has not fulfilled the obligation to provide information as set out in the operative part of the judgment. The costs of the proceedings, as fixed, also remain unpaid. By letter dated 24 February 2026, the law firm SZA Schilling Zutt & Anschütz gave notice of the termination of its client relationship with the respondent and stated that any further correspondence should be addressed directly to the respondent. Following this, the judge-rapporteur pointed out that the legal representatives remain responsible for communication between the court and the respondent.

By order of 17 March 2026, the respondent was threatened with the imposition of a penalty payment. There was no response from the respondent. By application dated 2 April 2026, the applicant requested that a penalty payment be imposed. The respondent was given an opportunity to be heard on this matter, but did not respond. On 5 May 2026, the court issued the following order:

I. The respondent is ordered, for failure to comply with Order IV (Disclosure) of 9 December 2025, to pay to the court a penalty payment of EUR 1,000 for each day of non-compliance from 31 March 2026 until the Chamber issues the order imposing the penalty payment.

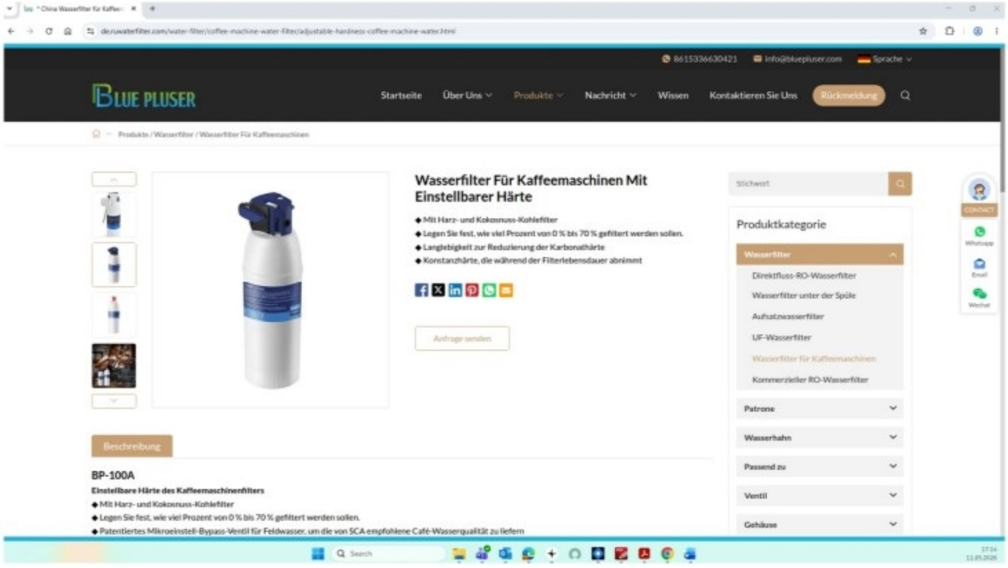
II. For each further day on which the respondent fails to comply with Order IV (Disclosure) of 9 December 2025 after 5 May 2026, an additional penalty payment of EUR 1,500 per day is imposed.

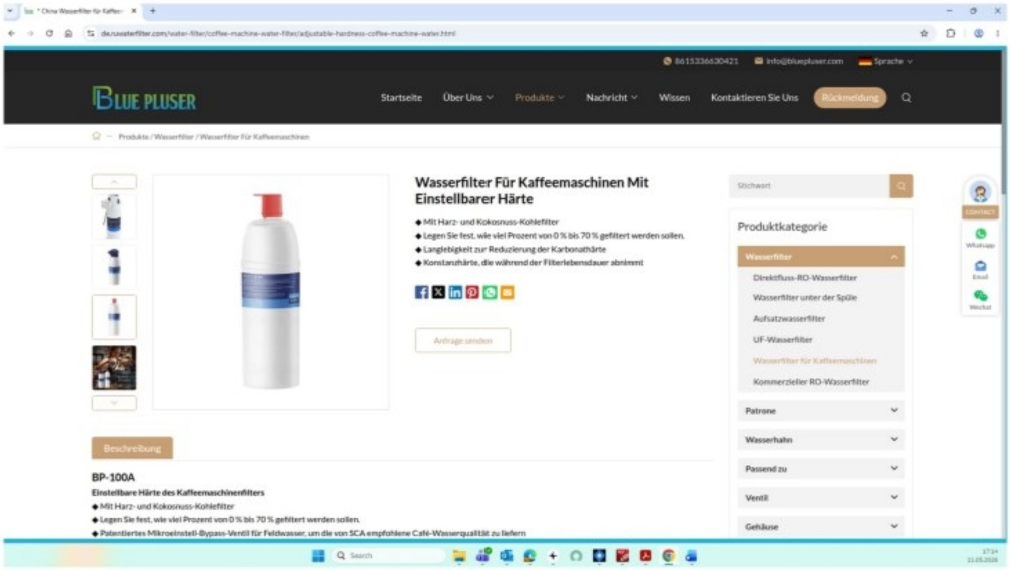
III. In all other respects, the application is dismissed

V. 90 per cent of the costs of the penalty proceedings shall be borne by the respondent.

By a document dated 26 May 2026, the applicant requested the issuance of an administrative fine for breach of Clause I. (Cease and desist) and the determination and issuance of a further penalty payment for breach of Clause IV. (Disclosure) of the order of 9 December 2025. The respondent was heard on this matter through its former legal representatives. No response was received.

The applicant has stated that the information has still not been provided and has further asserted that the respondent is offering the contested product in an advertising context on the publicly accessible websites cnwaterfilter.com and de.ruwaterfilter.com, which are aimed, amongst others, at the German and European markets. A screenshot of the website https://www.cnwaterfilter.com/water-filter/coffee-machine-water-filter/adjustable-hardness-coffee-machine-water.html and https://de.ruwaterfilter.com/water-filter/coffee-machine-water-filter/adjustable-hardness-coffee-machine-water.html is reproduced below.





According to the applicant's submissions, the website is operated in English as well as in numerous other languages of the contracting member states (including German). The respondent provides various communication channels, including a telephone number, email address, WhatsApp contact and postal address, for the purpose of establishing contact.

In view of this, the claimant alleges a breach of the order set out in Section I (cease and desist).

<u>APPLICATIONS OF THE PARTIES:</u>

The applicant requests that

I. that the respondent, for failure to comply with Order I (Cease and Desist) of 9 December 2025, be ordered to pay a penalty payment of up to EUR 250,000 to the court, the exact amount being left to the court's discretion;

II. that the respondent, for failure to comply with Order IV (Disclosure) of 9 December 2025, be ordered to pay a penalty payment of EUR 1,500 to the court for each day of the breach from 6 May 2026 until the Chamber issues the penalty payment order;

III. to impose a further penalty payment of EUR 2,500 per day for each subsequent day on which the respondent fails to comply with Order IV (Disclosure) of 9 December 2025 following the Chamber's issuance of the penalty payment order sought herein;

IV. to order the respondent to bear the costs of the penalty payment proceedings.

REASONS FOR THE ORDER:

The applicant's application is successful on the merits.

Pursuant to Rule 354(3) of the RoP, decisions and orders of the Court may provide for repeated penalty payments payable to the Court in the event that a party fails to comply with the provisions of the order or a previous order. The amount of these payments is to be determined by the court in light of the significance of the order in question (Court of Appeal, UPC_CoA_845/2024, order of 30 May 2025, para. 31 – Belkin v Philips).

Notwithstanding the fact that Rule 118(8), first sentence, of the RoP does not apply to proceedings for the issuance of provisional measures (Court of Appeal, UPC_CoA_699/2025, Order of 14 October 2025, para. 38 – Kodak v Fujifilm), a prior warning of coercive measures is also required in such proceedings. It follows from the wording 'setting of the penalty payments provided for in the court order' in Rule 354.4 of the RoP, it follows that any court order for the payment of a penalty payment in enforcement proceedings under this Rule must be based on a prior warning, which is issued either in the operative part of the main decision or order or in a further order or decision in this regard (Court of Appeal, UPC_CoA_699/2025, Order of 14 October 2025, para. 41 – Kodak v Fujifilm).

1.

No such warning had been included in the order of 9 December 2025 in relation to the obligation to provide information at issue here under Section IV. It was issued by the court in an order dated 17 March 2026, which threatened a recurring penalty payment of up to EUR 1,000.00 for each day of delay, commencing two weeks after service of the penalty payment notice. A further warning, imposing a recurring penalty payment of up to EUR 1,500.00 for each day of delay, with effect from 6 May 2026, was included in the first order setting a penalty payment dated 5 May 2026.

The Respondent has, despite her the Order of the court's regarding , inter alia, the obligation to provide information, has been formally served upon her and an initial penalty payment has been imposed on her

No information has yet been provided. No response whatsoever has been given with regard to the provision of information, so that, in the absence of evidence to the contrary, it must be assumed that there has been a culpable failure to comply. This justifies the imposition of further penalty payments. Both the considerable period of time that has elapsed since the order was issued on 9 December 2025 and the respondent's continued uncooperative behaviour justify base the calculation of the penalty payment on the maximum amount of EUR 1,500.00 per day specified in the notice of penalty payment dated 5 May 2026.

In this respect, it is also appropriate to increase the daily rate in stages and to give prior notice of this. The phased increase in the amounts of the penalty payments, in the event that the respondent continues to refuse to provide the information for the subsequent periods, is in principle justified (see Court of Appeal, UPC_CoA_845/2024, Order of 30 May 2025, Belkin v Philips). Any further increase in a penalty payment requires a new warning.

2.
The application is further well-founded in that the applicant alleges a breach of the injunction under paragraph I of the order of 9 December 2026. The promotion of the contested product on the internet, which is directed, amongst others, at German customers, constitutes a breach of paragraph I of the order. In this respect, the imposition of a penalty payment is justified.

Pursuant to Article 82(4), second sentence, of the UPC, the penalty payment must be proportionate to the significance of the order to be enforced. Accordingly, the amount of the penalty payment to be paid to the court in the event of a breach must be determined in accordance with Rule
354.4 of the RoP, in view of the significance of the order in question. The relevant criteria for assessment include, in particular, the nature, extent and duration of the infringement, the degree of fault, the benefit derived by the infringer from the act of infringement, and the danger posed to the injured party by the acts of infringement committed and any possible future acts of infringement (Düsseldorf Regional Court, UPC_CFI_177/2023, Order of 18 October 2023 – myStromer v Revolt Zycling; LD Munich, UPC_CFI_2/2023, Order of 5 December 2023 – 10x Genomics/Harvard v NanoString).

On the basis of these criteria, it is necessary in the present case to impose a penalty payment for breach of the injunction under paragraph I of the Order. The Court considers it appropriate to set a penalty payment of EUR 500.00 per day of continued advertising of patent-infringing products on the company's website (see also LD Hamburg, UPC_CFI_553/2025 – Occlutech v Lepu Medical). In the absence of any contrary submission by the respondent, it must be assumed that the patent-infringing offer via the aforementioned websites is not new and was therefore not only recently introduced. The burden of proof and presentation of evidence for any contrary assumption rests with the respondent (Court of Appeal, UPC_CoA_699/2025, order of 14 October 2025 – Kodak v. Fujifilm; LD Hamburg, UPC_CFI_553/2025 – Occlutech v. Lepu Medical). As the respondent has not addressed this issue, it will be assumed that the act of use has continued since formal service on 31 December 2025, i.e. over a period of 195 days. This corresponds to an amount of EUR 97,500.00.

ORDER:

I. The respondent is ordered to pay a penalty of EUR 97,500.00 for failure to comply with Order I of 9 December 2025, payable to the court within two weeks of service of this order.

II. The respondent is ordered to pay a penalty of EUR 97,500.00 for failure to comply with Order IV. (Disclosure) of 9 December 2025, to pay a penalty of EUR 105,000 to the court for the breach during the period from 6 May 2026 to 15 July 2026, again within two weeks of service of the order.

III. For each further day on which the respondent fails to comply with Order IV. (Disclosure) of 9 December 2025 following the issuance of this order, an additional penalty payment of EUR 2,000 per day is imposed.

IV. The costs of the penalty payment proceedings shall be borne by the respondent.

V. The value in dispute in the penalty proceedings is set at EUR 100,000.

SIGNATURES:

Legally qualified judge Dr Stefan Schilling, acting on behalf of the
presiding judge and judge-rapporteur Sabine Klepsch

Legally qualified judge Dr Stefan Schilling

Legally qualified judge Mojca Mlakar

On behalf of the Deputy-Registrar