



Düsseldorf local division UPC_CFI_256/2025

Order of the Court of First Instance of the Unified Patent Court issued on 13 August 2026 concerning EP 3685783

APPLICANT:

bioletic Holding GmbH & Co.KG., legally represented by biolitec Holding GmbH, which is represented by its managing director Dr Wolfgang Neuberger, Untere Viaduktgasse 69, 1030 Vienna, Austria,

represented by: Paul Szynka, Attorney-at-law, Hannes Jacobsen, Attorney-at-law,
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RESPONDENTS:

1. **Light Guide Optics Germany GmbH**, represented by the managing directors Aumants Pfafrods and Arturs Krauklis, Werner-von-Siemens-Str. 39, 53340 Meckenheim, Germany
2. **S.I.A. LIGHTGUIDE International**, represented by the members of the Executive Board, Mr Aumants Pfafrods (Chairperson of the Board), Artūrs Krauklis (Member of the Board) and Māris Stafeckis (Member of the Board), Celtniecības iela 8, Līvāni, Līvānu nov., LV-5316, Latvia,

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PATENT AT ISSUE:

European Patent No. EP 3685783

Panel/CHAMBER:

Panel 2 of the Düsseldorf local division

JUDGES SITTING ON THE PANEL:

This order was made by the presiding judge, Dr Thom, acting as the judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS:

German

SUBJECT-MATTER: Suspension of proceedings for the assessment of costs – Article 69 UPC Agreement, Rules 150, 151, 152, 295(m) of the RoP

FACTS AND REASONS FOR THE ORDER:

1. The Second Panel of the Düsseldorf local division has taken over the proceedings since 1 March 2026.
2. By order of 6 September 2024, the Düsseldorf local division had dismissed an ex parte application for provisional measures (UPC_CFI_486/2024) and ordered the applicant to bear the costs. The appeal against this order was unsuccessful. On 20 November 2024, the applicant brought the infringement action on the merits before the Munich local division. By order of 24 February 2025 (UPC_CoA_540/2024), the Court of Appeal dismissed the appeal and ordered the applicant to bear the costs of the appeal proceedings. The respondents have made an application for reimbursement of their costs in the appeal proceedings. The main proceedings before the Munich Local Chamber (UPC_CFI_714/2024, CFI_155/2025) are currently still pending between the parties. As far as can be ascertained, the value of the proceedings for the application for provisional measures has not yet been definitively determined in any court order, but, according to the parties, is undisputedly EUR 1,000,000.00.
3. The application for costs is admissible. It was lodged within the time limit and there is no indication that parallel proceedings on costs are pending before the Court of Appeal. Indeed, the defendant itself submits that this was an application with the same subject matter, which was not pursued further by either the parties or the Court of Appeal on the grounds that the matter had been settled.
4. However, the established case law of the Court of Appeal suggests that the proceedings for the assessment of costs in the interim relief proceedings should be deferred – that is to say, suspended – until the conclusion of the proceedings on the merits (see UPC_CoA_297/2024, Order of 20 January 2025 – SharkNinja v Dyson; UPC_CoA_618/2024, Apl_57918/2024, decision of 6 June 2025 – Hanshow v VusionGroup SA). In such a case, the Milan local division even takes the view that the application for costs must be dismissed without examination of the merits, because where an action on the merits follows an interim order, any decision on costs is only made at the end of the proceedings on the merits (Milan local division, UPC_CFI_380/2024, Order of 15 February 2025, para. 21 – EOFLOW v INSULET). According to this, an apportionment of costs appears incompatible with the principles of proportionality and flexibility: a uniform decision on costs should be made in

light of the overall outcome of the proceedings, whereas a duplicate examination would unduly tie up the court's time, leading to delays and inefficiencies and to a costs order which, as a rule, could be made more carefully at the end of the proceedings on the merits (see Milan Regional Court, UPC_CFI_380/2024, Order of 15 February 2025, paras. 25–28 – EOFLOW v INSULET).

5. In addition to these principles, experience to date shows that, in the past, parties in similar cases have reached out-of-court settlements following proceedings on interim relief through two instances and the first instance in the main proceedings, and have in so doing also settled their claims for costs. In the present case, it should also be noted that the main proceedings have been brought before a different local division. In light of the foregoing, it is conceivable that the costs proceedings could be referred to the local division hearing the main proceedings, as this may be the panel with closer familiarity with the facts of the case.
6. Taken as a whole, the aforementioned considerations all point to the fact that, in the interests of the proper administration of justice, a stay of proceedings is required here pursuant to Rule 295(m) of the RoP. In particular, this is likely to be less drastic than a dismissal of the application for the assessment of costs at this stage.

ORDER:

- I. The value in dispute for the proceedings for the issuance of provisional measures UPC_CFI_486/2024 is set at EUR 1,000,000.00.
- II. The proceedings for the assessment of costs UPC_CFI_256/2025 are stayed until a final decision has been given in the infringement proceedings and the counterclaim for revocation (UPC_CFI_714/2024, UPC_CFI_155/2025) before the Munich local division.

Issued in Düsseldorf on 13 August 2026

NAMES AND SIGNATURES

Presiding Judge Dr Thom