



Action number:

UPC-CoA-140/2026

UPC-CoA-55/2026

procedural order
of the Court of Appeal of the Unified Patent Court
concerning court fees (Rule 370.5 of the RoP) and an application for the reimbursement of
court fees
issued on 29 September 2026

APPELLANTS (DEFENDANTS IN THE PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE AND RESPONDENTS IN THE APPEAL PROCEEDINGS UPC-CoA-55/2026)

1. **NVIDIA Corporation**, 2788 San Tomas Expressway, Santa Clara, CA 95051, USA
2. **NVIDIA GmbH**, Adenauer Straße 20/A4, 52146 Würselen, Germany

(hereinafter 'NVIDIA')

represented by: Johannes Heselberger and other solicitors and patent attorneys of the law firm Bardehle Pagenberg Partnerschaft mbB

RESPONDENTS ON APPEAL (CLAIMANTS IN THE PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE AND APPELLANTS IN THE APPEAL PROCEEDINGS UPC-CoA-55/2026)

1. **BF exaQC AG**, Nördliche Münchner Straße 31, 82031 Grünwald, Germany
2. **ParTec AG**, Possartstraße 20, 81679 Munich, Germany

(hereinafter collectively referred to as 'the respondents')

represented by: Iram Kamal, Attorney-at-law, Frohwitter Intellectual Property Counselors, and Jan Gigerich, patent attorney, IPCGS Gigerich Sedlmaier Patentanwalt Attorney-at-law PartG mbB

PATENT AT ISSUE

EP 3 743 812

DECIDING JUDGE

Emmanuel Gougé, legally qualified judge and judge-rapporteur

LANGUAGE OF THE PROCEEDINGS

German

CONTESTED DECISION OF THE COURT OF APPEAL

- Decision of the Court of Appeal of the Unified Patent Court, Munich local division, dated 11 March 2026
- action number:
 - UPC_CFI_210/2025 (counterclaim for revocation)
 - UPC_CFI_180/2025 (infringement proceedings)

BRIEF SUMMARY OF THE FACTS

1. The respondents on appeal brought proceedings against NVIDIA before the Munich local division (the 'LD') for infringement of the patent at issue (UPC_CFI_180/2025). NVIDIA brought a counterclaim against the second respondent seeking a declaration of invalidity of the patent at issue (UPC_CFI_210/2025).
2. On 14 April 2026, the respondents lodged an appeal against the dismissal of the infringement action (UPC-COA-55/2026).
3. On 17 August 2026, NVIDIA filed an application for reinstatement pursuant to Rule 320.1 of the RoP and, subject to the Court upholding the infringement claim in whole or in part, lodged an appeal against the contested decision on the counterclaim for revocation. The application for reinstatement and the appeal were inadvertently uploaded to the CMS under an incorrect case reference number (UPC-COA-55/2026) and subsequently filed under the new, correct workstream number UPC-CoA-140/2026.
4. When the appeal was mistakenly lodged in case UPC-COA-55/2026, NVIDIA paid the following court fees:
 - EUR 14,600.00 for the appeal, and
 - EUR 460 for the application for reinstatement.
5. When the appeal was subsequently filed under the correct number UPC-CoA-140/2026, NVIDIA paid the following court fees:
 - EUR 16,060.00 for the appeal, and
 - EUR 460 for the application for reinstatement.
6. On 17 August 2026, NVIDIA (in appeal UPC-COA-55/2026) applied for a refund of court fees amounting to EUR 14,600.00 for the appeal and EUR 460.00 for the application for reinstatement.

REASONS FOR THE ORDER

7. NVIDIA's application for reimbursement is granted in part with regard to the court fees for the appeal against a counterclaim for annulment and in full with regard to the court fees for the application for reinstatement.
8. Pursuant to Rule 228 of the RoP, the claimant is required to pay the fixed fee and, where applicable, the fee based on the value of the claim for the infringement action in accordance with Part 6.
9. Rule 370.5 of Part 6 of the RoP provides that, amongst other things, a fixed fee and, where applicable, a fee based on the value of the claim in accordance with Section V of the Schedule of Fees is payable for the following proceedings before the Court of Appeal: (a) appeals under Rule 220.1(a) and (b) [Rule 228].
10. In the contested decision of 11 March 2026, the value of the claim in the infringement action was set at EUR 1,500,000.00 and the value of the counterclaim for annulment was set at EUR 2,250,000.00.
11. As regards the payment of court fees pursuant to Rule 220.1(a) of the RoP for a counterclaim for a declaration of invalidity, the current wording, following the adoption of the amended court fees schedule, is to be understood as referring to the fee payable for filing a counterclaim for annulment at first instance at the time the appeal is lodged, increased by 10 per cent (see the Court of Appeal's order of 15 July 2026, Qualcomm Incorporated et al. v. Network System Technologies LLC, CoA-68/2026-CoA-72/2026, para. 14).
12. In principle, the fees are payable in accordance with the value of the claim as determined by the Court of First Instance. The parties are not entitled to unilaterally determine or alter the value of the claim for the purpose of calculating the applicable court fees. Should a party consider that the value of the claim determined by the Court of First Instance is incorrect, objections to the determination of the value of the claim may be raised in the grounds of appeal (see Order of the Court of Appeal of 15 July 2026, Qualcomm Incorporated et al. v. Network System Technologies LLC, CoA-68/2026-CoA-72/2026, para. 18).
13. On the basis of the considerations set out above, and taking into account the value in dispute of the infringement claim (EUR 1,500,000.00) and the court fees schedule, the following fees apply to the present appeal UPC-CoA-140/2026:

UPC-CoA-140/2026 (UPC_CFI_210/2025) Appeal pursuant to Rule 220.1(a) and (b) [R. 228] concerning a counterclaim for revocation [R. 26]	EUR 27,720 = EUR 14,600 (fixed fee for an infringement action) + EUR 10,600 (additional fee based on the value in dispute for an infringement action with a value in dispute of EUR 1,500,000), increased by 10% fee payable at first instance, increased by 10 per cent, i.e. the same fee as for the infringement action, with a fee cap of EUR 26,500, increased by 10 per cent
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14. NVIDIA initially paid EUR 14,600.00 (filed under action number UPC-CoA-55/2026), which corresponds to a fixed fee for an appeal relating to an infringement action. Subsequently, upon filing the appeal under the new reference number UPC-CoA-140/2026, NVIDIA paid a sum of EUR 16,060.00, which corresponds to the court fees for an appeal against a counterclaim for revocation where the value in dispute of the infringement claim is EUR 500,000.
15. However, as stated above, the court fee payable by NVIDIA for its appeal pursuant to Rule 220.1(a) of the RoP amounts to EUR 27,720 (Rule 228 of the RoP and the Schedule of Court Fees of 4 November 2025).
16. NVIDIA has paid court fees totalling EUR 30,660 for the appeal and EUR 920 (460 × 2) for the application for reinstatement.
17. The difference of EUR 2,940 between the total fees paid by NVIDIA and the fees due for the appeal, as well as EUR 460 for the application for reinstatement, will therefore be refunded to NVIDIA.

ORDER

The Court of Appeal

- I. instructs the court registry to refund NVIDIA EUR 2,940, corresponding to the court fees it overpaid in connection with the appeal;
- II. directs the Registry to refund to NVIDIA EUR 460, corresponding to the court fees overpaid by it in respect of the application for reinstatement.

This order was issued on 29 September 2026.

Emmanuel Gougé, legally qualified judge and judge-rapporteur