



Local Chamber Düsseldorf
UPC_CFI_733/2024
UPC_CFI_255/2025

Procedural order
of the Court of First Instance of the Unified Patent Court issued on
September 12, 2025
concerning EP 2 624 031 B1

CLAIMANT:

TRUMPF Laser- und Systemtechnik SE, represented by the Management Board Dr. Thomas Fehn and Richard Bannmüller, Johann-Maus-Straße 2, 71254 Ditzingen, Germany

represented by: Attorney Dr. Matthias Sonntag, Attorney Dr. Benedikt Burger, Attorney Mischa Krumm, Gleiss Lutz Hootz Hirsch PartmbB Rechtsanwälte, Steuerbe-rater, Dreischeibenhaus 1, 40211 Düsseldorf Germany

Contributing: Patent attorney Dr. Andreas Eisele, Witte, Weller & Partner Patentanwälte mbB, Königstraße 5, 70173 Stuttgart, Germany

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BEKLAGTE:

IPG Laser GmbH & Co KG, represented by IPG Laser Verwaltungs GmbH, Sternstraße 3/2/6, 1010 Vienna, Austria, represented by the managing directors Dr. Valentin Fomin, Andrey Mashkin and Dr. Mark Gitin, Carl-Benz-Straße 28, 57299 Burbach, Germany

represented by: Attorney-at-law and patent attorney Dr. Frank Peterreins, patent attorney Dr. Jan-Malte Schley, patent attorney Felix Glöckler, Kanzlei Peterreins Schley, Hermann-Sack-Str. 3, 80331 Munich, Germany

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STREITPATENT:

European Patent No. EP 2 624 031 B1

PANEL/CHAMBER:

Panel of the Local Division Düsseldorf JUDGES:

This order was issued by the presiding judge Thomas, the legally qualified judge Dr. Schumacher as rapporteur, the legally qualified judge Agergaard and the technically qualified judge Dr. Hansson.

LANGUAGE OF THE PROCEEDINGS: German

SUBJECT: R. 30.2 VerfO, R. 36 VerfO

ORDER:

BRIEF STATEMENT OF THE FACTS:

1. Infringement proceedings are pending between the parties before the Düsseldorf Local Court, in which the defendant has filed a counterclaim for a declaration of invalidity and the plaintiff has filed a request for amendment of the patent in the alternative.
2. By pleading dated August 25, 2025, the plaintiff filed its duplicate relating to the counterclaim for a declaration of nullity and the reply in the proceedings for amendment of the patent. In this pleading, it also submitted new auxiliary requests in the alternative to the auxiliary requests submitted with the request for amendment of the patent in accordance with Annex H_2 and, in the alternative, requested that the version of these auxiliary requests be used as the basis for the claims in the infringement proceedings.
3. On the same day, August 25, 2025, the plaintiff requested the admission of the auxiliary requests according to Annex H_2 pursuant to R. 30.2 VerfO. In its statement of grounds, the plaintiff stated that the further auxiliary requests did not change the subject matter of the previously filed auxiliary requests and that the admission would not result in any procedural disadvantages for the defendant. In its pleading of July 23, 2025 (= duplicate in the infringement proceedings, reply in the proceedings for a declaration of nullity, reply to the request for amendment), the defendant had represented an understanding of the subject matter of the previously filed auxiliary requests that was remote from the plaintiff's point of view, which was surprising and unforeseeable.
4. In a further written submission dated August 25, 2025, the plaintiff repeated its request to alternatively use the version of the claim according to the new auxiliary requests (Annex H_2) as a basis in the infringement proceedings and submitted the new requests for the infringement proceedings as Annex K 0 2. At the same time, it requested that the corresponding pleading pursuant to R. 36 VerfO in the infringement proceedings.
5. In its statement of September 5, 2025, the defendant requested the rejection of the plaintiff's applications pursuant to R. 30.2 and R. 36 VerfO. The plaintiff's statement of grounds for its application pursuant to R. 30.2 VerfO was insufficient because it did not address the specific amendments in the new auxiliary requests compared to the previous auxiliary requests. However, it could not be established that the applicant had reacted to any surprises with the amendments made. Consequently, the application

application pursuant to R. 36 VerfO should also be rejected. Moreover, in its written submission of August 25, 2025, the applicant did not even explain why the new auxiliary requests were allegedly infringed.

REASONS FOR THE ORDER:

Application pursuant to R. 30.2 VerfO

6. According to R. 30.2 RP, subsequent requests for amendment of the patent can only be admitted with the permission of the court. Subsequent requests are those which follow the amendments proposed with the request for amendment of the patent under R. 30.1 RP (see UPC_CFI_255/2023 (CC Paris), order of February 27, 2024, para. 27 - Meril v. Edwards). The provision thus grants the court the discretionary power to allow requests for amendment of the patent even if a request for amendment of that patent has already been filed and if the time limit for amending the patent, i.e. the time limit for responding to the counterclaim for revocation, has already expired (see UPC_CFI_255/2023 (CC Paris), order of February 27, 2024, para. 29 - Meril v. Edwards).
7. In exercising its discretion, the court must observe the principles of proportionality, flexibility, fairness and equity set out in the preamble to the Rules of Procedure (see UPC_CFI_255/2023 (CC Paris), order of February 27, 2024, para. 30 - Me-ril v. Edwards). It must be avoided that the patentee, by successively filing various amendments, deprives the opponent of the opportunity to react at an early stage and the court of the opportunity to deal with the requests in an appropriate manner. In this respect, the question of whether a new amendment will be allowed must take into account whether the new amendment would have been necessary at an earlier stage in response to the arguments already submitted by the nullity plaintiff and whether the late request for amendment will cause delays in the proceedings (UPC_CFI_210/2023 (LK Mannheim), order of June 27, 2024 - Panasonic v. OPPO).
8. In order for the court to strike a reasonable balance between the conflicting interests in connection with the request to amend the patent, the applicant must substantiate its request and explain why the later amendment version is appropriate (UPC_CFI_210/2023 (LK Mannheim), order of June 27, 2024 - Panasonic v. OPPO; UPC_CFI_255/2023 (ZK Paris), order of February 27, 2024, para. 33 - Meril v. Edwards). The application must also enable the court to examine whether the later applications could have been filed at an earlier date.
9. On this basis, there is no sufficient application in the present case to enable the court to exercise its discretion. The plaintiff's reasoning is limited to general statements according to which the defendant in the reply represents a remote understanding of the subject matter of the previously submitted auxiliary requests, which was not foreseeable for the plaintiff. The submission is semantically subtle, but technically not meaningful and therefore surprising. First of all, this description already raises the question as to why a submission that is so absurd from the plaintiff's point of view makes further auxiliary requests necessary at all. Furthermore, it remains unclear which aspects of the defendant's submissions in the reply are actually new and how they relate to the amendments made in the auxiliary requests. The plaintiff does not establish a connection between the amendments made in the auxiliary requests and certain arguments of the defendant in the proceedings. An assessment of the question of whether the admission of the further auxiliary requests complies with the principles of proportionality, flexibility, fairness and equity is not possible.

is not possible for the court on this basis. Nor is it possible to check on the basis of the application whether the applications could have been introduced into the proceedings at an earlier stage - with the amendment application.

Application pursuant to R. 36 VerfO

10. The plaintiff's further application for admission of a pleading pursuant to R. 36 VerfO is also unfounded. In view of the lack of admission of the further auxiliary requests pursuant to R. 30.2 VerfO, there is no basis for the desired submission of coordinated requests in the infringement proceedings.

ORDER:

1. The plaintiff's request of August 25, 2025 for the admission of subsequent requests for amendment of the patent pursuant to R. 30.2 VerfO (App_35497/2025) is rejected.
2. The applicant's request of August 25, 2025 for leave to file a further document pursuant to R. 36 VerfO (App_35498/2025) is rejected.

DETAILS OF THE ORDER:



App_35497/2025 and App_35498/2025 for the main file numbers ACT_63167/2024, CC_14184/2025 and App_23847/2025

UPC numbers: UPC_CFI_733/2024 and UPC_CFI_255/2025

Type of proceedings: Action for infringement and action for

annulment Issued in Düsseldorf on September 12, 2025

NAMES AND SIGNATURES

Presiding Judge Thomas	 <p>Ronny Thomas Digitally signed by Ronny Thomas Date: 2025.09.12 08:37:18 +02'00'</p>
Legally qualified judge Dr. Schumacher	 <p>(Jule) (Kathrin) Schumacher Digitally signed by (Jule) Kathrin Schumacher Date: 2025.09.11 10:37:09 +02'00'</p>

Legally qualified judge Agergaard	<p>(Peter) (Juul) Digitalt signeret af Peter Juul Agergaard Agergaard d Date: 2025.09.11 19:18:41 +02'00'</p>
Technically qualified judge Dr. Hansson	<p>(Anders) (Max) Elektroniskt undertecknad Hansson av Anders Max Hansson Date: 2025.09.11 11:30:34 +02'00'</p>