Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Munich Local Chamber
UPC_CFI_248/2024

Decision
of the Court of First Instance of the Unified Patent Court delivered on 22 August 2025 concerning EP 2 387 547 B1

GUIDING PRINCIPLES:

1. Purpose statements in a device claim regularly define a device in such a way that it must be suitable for use for the function and purpose specified in the patent claim.

2. If a device claim contains a purpose specification, the only relevant factor for the novelty examination pursuant to Art. 54 EPC is whether a device already disclosed in the prior art has all the spatial and physical features required by the patent for the device. The only exception to this is if the device disclosed in the prior art is unsuitable for the intended use of the patent or requires modification before it can be used for that purpose.

3. If the patent holder defends the patent (alternatively) in the event that the registered version of the patent is invalid, even if only in part, solely in the version of the auxiliary requests, there is no need to examine, in accordance with Article 76(1) EPC, whether the claims of the patent in the registered version are only partially invalid pursuant to Article 65(3) EPC.

4. If the patent contains several subordinate claims, a defence of the patent requested in the alternative by means of closed sets of claims means that the patent can only be maintained on the basis of such an auxiliary request in which each of the subordinate claims of the patent is included in a grantable version.

5. Any amendment to the patent must satisfy the requirements of Art. 84 EPC. It must therefore be examined whether the amendment introduces a lack of clarity.

6. The lawful acquirer of a product placed on the market by the patent proprietor is, inter alia, entitled to use that product for its intended purpose. In this respect, exhaustion has occurred in accordance with Article 29 EPC. Intended use also includes the usual maintenance and restoration of usability if the functionality or performance of the specific product is wholly or partially impaired or eliminated due to wear and tear, damage or other reasons. However, intended use does not include any measures that result in the reproduction of a product covered by the patent. The patent holder's exclusive right to manufacture is not exhausted when a copy of the patented product is placed on the market for the first time.

7. If a part of a patented product is replaced, the decisive factor in determining whether this constitutes use in accordance with the intended purpose or a new production is whether the replacement preserves the identity of the specific patented product placed on the market or whether it creates a new product in accordance with the invention. This is assessed on the basis of a weighing up of the interests worthy of protection of the patent holder in the economic exploitation of the invention on the one hand and the purchaser in the unhindered use of the specific product according to the invention placed on the market on the other, taking into account the unique nature of the patented product.

8. If the replacement of the part in question can normally be expected during the product's service life and if, as a result, the public or consumers can reasonably expect to be able to continue using or reuse the purchased product by means of the replacement part, it can generally be assumed that the patented product placed on the market is being used in a permissible manner. However, the situation is different in exceptional cases where the technical effects of the invention are reflected precisely in the replaced part.

9. If an alleged embodiment that indirectly infringes the patent pursuant to Art. 26 EPC can also be used without infringing the patent, only a limited prohibition is justified in principle, which ensures that, on the one hand, commercial trade in the alleged object outside the scope of the property right remains unaffected and, on the other hand, direct patent-infringing use by the customer is excluded with sufficient certainty. Suitable measures for this purpose are, in principle warning notices and/or contractual cease-and-desist agreements.

10. Art. 64 EPC does not apply to indirect patent infringement pursuant to Art. 26 EPC. Consequently, in particular, no finding of patent infringement can be made.

PLAINTIFF (AND COUNTER-DEFENDANT)

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

represented by: Solicitor Niels Christof Julius Schuh, Meissner Bolte Patentanwälte Rechtsanwälte Partnerschaft mbB, Kaiserswerther Str. 183, 40474 Düsseldorf, Germany.

DEFENDANTS (AND COUNTERCLAIMANTS)

1. **AQUASHIELD EUROPE s.r.o**., represented by managing directors Jakub Grosman and Alex Rish, Mánesova 881/27, 120 00 Prague, Czech Republic,

2. **AQUASHIELD DACH GmbH**, represented by managing director Jakub Grosman, Warschauer Platz 11-13, 10245 Berlin, Germany,

3. **Gasmarine BV Srl**, represented by the Managing Director Maximilian Devotee Lungotorrente Secca 23, 16163 Genoa, Italy,

4. **MGR26 Société à responsabilité limitée**, represented by the managing directors Gad Ayache and Moshé-Dov Ayacche, 19 Rue Séjourné, 94000 Créteil, France,

represented by: Solicitor Sönke Scheltz, Eisenführ Speiser Patentanwälte Rechtsanwälte PartGmbB, Johannes-Brahms-Platz 1, 20355 Hamburg, Germany.

PATENT IN DISPUTE

European patent EP 2 387 547 B1

JUDICIAL PANEL/CHAMBER

Judicial panel 2 of the Munich Local Chamber

PARTICIPATING JUDGES

The decision was issued with the participation of Presiding Judge Ulrike Voß (rapporteur), legally qualified Judge Dr. Daniel Voß, legally qualified Judge Mojca Mlakar and technically qualified Judge Dr. Marc van der Burg.

LANGUAGE OF THE PROCEEDINGS

German

SUBJECT

Infringement action and counterclaim for annulment

ORAL HEARING 18 JULY 2025

FACTS

1 The plaintiff is the registered owner of European patent EP 2 387 547 (hereinafter: the contested patent, Annex MB 6), which was filed on 14 January 2010. The contested patent, whose
language of the proceedings is German, claims priority from DE 10 2009 0002 31 dated 14 January 2009. It emerged from the European regional phase of international patent application PCT/EP2010/050385, published under the number WO 2010/081845 (Annex ES 10). The grant of the contested patent was published on 25 July 2012.

2 On 27 May 2023, the plaintiff invoked the exception under Article 83(3) EPC for the contested patent. It withdrew from this on 15 April 2024.

3 The contested patent is in force in Germany, Austria, France and Italy (Annexes MB 7, MB 8). An opposition to its grant was filed by a third party with the European Patent Office (hereinafter: EPO). According to the preliminary opinion of the Opposition Division dated 1 October 2014 (Exhibit MBN 1) contained in the summons, the opposition has been withdrawn.

4 The contested patent relates to a valve actuating device for a valve, a liquid container for a liquid treatment device and a liquid treatment device. Claims 1 to 5, 12 and 13 of the contested patent read as follows:

1. Valve actuating device (60) for a valve (20) comprising a movable shut-off body (24) and a valve seat (23), wherein the shut-off body (24) is trapped in a valve chamber (36) and is movable in the valve chamber (36) in a horizontal and vertical direction, which is located in the outlet opening
(18) of a liquid container (5) of a liquid treatment device (1), and which, when the liquid container is installed in the liquid treatment device (1), is in the closed position (5) installed in the liquid treatment device (1), wherein the valve actuating device (60) is designed to open the valve (20) by exerting a horizontal force component when attached to the valve (20) in the closed position.

2. Device according to claim 1, characterised in that the valve actuating device (60) has at least one actuating element.

3. Device according to claim 2, characterised in that the actuating element (61) is pluggable.

4. Liquid container (5) of a liquid treatment device (1), wherein the liquid container (5) has an outlet opening (18) and a valve (20) arranged in the outlet opening (18), characterised in that the valve
(20) comprises a movable shut-off body (24) and a valve seat (23), wherein the shut-off body (24) is trapped in a valve chamber (36) and is movable in the

valve chamber (36), that the valve (20) is in the closed position when the liquid container (5) is in the closed position, and that a valve actuating device (60) is provided which, when attached to the valve (20) in the closed position, is designed to open the valve (20) by exerting a horizontal force component.

5. Liquid container according to claim 4, characterised in that the shut-off body (24) has an element (29) protruding from the valve chamber (36).

12. Liquid treatment device (1) with a liquid treatment cartridge (40) and with a liquid container (5) according to one of claims 4 to 11.

13. Liquid treatment device according to claim 12, characterised in that the valve actuating device (60) is arranged on the liquid treatment cartridge (40).

5 With regard to the wording of the remaining (sub)claims, reference is made to the patent specification.

6 Figures 1 and 4, shown below, explain the technical teaching of the contested patent on the basis of preferred embodiments. Figure 1 is a vertical section through a liquid treatment device. Figure 4 shows an embodiment of a valve actuating device arranged on a liquid treatment cartridge which is completely inserted into the liquid container.

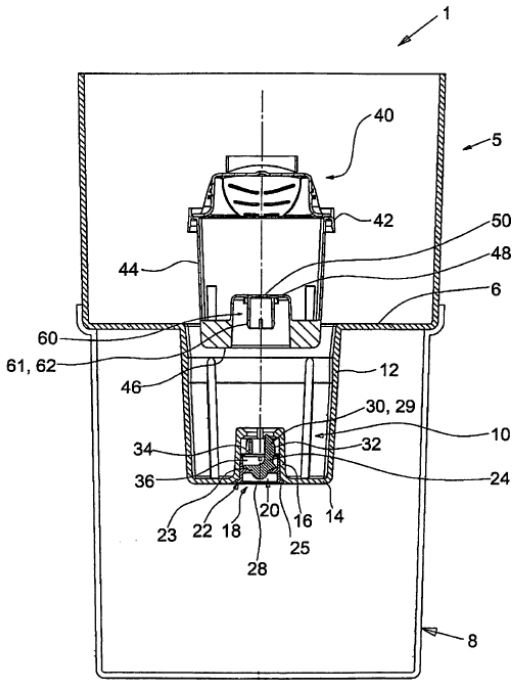


Fig. 1

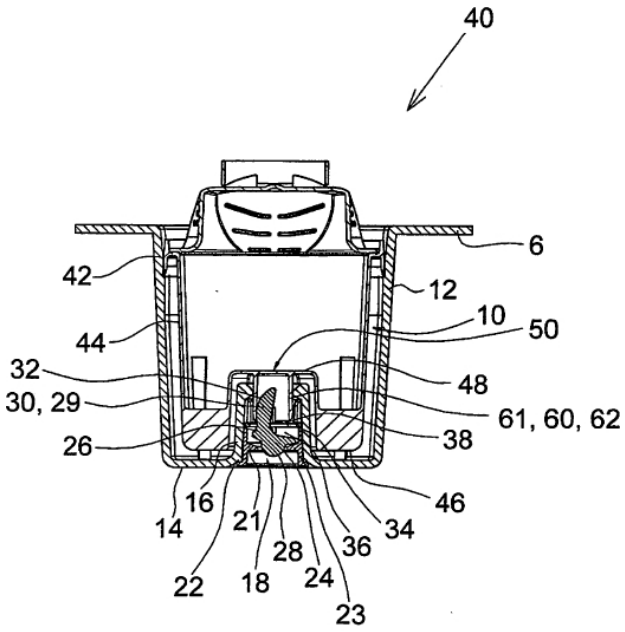


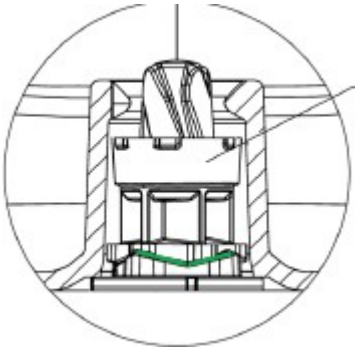
Fig. 4

7 The plaintiff is part of the BRITA Group, a leading German manufacturer of drinking water filters, which is represented in 69 countries by subsidiaries or partner companies. Among other things, the plaintiff sells water filter systems consisting of a water carafe and filter cartridge.

8 One of the filter systems sold by the plaintiff is the "Style" system, which includes a MAXTRA PRO filter cartridge in addition to the water carafe (Exhibit ES 3).

9 Like all water jugs sold by the plaintiff since 2020, the water jug of the "Style" system features the "PerfectFit" valve system. This valve system, which is installed in the water jug

has a shut-off body that can be moved horizontally and vertically and is located in a valve chamber. Below the shut-off body is a valve seat with closable (water) outlet openings. Both the valve seat and the bead surrounding the shut-off body are components of the valve chamber, which is integrated into the funnel base. When the shut-off body is not moved, the valve is in the closed position so that no water can flow through. For illustrative purposes, photographs submitted by the plaintiff and a schematic drawing of the shut-off body are shown below.



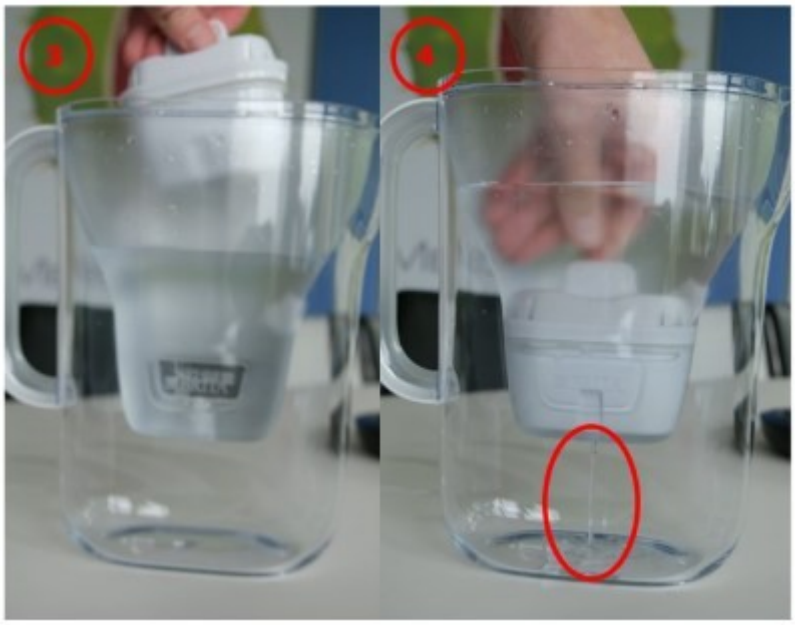
10 The underside of the filter cartridge of the MAXTRA PRO system has a sleeve with two slanted guide elements on its inner wall. When the filter cartridge is inserted into the water carafe, the sleeve grips the shut-off body of the PerfectFit system to engage the guide elements with corresponding grooves in the shut-off body. This engagement forces the shut-off body to rotate, causing the shut-off body of the
PerfectFit system to slide over the slanted surfaces attached to the bottom of the valve (highlighted in green in the schematic drawing of the shut-off body shown above) and lifted from the valve seat. To illustrate the design of the MAXTRA PRO filter cartridge, the photograph submitted by the plaintiff is shown below.

11 Like all filter cartridges, the MAXTRA PRO filter cartridge must be replaced during the service life of the filter system. All filter cartridges sold by the plaintiff are technically identical in terms of the features relevant to the present case.

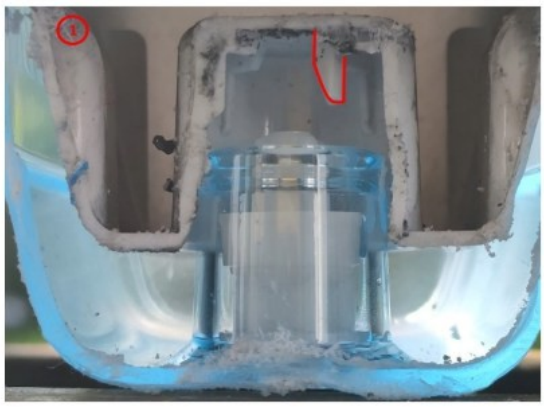
12 The first defendant is the European parent company of the Aquashield Group. Among other things, it organises the distribution of Philips brand filter cartridges with the designations AWP210, AWP211, AWP212, AWP213 and AWP230 (Softening+) (hereinafter: contested embodiment). The second defendant is a wholly-owned subsidiary of the first defendant with its registered office in Germany (Exhibit MB 3). It is responsible for the distribution of the contested embodiment in Germany, Austria and Switzerland. The third defendant is a distribution company based in Italy (Exhibit MB 4) and distributes the contested embodiment in Italy. The fourth defendant is based in France (Exhibit MB 5), where it also distributes the contested embodiment. It also offers it on its website (Exhibit MB 13).

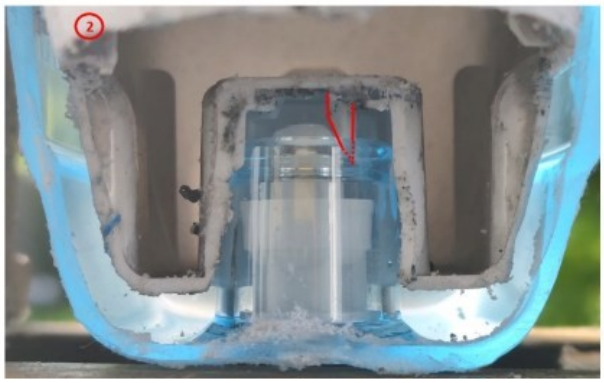
13 The contested embodiment is a (water) filter cartridge. On its underside there is a partially ring-shaped, wedge-shaped protrusion.

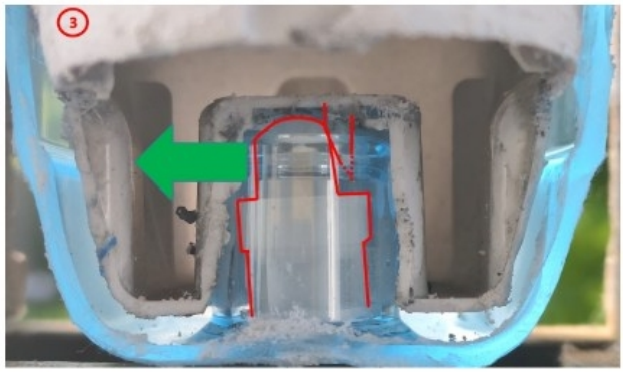
14 The contested embodiment can be used in the plaintiff's water carafes. When inserted into a water carafe with the "PerfectFit" valve system, the partially ring-shaped, wedge-shaped protrusion on the underside of the contested embodiment exerts a horizontal force component on the "PerfectFit" valve "PerfectFit" valve in such a way that the valve's shut-off body is tilted and water flow is enabled, as shown in a video produced by the plaintiff (Exhibit MB 14). Screenshots from the video are shown below.

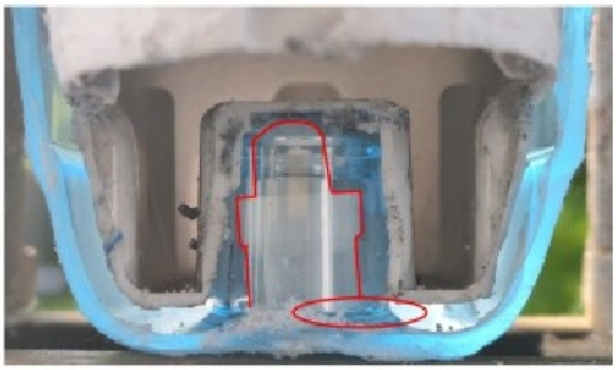


15 The mode of operation of the partially ring-shaped, wedge-shaped projection of the contested embodiment can be seen in another video produced by the plaintiff showing the operation (Exhibit MB 15). Screenshots from this video are shown below for illustrative purposes.

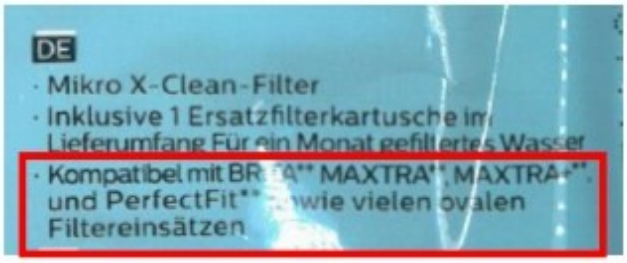








16 The plaintiff had two test purchases carried out in Germany and one each in Italy and France via online platforms. As the photographs below show, the packaging of the samples of the contested design obtained in this way indicates that the contested design is compatible with the plaintiff's water carafes.



17 The contested embodiment is mainly sold on online platforms or via online shops and drugstores. It costs approximately €5 per item.

18 The plaintiff considers the offering and distribution of the contested embodiment in Germany, Austria, France and Italy to be a direct infringement of claim 1 of the contested patent and an indirect infringement of the combination of claims 12 and 13 (ACT_29522/2024 UPC_CFI_248/2024). The defendants have jointly filed a counterclaim for annulment of the contested patent (CC_53726/2024 UPC_CFI_564/2024). The plaintiff has filed auxiliary requests for amendment of the patent (App_3161/2025).

CLAIMS OF THE PARTIES

Action

19 After initially announcing that it would file motions in accordance with pages 2 to 15 of the statement of claim dated 22 May 2024, the claimant now requests the following:

A.

I.

1. The defendants are ordered to refrain from, in the territories of Austria (AT), Germany (DE), France (FR) and Italy (IT),

   a valve actuating device (60) of a valve (20) comprising a movable shut-off body (24) and a valve seat (23), wherein the shut-off body (24) is trapped in a valve chamber (36) and is movable in the valve chamber (36) in a horizontal and vertical direction, which is located in the outlet opening (18) of a liquid container (5) of a liquid treatment device (1) and is in the closed position when the liquid container (5) is installed in the liquid treatment device (1),

   wherein the valve actuating device (60) is designed, when attached to the valve (20) in the closed position, to open the valve (20) by exerting a horizontal force component.

   (direct infringement of claim 1 of EP 2 387 547 B1)

   in particular if the valve actuating device (60) has at least one actuating element (61),

   (direct infringement of claim 2 of EP 2 387 547 B1)

   to offer, place on the market, use or import or possess for the aforementioned purposes.

2. to grant the request under A.I.1, provided that the wording of claim 1 reproduced therein is drafted in accordance with the auxiliary request considered legally valid by the Board.

II.

The defendants are ordered to surrender, at their own expense, the products referred to in section A. I.,

1. insofar as they are in their direct or indirect possession or ownership, as well as the materials and equipment used to create or manufacture these products, to a bailiff to be appointed by the plaintiff for the purpose of destruction at their, the defendants', expense;

alternatively to 1.: to eliminate the infringing characteristics of the products at their expense.

2. The products referred to in Section A I., which have been on the market since 23 May 2019, must be recalled from commercial customers in writing, with reference to the (EPG judgement of ...) and with a binding commitment to reimburse any fees and to cover the necessary packaging and transport costs as well as the customs and storage costs associated with the return, and to take back the products.

III.

The defendants are ordered to provide the plaintiff with an orderly list – insofar as the defendants have the relevant data available – in electronic form, detailing the extent to which the defendants have committed the acts referred to in section I since 23 May 2019, specifying:

1. the individual deliveries, broken down by delivery quantities, times, prices and type designations, as well as the names and addresses of the customers,

2. the individual offers, broken down by offer quantities, times, prices and type designations, as well as the names and addresses of the commercial recipients of the offers,

3. the advertising carried out, broken down by advertising media, their circulation, distribution period and distribution area, and, in the case of Internet advertising, the Internet addresses, the placement periods and the number of hits,

4. the production costs broken down by individual cost factors and the profit achieved,

   whereby the list containing the accounting data must be submitted in an electronic form that can be evaluated by means of EDP,

   the defendants reserve the right to disclose the names and addresses of non-commercial customers and recipients of offers to a certified public accountant resident in the Federal Republic of Germany, to be designated by the plaintiff and bound to secrecy, instead of to the plaintiff, provided that the defendants bear the costs thereof and authorise and oblige him inform the plaintiff, upon specific request, whether a particular customer or recipient of an offer is included in the list.

IV.

The defendants are ordered

1. to provide the plaintiff with information on the products listed under A.I. in a list structured by month of the calendar year and by patent-infringing products, starting on 23 May 2019, specifically

a) the origin and distribution channels of the products;

b) the quantities delivered, received or ordered and the prices paid for the products;

c) the identity of all third parties involved in the manufacture or distribution of the products;

2. the claimant, in a list structured by month of the calendar year and by patent-infringing products, from 23 May 2019 onwards, to provide information on the products referred to in A.II. and, in particular, to disclose its books to prove the information provided in accordance with A.III.1. by disclosing them for each month of a calendar year from 23 May 2019 and for each patent-infringing product in electronic form that can be evaluated using a computer,

3. to disclose to the applicant its books in support of the information provided under A.IV.1., by providing, for each month of a calendar year from 23 May 2019 and for each patent-infringing product, in electronic form that can be evaluated using a computer,

   invoices – or, if these are not available, delivery notes – for the individual deliveries, broken down by name and address of the commercial recipients of the sales offers for all products sold or otherwise disposed of

   .

V.

The defendants are obliged to compensate the claimant for all damages incurred and to be incurred as a result of the actions referred to in section A. I. from 23 May 2019 onwards.

VI.

European patent EP 2 387 547 has been infringed by the defendants through the actions mentioned in section A.I.

VII.

In the event of any infringement of the order pursuant to sections A. I. to A. IV., the infringing defendant shall pay a penalty of up to
EUR 250,000.

B.

I.

1. The defendants are ordered to refrain from supplying customers in the territories of Austria (AT), Germany (DE), France (FR) and Italy (IT) with

liquid treatment cartridges with a valve actuating device which is arranged on the liquid treatment cartridge (40) and which, when attached to a valve (20) in the closed position, is designed to open the valve (20) by exerting a horizontal force component

if they are suitable for use in

one liquid treatment device (1) with the liquid treatment cartridge (40) and a liquid container (5), wherein the liquid container (5) has an outlet opening (18) and a valve (20) arranged in the outlet opening (18), wherein the valve (20) comprises a movable shut-off body (24) and a valve seat (23), wherein the shut-off body (24) is trapped in a valve chamber (36) and is movable in the valve chamber (36) in the horizontal and vertical directions, wherein the valve actuating device, when attached to the valve (20) in the closed position, is designed to open the valve (20) by exerting a horizontal force component, the valve (20) being in the closed position when the liquid container (5) is installed in the liquid treatment device (1),

without

- in the case of offers to commercial customers, expressly and clearly indicating in the offer that these liquid treatment cartridges may not be used in a liquid treatment device with the above-mentioned features without the consent of the plaintiff as the owner of EP 2 387 547 B1;

- in the case of delivery to commercial customers, to impose a contractual penalty of EUR 50,000.00 payable to the plaintiff for each case of infringement, but at least EUR 1,000 per item, to impose a written obligation not to use these liquid treatment cartridges without the consent of the plaintiff for liquid treatment devices equipped with the above-mentioned features;

- that, moreover, it must be expressly and clearly indicated that the liquid treatment cartridges are not suitable for use in liquid containers of the "BRITA" brand with "PerfectFit" and that liquid treatment cartridges cannot replace "BRITA" brand liquid treatment cartridges with "PerfectFit";

- and, alternatively, for the last indent, that it must also be expressly and clearly indicated that the liquid treatment cartridges are not suitable for use in "BRITA" brand liquid containers with "PerfectFit" that have been sold since March 2020 and that liquid treatment cartridges of the brand "BRITA" cannot replace "PerfectFit" cannot be replaced;

- in the alternative, for the last indent, that any references – whether pictorial, linguistic or otherwise

nature – on packaging or on the internet in the form of phrases such as "Maxtra+", "Brita Maxtra+", "Maxtra+ compatible", "Brita Maxtra+ compatible" or "Brita compatible" or "PerfectFit" must be omitted;

(indirect infringement of claim combination 12 and 13 of EP 2 387 547 B1)

in particular if

the shut-off body (24) has an element (24) protruding from the valve chamber (36)
(29) protruding from the valve chamber (36).

(indirect infringement of claim 5 of EP 2 387 547 B1)

2. to grant the request under point B.I.1, provided that the wording of the parallel claim relating to a liquid treatment device and its first dependent claim is drafted in accordance with the auxiliary request considered legally valid by the Board.

II.

The defendants are ordered to provide the plaintiff with an orderly list – insofar as the defendants have the relevant data available – in electronic form, detailing the extent to which the defendants have committed the acts referred to in section I since 23 May 2019, specifying:

1. the individual deliveries, broken down by delivery quantities, times, prices and type designations, as well as the names and addresses of the customers,

2. the individual offers, broken down by offer quantities, times, prices and type designations, as well as the names and addresses of the commercial recipients of the offers,

3. the advertising carried out, broken down by advertising media, their circulation, distribution period and distribution area, and in the case of internet advertising, the internet addresses, the placement periods and the number of hits,

4. the production costs broken down by individual cost factors and the profit achieved,

whereby the list containing the accounting data must be submitted in an electronic form that can be evaluated by means of EDP,

the defendants reserve the right to disclose the names and addresses of non-commercial customers and recipients of offers to a certified public accountant resident in the Federal Republic of Germany, to be designated by the plaintiff and bound to secrecy, instead of to the plaintiff, provided that the defendants bear the costs thereof and authorise and oblige him inform the plaintiff, upon specific request, whether a particular customer or recipient of the offer is included in the list.

III.

The defendants are ordered

1. to provide the claimant with a list structured by calendar month and by patent-infringing product, starting on 23 May 2019,
   To provide information on the products referred to in B.I., namely on

   a) the origin and distribution channels of the products;

   b) the quantities delivered, received or ordered and the prices paid for the products;

   c) the identity of all third parties involved in the manufacture or distribution of the products;

2. disclose to the applicant its books evidencing the information provided under B.III.1, by providing, for each month of a calendar year from 23 May 2019 and for each infringing product, in electronic form that can be evaluated by computer,

   invoices – or, if these are not available, delivery notes – for individual deliveries, broken down by name and address of the commercial recipients of the sales offers for all products sold or otherwise disposed of

   .

IV.

The defendants are obliged to compensate the plaintiff for all damages incurred and still to be incurred as a result of the actions referred to in section B. I. from 23 May 2019 onwards.

V.

European patent EP 2 387 547 has been indirectly infringed by the defendants through the actions specified in section B.I.

VI.

In the event of any violation of the order pursuant to Sections B. I. to B. III., the defendant in violation shall pay a penalty of up to EUR 250,000 to the court.
EUR 250,000.

C. (Alternatively, in the event that claim A is dismissed): I.

1. The defendants are ordered to refrain from marketing in the territories of Austria (AT), Germany (DE), France (FR) and Italy (IT)

valve actuating devices which, when attached to a valve (20) in the closed position, are designed to open the valve (20) by exerting a horizontal force component

if these are suitable as valve actuating devices (60) for

a valve (20)

which comprises a movable shut-off body (24) and a valve seat (23), wherein the shut-off body (24) is trapped in a valve chamber (36) and is movable in the valve chamber (36) in the horizontal and vertical directions,

which is located in the outlet opening (18) of a liquid container (5) of a liquid treatment device (1), and

which is in the closed position when the liquid container (5) is installed in the liquid treatment device (1), wherein the valve actuating device (60) is designed to open the valve (20) by exerting a horizontal force component when attached to the valve (20) in the closed position;

without

- in the case of offers to commercial customers, expressly and clearly indicating in the offer that these liquid treatment cartridges may not be used in a liquid treatment device with the above-mentioned features without the consent of the plaintiff as the owner of EP 2 387 547 B1;

- in the case of delivery to commercial customers, subject to a contractual penalty of EUR 50,000.00 payable to the claimant for each case of infringement, but at least EUR 1,000 per item, the written obligation to not to use these liquid treatment cartridges for liquid treatment devices equipped with the above-mentioned features without the claimant's consent;

- that, in addition, it must be expressly and clearly indicated that the liquid treatment cartridges are not suitable for use in liquid containers of the "BRITA" brand with "PerfectFit" and liquid treatment cartridges of the brand "BRITA" cannot replace "PerfectFit" brand;

- and, alternatively, for the last indent, that it must be expressly and clearly indicated that the liquid treatment cartridges are not suitable for use in liquid containers of the "BRITA" brand with "PerfectFit" that have been sold since March 2020 and cannot replace "BRITA" brand liquid treatment cartridges with "PerfectFit";

- As a last resort for the final indent, that any references – whether pictorial, linguistic or otherwise – to

packaging or on the internet, in the form of phrases such as "Maxtra+", "Brita Maxtra+", "Maxtra+ compatible", "Brita Maxtra+ compatible" or "Brita compatible" or "PerfectFit";

(indirect infringement of claim 1 of EP 2 387 547 B1) in

particular if

the valve actuating device (60) has at least one actuating element (61).
(indirect infringement of claim 2 of EP 2 387 547 B1)

2. the request under C.I.1 be granted, provided that the wording of claim 1 reproduced therein is drafted in accordance with the auxiliary request considered legally valid by the Board.

II.

The defendants are ordered to provide the plaintiff with an orderly list – in electronic form, insofar as the defendants have the relevant data available – detailing the extent to which the defendants have committed the acts described in section I since 23 May 2019, specifying:

1. the individual deliveries, broken down by delivery quantities, times, prices and type designations, as well as the names and addresses of the customers,

2. the individual offers, broken down by offer quantities, times, prices and type designations, as well as the names and addresses of the commercial recipients of the offers,

3. the advertising carried out, broken down by advertising media, their circulation, distribution period and distribution area, and, in the case of internet advertising, the internet addresses, the placement periods and the number of hits,

4. the production costs broken down by individual cost factors and the profit achieved,

whereby the list containing the accounting data must be submitted in an electronic form that can be evaluated by means of EDP,

the defendants reserve the right to disclose the names and addresses of non-commercial customers and recipients of offers to a certified public accountant resident in the Federal Republic of Germany, to be designated by the plaintiff and bound to secrecy, instead of to the plaintiff, provided that the defendants bear the costs thereof and authorise and oblige him inform the plaintiff, upon specific request, whether a particular customer or recipient of the offer is included in the list.

III.

The defendants are ordered

1. to provide the plaintiff, in a list structured by calendar month and by patent-infringing products, from 23 May 2019 onwards,
information on the products listed under C.I., namely

   a) the origin and distribution channels of the products;

   b) the quantities delivered, received or ordered and the prices paid for the products;

   c) the identity of all third parties involved in the manufacture or distribution of the products;

2. to disclose to the claimant its books as evidence of the information provided in accordance with C.III.1., by providing these for each month of a calendar year from 23 May 2019 and for each patent-infringing product in electronic form that can be evaluated using a computer,

   invoices – or, if these are not available, delivery notes – for individual deliveries, broken down by name and address of the commercial recipients of the sales offers for all products sold or otherwise disposed of

   .

IV.

The defendants are obliged to compensate the plaintiff for all damages incurred and still to be incurred as a result of the actions referred to in section C. I. from 23 May 2019 onwards.

V.

European patent EP 2 387 547 has been indirectly infringed by the defendants through the actions specified in section C.I.

VI.

In the event of any violation of the order pursuant to Sections C. I. to C.III., the defendant in violation shall pay a penalty of up to
EUR 250,000.

20 The defendants request that

I. that the action be dismissed;

II. order the claimant to pay the costs of the legal dispute, including the costs of the counterclaim;

III. declare the judgment enforceable with regard to the costs, either immediately or, alternatively, against security (deposit or bank guarantee from a European bank).

Counterclaim

21 After the defendants initially requested that the contested patent be declared invalid in respect of claims 1, 2, 4 and 5, as well as claims 12 and 13 insofar as these relate back to claim 4 or claim 5, they now request

I. declare the contested patent invalid in respect of claims 1 to 7 and claims 12 and 13, insofar as these relate back to claims 4 to 7, and

II. order the plaintiff to pay the costs of the proceedings.

22 The plaintiff requests that

I. that the counterclaim for revocation be dismissed,

II. order the plaintiffs in the nullity proceedings to pay the costs of the proceedings.

Request for amendment of the patent

23 After the claimant initially requested, in the alternative, that the counterclaim for revocation be dismissed insofar as the contested patent is defended with the auxiliary requests 1 to 15 (in that order) submitted as annexes, the claimant now requests

in the alternative, that the counterclaim for revocation be dismissed insofar as the contested patent is defended by auxiliary requests 1 to 16 (in that order) submitted as annexes to the written statement of 28 February 2025, including auxiliary requests 4A, 6A, 9A, 11A (in the order of the auxiliary requests submitted immediately after the auxiliary request with the corresponding number), each of which is a closed set of claims.

24 The defendants oppose the request to amend the patent.

KEY POINTS OF DISPUTE AND SUMMARY OF THE PARTIES' SUBMISSIONS

A. Scope of protection

Subject matter of claim 1

25 The plaintiff is of the opinion that claim 1 protects only a valve actuating device, that the mention of the valve in the claim is only a statement of purpose, and that it is therefore sufficient if the valve actuating device according to the claim is objectively suitable for interacting with a valve as characterised in claim 1. The contested patent does not aim to protect actuating devices for all possible valves.

but only such a valve actuating device corresponding to the specific application and purpose of use specified in claim 1. Even if the protected valve actuating device is thus characterised and limited by the fact that it must be suitable for use with special valves, the valve characterised in claim 1 is not part of the protected subject matter of the patent. Claim 1 is a so-called apparent combination claim. Those features of the claim that deal with the valve (which lies outside the scope of protection) are only legally relevant in the assessment of infringement insofar as their nature as required by the contested patent or the technical effects resulting from their interaction with the protected object in accordance with the invention allow conclusions to be drawn about the necessary design of the subject matter of the patent.

26 The defendants are of the opinion that claim 1 protects an overall device consisting of a valve and associated actuating device. This already follows from the clear wording of the claim, which refers to "valve actuating device (60) of a valve (20)". If the purpose were to be specified, one would expect a formulation such as "valve actuating device (suitable) for a valve", "valve actuating device for actuating a valve" or similar. The systematics of the patent claim also speak against the plaintiff's understanding. According to the plaintiff's understanding, the features describing the valve and its structure would be superfluous. However, claim 1 deals mainly with the design of the valve and not with the valve actuating device. A further consideration also argues against the plaintiff's interpretation: if this interpretation were followed, any device capable of applying a horizontal force component would fall under the claim. The alleged purpose does not imply any factual restriction; the valve does not even have to actually exist. In that case, the valve actuating device could be practically anything, including a stick or a finger. Accordingly, the contested patent also states that the valve actuating device can take any shape and be made of any material, and can be designed as an independent component or as part of another component. In other words, the plaintiff's alleged invention would then consist of having invented any object. It is obvious that such an "invention" is not new and inventive. For this reason, too, the plaintiff's interpretation cannot be correct.

27 Furthermore, according to the defendants, only their interpretation is consistent with the principle that the teaching of the patent seeks to distinguish itself from the prior art described therein. In addition, the history of the grant supports their view. In addition, the plaintiff had argued exactly the opposite in the grant proceedings, and the patent had only been upheld in the opposition proceedings because all parties involved had assumed that claim 1 of the contested patent also covered the valve. Finally, the plaintiff also took this view in the counterclaim.

Plug-in within the meaning of sub-claim 3

28 In the plaintiff's view, the skilled person understands pluggable within the meaning of subclaim 3 of the contested patent to mean, among other things, the passing through or pushing through of a pluggable element through an opening.

29 The defendants argue that the skilled person would probably understand "pluggable" to mean that the actuating element must be designed in such a way that it can be plugged onto the shut-off body.

Actuating element in the form of a plate

30 Insofar as the contested patent describes the actuating element of a valve actuating device as a plate in a preferred embodiment, the plaintiff considers this to mean a component whose thickness is less than its dimensions in the other directions.

31 In the defendant's view, this is only half the truth, because the qualification of a plate requires not only that it be flat, but also that it be of uniform thickness throughout.

B. Infringement action

Realisation of claim 1 of the contested patent

32 In the plaintiff's view, the contested embodiment directly implements claims 1 and 2 of the contested patent in the literal sense. In the event that, in the opinion of the Chamber, claim 1 protects an overall device comprising a valve actuating device and a valve, the plaintiff asserts, in the alternative, an indirect infringement of claims 1 and 2.

33 With regard to the auxiliary requests made in the context of the application for amendment of the patent, the plaintiff is of the opinion that claim 1 is also realised in the literal sense in the version according to auxiliary requests 1 to 12.

34 In the defendant's view, a direct infringement of claim 1 is ruled out on the basis of their understanding of the scope of protection, because the contested embodiment does not implement a large part of the features of claim 1. The contested embodiment (undisputedly) only has a valve actuating device, but not the valve that is also required.

35 In the defendant's view, auxiliary requests 1 to 13 each include features in the respective claim 1 that are not realised by the contested embodiment. In particular, the contested embodiment does not have an actuating element that is pluggable within the meaning of the contested patent. The actuating element of the contested embodiment has no cavity and therefore cannot be plugged onto a shut-off body of the valve. There is also no plate. The partially ring-shaped projection of the contested

is wedge-shaped and tapers towards the free-standing tip, so that the thickness in this area is significantly less than in the lower area facing the bottom wall.

36 An indirect infringement of claims 1 and 2 is ruled out due to exhaustion (see below).

Act of use "use"

37 The plaintiff is of the opinion that, in the case of commercial enterprises, any act of offering also creates a risk of infringement for the placing on the market, use, possession and importation. With regard to the alleged infringement of use, there is therefore at least a risk of first-time infringement.

38 The defendants point out that they are distribution companies that distribute goods packaged ready for sale in their respective countries. It is therefore completely implausible and also incorrect that they would use the items within the meaning of patent law. They also never intended to use the contested embodiment themselves.

Realisation of claim combination 12 and 13 of the contested patent

39 The plaintiff is of the opinion that the contested embodiment indirectly infringes the combination of claims 12 and 13 within the meaning of Article 26 EPC. In addition, claim 5 is also indirectly infringed. With regard to the auxiliary requests made in the context of the application for amendment of the patent, the plaintiff is of the opinion that the features of the combination of claims 12 and 13 are also realised in the form of the respective auxiliary requests.

40 The defendants dispute that the features of the combination of claims 12 and 13 are realised in the version of the auxiliary requests. These claims refer back to claim 2/3, formerly claim 4. In this claim, the plaintiff has included some features that are not realised.

Objection of exhaustion

41 The defendants raise the objection of exhaustion under Article 29 EPC. Since the plaintiff markets filter systems consisting of water carafes and filter cartridges, and since the filter cartridges are undisputedly wear parts that are normally expected to be replaced during the service life of the water carafe, the replacement of the plaintiff's filter cartridges with the contested embodiment is merely a normal and permissible maintenance measure for the filter system sold by the plaintiff. The plaintiff's patent rights are therefore exhausted in this respect.

42 Nor is there an exceptional situation in which it can be assumed that the delivery of a wear part (still) constitutes a new manufacture of the patent-protected object. The replaced part, the filter cartridge, does not reflect the technical effects of the invention, which is why the technical or economic advantage of the invention is not

. According to claim 1, the technical teaching of the contested patent is embodied solely in the valve in the outlet opening of a liquid container of a liquid treatment device, which is specified in the claim. The valve actuating device is merely an object for actuating this valve. The claim does not impose any spatial or physical requirements on the valve actuating device beyond its ability to exert a horizontal force component on the valve. The valve actuating device therefore neither embodies an essential element of the inventive concept, since this part is not responsible for the advantages of the patent, nor does the valve actuating device make a decisive contribution to the success of the invention. Nor did the replacement part realise the advantages of the solution according to the invention, since the invention did not influence the functionality or service life of the replacement part.

43 In the defendant's opinion, this view corresponds to the legal situation in Germany, Italy, Austria and France. This is evident, among other things, from the brief expert opinions it commissioned for Italy (Exhibit ES 5), Austria (Exhibit ES 6) and France (Exhibit ES 7).

44 Claims 12 and 13 protect a liquid treatment device. This consists of a liquid treatment cartridge and a liquid container. Claim 13 differs from claims 1 and 2 solely in that it now specifies that the valve actuating device is located on the liquid treatment cartridge. However, this did not alter the fact that the invention still did not lie in the replacement part (the liquid treatment cartridge), but solely in the valve of the liquid container. The above statements on the legal situation regarding exhaustion in the case of replacement of wear parts in Germany, Italy, Austria and France would therefore apply accordingly to the combination of claims 12 and 13.

45 Exhaustion had also occurred with regard to each of the auxiliary requests submitted by the applicant. The newly added features did not make any additional contribution to the invention. Apart from that, it should be taken into account that the applicant had already launched its water filter jugs, including the associated cartridges, on the market. In doing so, it had granted consent to the use of these water filter systems in relation to claims 1 and 12/13 of the contested patent as granted at the time. It could not subsequently restrict this licence by filing corresponding auxiliary requests that limited the patent claim. However, even if one were to assume that a subsequent restriction of the patent claim could also have an impact on previously granted licences (which is not the case), the replacement of the filter cartridges would not constitute indirect patent infringement. This is because even if this were to be regarded as a new manufacture, the subjective component necessary for indirect patent infringement would be lacking. When the defendants placed their cartridges on the market, they simply did not know (and could not have known) that the plaintiff would later limit itself to a claim that (allegedly) did not cover the plaintiff's water filter systems. However, these legal considerations are not decisive in the present case, as the plaintiff's filter cartridges continue to make use of claim 1 in the version of auxiliary requests 3 to 12 and 16.

46 In the plaintiff's opinion, the objection of exhaustion is not valid for various reasons. With regard to claim group A, the objection is unsuccessful because direct realisation of the claim is at issue in this respect.

47 With regard to the indirect patent infringements under claim groups B and C, exhaustion is also ruled out because the contested embodiment results in the new production of the object according to the invention. The technical effects of the inventions are reflected precisely in the use of the contested embodiment. The core idea of the invention of the contested patent is the interaction between the valve actuating device, which applies a horizontal force component, and the valve that can be activated by it. Against this background, the advantage of the invention is therefore realised in part by the "PerfectFit" of the water carafes and in part by the actuating devices on the contested embodiment.

48 The legal opinions submitted by the defendants on the exhaustion defence under Austrian, Italian and French law did not lead to any different assessment with regard to these contracting states. The opinion on the legal situation in Austria, submitted as Annex ES 6, even concedes that the exhaustion defence is not enforceable. The opinions commissioned by the plaintiff on the legal situation in Italy and France (Annexes MB 18, MB 19) conclude that the exhaustion defence is not effective in the present case under the applicable national law.

49 In the plaintiff's view, the exhaustion objection is equally ineffective with regard to claim 1 of the contested patent according to auxiliary requests 1 to 2. If claim 1 in the version of auxiliary requests 3 to 12 were to be used as the basis for the exhaustion test, the exhaustion objection would fail from the outset. This is because the filter cartridges offered and distributed by the plaintiff did not themselves make use of claim 1 in the version of auxiliary requests 3 to 12.

50 Nor is there any exhaustion with regard to auxiliary requests 1 to 15 concerning the combination of claims 12 and 13. In this regard, the plaintiff notes in particular that when asserting a combination of claims, the decisive factor is the technical effect of the asserted combination of claims.

51 Finally, the exhaustion objection also fails with regard to claim 1 of auxiliary request 16. The filter cartridge offered and supplied by it does not realise the features contained therein. When the filter cartridge interacts with the water funnel, the shut-off body does not tip over.

Claims and legal consequences

Injunction A. I. 2 (direct infringement of claim 1 according to the auxiliary requests)

52 The defendants complain that the plaintiff submitted auxiliary requests for the first time in its reply and requested that the injunction be granted "with the proviso that the wording of claim 1 reproduced therein be drafted in accordance with the auxiliary request deemed legally valid by the Chamber

legally valid". Claim 1 of auxiliary request 1 corresponds to subclaim 3 of the granted version. These features are also contained in auxiliary requests 2 to 12 in identical wording. In other words, the plaintiff is now (also) asserting an infringement of subclaim 3 for the first time, under the guise of an auxiliary request. Such a course of action is inadmissible because the plaintiff could and should have asserted claim 3 in the statement of claim. The plaintiff does not even attempt to explain why the amendment to the claim now made could be considered admissible by way of exception in accordance with Rule 263 of the Rules of Procedure, and certainly does not make a corresponding request. Such a request would also be unjustifiable.

Injunctions B I. 1 and C I. 1 (indirect patent infringement)

53 The plaintiff seeks an injunction for indirect patent infringement with a warning notice and a contractual penalty.

54 In the plaintiff's view, the contested embodiment is clearly intended for use with the plaintiff's water carafes. This is unambiguously evident from the defendant's product packaging, where a corresponding instruction for use has been affixed to the front of the packaging in a conspicuous colour and size. In fact, the defendants' intention in doing so was to ensure that the contested embodiment would be used almost exclusively for the plaintiff's systems. The alleged compatibility of the contested embodiment with other water carafes, in particular those from Philips, is not advertised on the front of the packaging and can only be found in the small print.

55 In view of the intended exclusive use of the contested embodiment with the plaintiff's water carafes, the plaintiff considers that an outright prohibition is appropriate. In its opinion, the fact that only the affixing of a warning notice is requested in the present case already constitutes a concession. However, since the use of the contested embodiment is obviously aimed at the patented use with the plaintiff's water carafes, the plaintiff argues that this circumstance should be taken into account with regard to the contractual penalty to be demanded from the customers. Due to the outstanding reputation and popularity of the plaintiff's products, patent infringement would be almost inevitable if the contested embodiments were to be resold. Against this background, the contractual penalty claimed is appropriate in terms of amount and is also absolutely necessary to prevent further patent infringements.

56 The first defendant sells exclusively to commercial customers, such as the second defendant. It should be noted that the managing director of the first defendant and 2) would naturally ignore its own warning notice and that therefore at least a contractual penalty was necessary. Defendants 2) to 4) sold the contested embodiment almost exclusively to commercial customers. The contested embodiment is not aimed at end consumers. It is aimed at customers who own a compatible water carafe such as the plaintiff's water carafe. This naturally includes commercial customers such as companies, and in considerable numbers.

customers such as companies. It is obvious that a single company has a higher demand than a single private end consumer or a household.

57 The defendants argue that the contested embodiment is mainly used without a patent. The filter cartridges are primarily designed for the defendants' water carafes, which are sold under the same brand name as the filter cartridges (Philips). This is evident from the fact that the Philips brand filter jugs also offered by the defendants are always offered and sold as a bundle with several copies of the contested embodiment. The public therefore does not need to be informed that compatibility exists in this respect, as they are aware of this as soon as they purchase a Philips water filter jug. Contrary to what the plaintiff suggests, there is therefore no need for a notice on the front of the packaging of the contested design, as the customer is aware of the compatibility. In addition, both the water filter jugs and the contested design are sold in the same design and under the same brand and are often placed directly next to each other on the shelf. This alone demonstrated compatibility. Contrary to the claimant's assertion, compatibility was also explicitly stated on the packaging of the contested design. The fact that customers were aware of the compatibility was also evident on the Amazon.de website.

58 Furthermore, the filter cartridges also fit into a large number of other water carafes with oval filter inserts available on the market, as indicated on the packaging of the contested embodiment. Customers who purchase the contested embodiment would therefore also use it in water filter jugs from BWT, Klin-Tec, PearlCo, Aquaphor, Weesper, Aqua Select, Agiostar, Costway and Levoit, for example. Combining the contested embodiment with all these filter jugs does not constitute an infringement of the contested patent, as these filter jugs do not have a valve. In addition, it should be noted that the plaintiff only switched to the
"PerfectFit" system. Prior to this, the plaintiff had already been selling water jugs without valves for many years, and these were still widely available to customers. Combining the contested embodiment with these jugs would also not constitute an infringement of the patent in dispute under any circumstances.

59 If anything, therefore, only a warning notice should be considered, rather than an outright ban. Although the applications contained a warning notice, it was worded in such a way that it amounted to an outright ban.

60 In the defendant's view, the claims are incorrectly worded because the use of the filter cartridges without the valve, i.e. outside the protected overall device, is not covered by the protection of the contested patent from the outset. If anything, the filter cartridges may only not be used with the plaintiff's filter systems. However, this is not expressed in the claims. Since the products are aimed exclusively at private end users, the wording of a warning notice proposed by the plaintiff is also objectionable because the wording is incomprehensible to private end users, who do not have specialist knowledge of patent law. The plaintiff would therefore have to at least specify the jugs in which the contested embodiment (allegedly) may not be used.

61 Furthermore, according to the defendants, the obligation sought by the plaintiff to impose a contractual penalty on customers is alien to the UPC. Article 64 EPGÜ does not regulate such a measure. Nor does the plaintiff explain why such a measure should be necessary in this case as an exception. There is no apparent reason for this, especially since such an obligation would make the defendants' products unsaleable. The defendants' customers, who are also private individuals, would not accept such an obligation. The measure would therefore be disproportionate. The amount of the contractual penalty sought is also disproportionate, as it exceeds the value of the products by a factor of 200.

Disclosure of the books (motions A. IV. No. 2 and No. 3)

62 The defendants are of the opinion that the wording of the motions as set out in the reply does not make sense, even after repeated reading. Both motions are therefore completely unclear and thus inadmissible. They are therefore also not admissible.

63 If the applicant were to request disclosure of books in these applications, the application would also be inadmissible for another reason. Disclosure of the books could only be requested in the context of a claim for damages under Rule 131 of the Rules of Procedure. However, no such proceedings are currently pending between the parties. The provision of information under Article 67 of the EPC does not provide for a request for disclosure of books. Nor can such a request be derived from Rule 191 of the Rules of Procedure.

64 According to the defendants, the application is also unfounded. The minimum requirements for such an application include, in particular, a statement of the reasons why the applicant needs access to this information. However, this is lacking.

Applications for a declaratory judgment (applications A. VI, B. V, C. V.)

65 The plaintiff is of the opinion that the declaratory relief it has sought is admissible. Art. 64(2)(a) EPC expressly mentions the determination of patent infringement as an admissible measure. Neither Article 64(2)(a) CPRE nor the Rules of Procedure specify any special requirements for asserting this request for a declaratory judgment. In particular, the interest in a declaratory judgment known from the German system is not mentioned as a requirement and is therefore not automatically transferable to Article 64(2)(a) CPRE. Even if an interest in a declaratory judgment were required, in the plaintiff's view this already follows from the infringement itself.

66 The requests for a declaratory judgment are also specific. Solely for reasons of legal caution, the applicant submitted new versions of the requests concerning the declaration of indirect patent infringement in its reply, which also took into account the auxiliary requests that had been submitted in connection with the request for amendment of the contested patent.

67 The defendants are of the opinion that the plaintiff not only reformulated the claims relating to indirect patent infringement "out of legal caution" . Rather, it had

deleted the application for a positive declaration in all applications (A., B., C.). It is unclear what kind of applications these are supposed to be. The applications are also inadmissible because the plaintiff has not submitted any arguments regarding the requirements for an effective amendment of the claim pursuant to Rule 263.1 VerfO.

68 If these claims were positive declaratory claims, they would be inadmissible. The EPGÜ – and the VerfO – only recognise negative declaratory actions. However, even if a motion for a declaration of patent infringement were to be considered admissible in principle, it would be inadmissible in the present case because the plaintiff had not demonstrated the necessary interest in a declaration and this was also not apparent.

69 However, none of this is relevant in the present case, as the plaintiff lacks at least the general legal interest in bringing the declaratory actions, since the plaintiff is simultaneously filing applications for injunctive relief with the declaratory actions.

C. Counterclaim for annulment

Main claim

70 The defendants are of the opinion that the contested patent is invalid in the scope of claims 1 to 7 and claims 12 and 13, insofar as these refer back to one of claims 4 to 7.

71 In the defendants' view, the subject matter of claims 1 and 4 of the contested patent goes beyond the content of the application as originally filed (Annex ES 10) within the meaning of Article 123(2) EPC (Article 138(1)(c) EPC). Features 2 and 5 (see para. 90), which were added during the opposition proceedings, merely require that the valve actuating device be designed to open the valve by exerting a horizontal force component. The applicant had merely included the operating mechanism in the claims, but not the features of the shut-off body associated with it in the original application. However, the application documents submitted would inextricably link the mode of operation to a specific design of the shut-off body. In particular, this would have to have an eccentrically arranged lever and a cam surface on which the valve actuating device engages. Only this design would produce the effect included in claims 1 and 4. This therefore constituted an inadmissible generalisation of the original disclosure. Furthermore, a proper assessment of the original application would show that the feature added in the opposition proceedings was in fact not disclosed in the original application as belonging to the claimed alleged invention.

72 Furthermore, the subject matter of the patent is not new (Art. 54 EPC in conjunction with Art. 138(1)(a) EPC). Based on the interpretation of claim 1 advocated by the plaintiff, the defendant considers that it is prejudiced in terms of novelty by objects generally known before the priority date, such as pins, plates, rings, balls or sleeves. Furthermore, WO

2005/118104 A 1 (Annex D 1; hereinafter D 1) and WO 2008/058576 A 1 (Annex D 2; hereinafter D 2).

73 However, even based on the correct interpretation, according to which the valve also belongs to the subject matter of claim 1, the subject matter of claim 1 is not patentable in relation to the prior art. In particular, it is not new in relation to D 2, JP 3110210 U (Annex D 3, German translation Annex D 3a, hereinafter D 3 and 3a) and WO 2009/015679 A 1 (Annex D 4, hereinafter D 4).

74 Furthermore, based on DE 196 15 102 A1 (Exhibit D 5), claim 1 is not based on an inventive step and is therefore also invalid (Art. 56 in conjunction with Art. 138 (1) a) EPC). According to the plaintiff's overly broad interpretation, claim 1 would be suggested by a combination of D 1 and D 2. According to the correct interpretation, claim 1 is suggested by JP H08-258895 (Exhibit D 7, German translation Exhibit D 7a). Furthermore, the subject matter of claim 1 would also be suggested to a person skilled in the art on the basis of US 6 524 477 B 1 (Exhibit D 6) in conjunction with D 7.

75 Claim 4 is also invalid. This claim is also inadmissibly broadened. Its subject matter is also disclosed or suggested by citations D 2 to D 7.

76 Claim 12 is also not patentable. A liquid treatment cartridge within the meaning of the claim is in any case apparent from D 3, D 5 and D 6, whereby the cartridges are part of the liquid treatment devices disclosed in the documents. Therefore, insofar as it refers back to claim 4 or 5, the subject matter of claim 12 is not patentable in relation to these documents for reasons analogous to those relating to claims 1, 4 and 5.

77 The plaintiff responds that there is no intermediate generalisation. The sub-feature of the horizontal force component is disclosed as a generally disclosed teaching in the general description of the application documents on page 6, paragraphs 9 to 10. Nor is the sub-feature disclosed as part of a combination of features. Even if it were, there would be no functional and structural connection. The specific design of the shut-off body demanded by the defendants is clearly only a preferred variant. Insofar as the defendants have extended their attack, which was originally directed only at claim 1, to claim 4 in their reply, the plaintiff requests that the extension be disregarded as inadmissible pursuant to Rule 263.1 of the Rules of Procedure.

78 With regard to novelty in relation to commonplace objects, the plaintiff complains that the defendants did not name any specific objects. Insofar as the counterclaim seeks to invoke prior use that is detrimental to novelty, it has not been explained what, when, where, how and by whom exactly it was made available to the public. The abstract geometric basic bodies mentioned do not correspond to any specific objects. The attack is not sufficiently substantiated.

79 All of the claims asserted in the contested patent are new and inventive. The action for annulment must therefore be dismissed.

Application for amendment of the patent

80 In the defendant's opinion, the request for amendment of the patent is inadmissible. It was included in the response to the counterclaim for annulment dated 2 December 2024, but was only uploaded to the correct Rule 30 CMS workflow after a court notice dated 20 January 2025. However, this was done late in accordance with Rule 9.2 of the Rules of Procedure, as such a request must be submitted within two months of service of a statement of defence with the response to the counterclaim for revocation in accordance with Rules 29.1(a) and 30.1 of the Rules of Procedure. The arguments regarding the amended claims should therefore be disregarded. Some of the claims in auxiliary requests 1 to 15 did not meet the requirements of Art. 84 EPC or Art. 123(2) EPC, while others extended the scope of protection in an inadmissible manner pursuant to Art. 123(3) EPC. Furthermore, none of them were patentable.

81 In the defendant's view, the requests submitted in the written statement of 28 February 2025 are also inadmissible. This applies in particular to the newly submitted auxiliary request 16, which, if the proceedings had been conducted carefully, should have been submitted with the response to the counterclaim. Furthermore, the inadmissibility follows from the fact that the granted claims 8 to 11, 14 and 15, as well as claims 12 and 13 with reference to claims 8 to 11, were not challenged in the counterclaim for annulment and thus did not become the subject of the proceedings. Nevertheless, all of the plaintiff's auxiliary requests provided for amendments to these uncontested claims, namely by changing their numbering and, above all, by changing their references. As a result of this change, the claims would refer in particular to amended independent device claims and thus be amended in terms of content. Apart from that, these new auxiliary requests were also not suitable for completely removing the obstacles to the admissibility and patentability of the granted claims.

LEGAL ASSESSMENT

A. Admissibility

82 The infringement action is admissible. The international jurisdiction of the Munich Local Chamber is based on Article 31 EPGÜ in conjunction with Article 71b(1) in conjunction with Article 4, Article 7(2) of Regulation (EU) No 1215/2012 (hereinafter: Brussels Ia Regulation). Pursuant to Article 32(1)(a) of the EPC, the Unified Patent Court (UPC) also has exclusive jurisdiction over actions for actual or threatened infringement of European patents. The jurisdiction of the UPC is not excluded in the present case pursuant to Article 83(3) of the EPC. The plaintiff withdrew from the opt-out declared on 27 May 2023 on 15 April 2024, i.e. before the action was brought, in accordance with Article 83(4) of the UPC Agreement. Since the defendants did not file an opposition within the opposition period, both the jurisdiction of the EPO pursuant to Rule 19(1)(a) of the Rules of Procedure and the jurisdiction of the Munich Local Chamber pursuant to Rule 19(1)(b) of the Rules of Procedure are deemed to have been accepted, Rule 19(7) of the Rules of Procedure.

83 The counterclaim for revocation of the contested patent is also admissible. Pursuant to Art. 32(1)(e) EPC, the EPO has exclusive jurisdiction over counterclaims for

the revocation of (European) patents for which – as in this case – the exception provided for in Art. 83(3) EPC does not apply. The international jurisdiction of the EPO follows from Art. 31 EPC in conjunction with Art. 24(4), 71a(2a) and 71b(1) of the Brussels Ia Regulation.

B. Scope of protection of the contested patent

I.

84 The contested patent relates to a valve actuating device for a valve located in the outlet opening of a liquid container of a liquid treatment device, and also to such a liquid container and a corresponding liquid treatment device (paragraph [0001] of the contested patent specification; paragraphs cited below are those of the contested patent specification).

85 Liquid treatment devices can be, for example, liquid filter devices that are used in particular for filtering water, especially drinking water (para. [0002]). Such filter devices have a liquid container for receiving unfiltered liquid, in the bottom of which an outlet is arranged. A cartridge is arranged in the outlet area, through which the liquid must flow before it leaves the liquid container (para. [0003]).

86 According to the contested patent, a distinction is made between gravity-operated systems and pressure-operated systems. For each system, there are corresponding cartridges and liquid containers with corresponding connection means (para. [0004]). Coffee and espresso machines use so-called suction cartridges, which are inserted into a special water tank that has a valve in the outlet area. When the water tank is inserted into the machine, this valve opens automatically and closes automatically when it is removed, so that residual amounts of water cannot run out of the water tank during transport. The valve is opened, for example, by means of a plunger located in the installation space (para. [0005]). Gravity-operated filter systems use liquid containers to collect the unfiltered water, which usually have a collection chamber in the base into which a filter cartridge can be inserted with its upper edge sealing the chamber. The bottom wall of this receiving chamber has an outlet so that the filtered water escaping from the underside of the filter cartridge can drain into a collection container located below the liquid container (para. [0006]). When the filter cartridge is removed, unfiltered water can flow unhindered into the collection container for filtered water (para. [0007]).

87 According to the explanations in the patent specification, a disadvantage of the known systems is that unfiltered water can enter the liquid path of the filtered water if unfiltered water is accidentally poured into the liquid container before the system is ready for use. This can occur in particular if the liquid container is already installed but the filter cartridge has been forgotten (para. [0008]).

88 The contested patent then acknowledges US 3,561,506 (Exhibit ES 13) as prior art. This document discloses a liquid dispensing device comprising a housing, a reservoir that can be filled with liquid, a container that can be connected to the housing, and an outlet unit connected to the housing. The container comprises an inlet unit and a separate outlet opening or spout. The inlet unit is permanently connected to the container and comprises inlet channel means for directing liquid into the container and sensor means for determining the liquid level in the container. The outlet unit comprises outlet channel means for directing liquid from the reservoir to the inlet channel means and flow control means connected to the outlet channel means. The flow control means operatively engage the sensor means upon connection of the container to the housing to effect fluid flow through the channel means when the fluid level in the container is below a predetermined level. The fluid control means are disconnected from the sensor means by detaching the container from the housing, whereby the flow control means, when disconnected from the sensor means, cause the flow of fluid through the outlet channel means to be prevented (para. [0009]).

89 The contested patent then formulates its task as providing a liquid container with a valve which, in the assembled position and in particular without a treatment cartridge inserted, has a closed outlet opening. It is also the task of the invention to specify a corresponding valve actuating device and a liquid treatment device (para. [0010]).

90 To solve this task(s), the contested patent claims a valve actuating device in claim 1, a liquid container in claim 4 and a liquid treatment device in claim
12 in combination with claim 13. These are characterised by a combination of the following features:

Claim 1

1. Valve actuating device (60) of a valve (20).
    a. The valve (20) comprises a movable shut-off body (24) and a valve seat (23).
        i. The shut-off body (24) is
            1. trapped in a valve chamber (36) and
            2. movable in the valve chamber (36) in the horizontal and vertical directions.
    b. The valve (20) is located
        i. in the outlet opening (18) of a liquid container (5) of a liquid treatment device (1)
        ii. in the closed position when the liquid container (5) is installed in the liquid treatment device (1).
2. When attached to the valve (20) in the closed position, the valve actuating device (60) is designed to open the valve (20) by exerting a horizontal force component.

Claim 4

1. Liquid container (5) of a liquid treatment device (1).
2. The liquid container (5) has an outlet opening (18) and a valve (20) arranged in the outlet opening (18).
3. The valve (20) comprises a movable shut-off body (24) and a valve seat (23).
    a. The shut-off body (24) is trapped in a valve chamber (36) and
    b. can move horizontally and vertically in the valve chamber (36).
4. The valve (20) is in the closed position when the liquid container (5) is installed in the liquid treatment device (1).
5. A valve actuating device (60) is provided which, when attached to the valve (20) in the closed position, is designed to open the valve (20) by exerting a horizontal force component.

Claims 12 and 13

1. Liquid treatment device (1) with a liquid treatment cartridge (40) and with a liquid container (5) according to one of claims 4 to 11.
2. The liquid container (5) has an outlet opening (18) and a valve (20) arranged in the outlet opening (18).
3. The valve (20) comprises a movable shut-off body (24) and a valve seat (23).
    a. The shut-off body (24) is trapped in a valve chamber (36) and
    b. movable in the valve chamber (36) in the horizontal and vertical directions.
4. The valve (20) is in the closed position when the liquid container (5) is installed in the liquid treatment device (1).
5. A valve actuating device (60) is provided which, when attached to the valve (20) in the closed position, is designed to open the valve (20) by exerting a horizontal force component.
6. The valve actuating device (60) is arranged on the liquid treatment cartridge (40).

II.

91 According to Article 69 EPC in conjunction with Article 1 of the Protocol on its interpretation, the patent claim is not only the starting point but also the decisive basis for determining the scope of protection of a European patent. The interpretation of a patent claim does not depend solely on its exact wording in the language

Rather, the description and drawings must always be consulted as aids to interpreting the patent claim and not only used to resolve any ambiguities in the patent claim. However, this does not mean that the patent claim serves merely as a guideline and that its subject matter also extends to what, after examination of the description and drawings, represents the patent holder's claim for protection (Court of Appeal, UPC_CoA_335/2023, order of 23 February 2024; UPC_CoA_1/2024, order of 13 May 2024; UPC_CoA_182/2024, order of 25 September 2024; UPC_CoA_382/2024, order of 14 February 2025; Central Chamber Munich, UPC_CFI_1/2023, decision of 16 July 2024; Local Chamber Paris, UPC_CFI_230/2023, decision of 4 July 2024; Local Chamber Munich, UPC_CFI_233/2023, decision of 31 July 2024; Local Chamber Hamburg, UPC_CFI_54/2023, decision of 26 August 2024; Local Chamber Düsseldorf, UPC_CFI_363/2023, decision of 10 October 2024; Central Chamber Paris, decision of 5 November 2024, UPC_CFI_309/2023; Local Chamber Mannheim, UPC_CFI_340/2023, decision of 31 January 2025; Local Chamber Hamburg, UPC_CFI_58/2024, decision of 19 February 2025). Patent claims and the description explaining them, as well as drawings, are to be interpreted as a meaningful whole.

92 The patent claim must be interpreted from the perspective of a person skilled in the art. When applying these principles, adequate protection for the patent proprietor should be combined with sufficient legal certainty for third parties. These principles for interpreting a patent claim apply equally to the assessment of infringement and the legal validity of a European patent. This follows from the function of patent claims, which, according to the European Patent Convention, serve to define the scope of protection of the patent under Article 69 EPC and thus the rights of the patent proprietor in the designated Contracting States under Article 64 EPC, taking into account the requirements for patentability under Articles 52 to 57 EPC (Court of Appeal, UPC_CoA_335/2023, order of 26 February 2024, UPC_CoA_1/2024, order of 13 May 2024; UPC_CoA_182/2024, order of 25 September 2024; UPC_CoA_382/2024, order of 14 February 2025; Local Chamber Munich, UPC_CFI_443/2024, decision of 25 November 2024).

93 The expert always interprets a feature of a patent claim in the light of the entire claim (Court of Appeal, UPC_CoA_335/2023, order of 26 February 2024, UPC_CoA_1/2024, order of 13 May 2024, UPC_CoA_297/2024 Order of 3 December 2024, UPC_CoA_768/2024, Order of 30 April 2025; Central Chamber Munich, UPC_CFI_1/2023, Decision of 16 July 2024; Local Chamber Munich, UPC_CFI_443/2024, decision of 25 November 2024; Local Chamber Düsseldorf, UPC_355/2023, decision of 28 January 2025). From the function of the individual feature in the context of the entire patent claim, the skilled person will deduce the technical function of the feature individually and in its entirety. With regard to the terminology used in a patent specification, this may lead the skilled person to attribute a meaning to a term that differs from its general usage. The patent specification can define terms independently and thus constitutes its own lexicon (Central Chamber Munich, UPC_CFI_1/2023, decision of 16 July 2024; Central Chamber Paris, UPC_CFI_309/2023, decision of 5 November 2024).

94 The meaning of a sub-claim can, in principle, contribute to the correct interpretation of the main claim, whereby a sub-claim generally only demonstrates the possibility of a particularly advantageous formulation of the main claim (Munich Local Chamber, order of 25 November 2024, UPC_CFI_443/2024). Examples of implementation do not, in principle, limit a more extensive claim (Court of Appeal, UPC_CoA_335/2023, order of 26 February 2024; UPC_CoA_8/2024, order of 13 May 2024; UPC_CoA_523/2024, order of 3 March 2025).

95 Based on the dispute between the parties, this means the following in the present case:

1)

96 Claim 1 of the contested patent protects (only) a valve actuating device, but not an overall device consisting of a valve actuating device and a valve. The mention of the valve in claim 1 is merely a statement of purpose.

97 The skilled person – a university of applied sciences engineer specialising in mechanical engineering with several years of professional experience and relevant knowledge of processes and devices for treating and filtering liquids used in the home – initially arrives at this understanding on the basis of the wording of claim 1. This requires a "valve actuating device for a valve which ...", but not – as in claim 4, for example – a valve actuating device and a valve. Even if the chosen wording is unusual and one might have expected a wording such as "valve actuating device for a valve" or similar would be chosen to express that the valve actuating device alone is the subject of claim 1, it is also clear from the wording chosen and the absence of an "and" conjunction that the valve is merely the object of the claimed valve actuating device. Incidentally, a purely philological interpretation is not required. As always, the literal meaning of a claim is decisive.

98 Subclaims 2 and 3 also support the above understanding. These subclaims are the only claims that refer back to claim 1. They each begin with "Device according to claim ..." and therefore refer only to the "device" according to claim 1, which means that, based on the chosen terminology, only the valve actuating device and not the valve itself can be meant. The contested patent does not contain any sub-claim referring back to claim 1 which specifies the design of the valve in more detail. The valve is further specified in the context of a sub-claim only with reference to the adjacent claim 4, which contains an "and" conjunction.

99 The further systematics of the claims point in the same direction, taking into account the description of the contested patent. According to paragraph [0010], the object of the invention is to provide a liquid container with a valve which, in the assembled position and in particular without a treatment cartridge inserted, has a closed outlet opening. Furthermore, the object of the invention is formulated as providing a corresponding valve actuating device and a liquid treatment device. In accordance with this objective

, the contested patent provides for three subordinate device claims: claim 1 (valve actuating device), claim 4 (liquid container with a valve) and claim 12 (liquid treatment device). The three device claims therefore focus on different components of an overall system and protect them in a subordinate manner.

100 The fact that the valve is not the subject of claim 1 is also made clear to the skilled person by the fact that the liquid container protected in claim 4 has, according to feature 2 of claim 4, a discharge opening (18) and a
(18) arranged valve (20). The valve is therefore part of the liquid container, as described and illustrated in paragraphs [0010] ("Liquid container with a valve"), [0029] ff., [0060] and Figures 1 and 4 ff. The valve covered by claim 4 is further characterised in its design in features 3 and 4 of claim 4, whereby these features correspond in content to features 1a) and 1b) of claim 1. This makes it clear that the valve actuating device (according to claim 1) is intended to interact with the valve, which is part of the liquid container (according to claim 4), which is also apparent in feature 5 of claim 4. The valve is therefore the reference object of the valve actuating device. If, on the other hand, it were assumed that claim 1 protects an overall device consisting of a valve actuating device and a valve, this would conflict to a certain extent with claim 4. Both would claim the valve. Due to the characterisation of the valve as a component of the fluid container, this would also mean that the fluid container would have to be a component of the overall device protected in claim 1. However, this is not apparent and is not claimed by the defendants.

101 Furthermore, claim 1 does not stipulate that the valve actuating device must be located on another device and, if so, where. In line with this, the description explains, in part as preferred embodiments of the adjacent claims, that the valve actuating device (or the actuating element of the valve actuating device) could be designed as an independent component (paras. [0018], [0022], [0028], [0043], [0077] ff.) or as part of a
fluid treatment cartridge (paras. [0017], [0028], [0048], [0067], [0103]) or as a component of the fluid container (paras. [0028], [0044], [0045]). However, the valve actuating device is never described as a component of the valve or as being attached to the valve. The valve is only described as the reference or effective object of the valve actuating device.

102 Based on this understanding, the characterisation of the valve in claim 1 is neither meaningless nor superfluous. Even though the valve itself is not the subject of the claim, but only part of the specification of purpose, the designation of the spatial and physical requirements necessary for the valve contributes to defining the design of the valve actuating device, albeit indirectly. The valve actuating device must be spatially and physically designed in such a way that it can fulfil its assigned function or purpose. As is usually the case, the purpose specified in the claim defines the protected subject matter in such a way that it must be objectively suitable for interacting with the valve in accordance with features 1a and 1b of claim 1. Even if this interaction is possible in a variety of designs of the

valve actuation device is possible, this constitutes a restriction of the valve actuation device. This is because it has not been argued or otherwise shown that valves other than those corresponding to features 1a and 1b do not exist or are not technically conceivable.

103 Insofar as the defendants are of the opinion that claim 1 is neither new nor inventive based on the understanding underlying this case, this is not valid for legal reasons. The basis for the interpretation of a patent is the claim, taking into account the description and drawings of the contested patent. However, whether the interpretation leads to a result in which the patent claim is not legally valid is not a criterion. The question of the legal validity of the (interpreted) claim can only be clarified in the context of a nullity action or a counterclaim for nullity.

104 However, the defendants rightly assume that, when interpreting a patent claim, the recognised state of the art from which the teaching of the patent seeks to distinguish itself must be taken into account. They are also correct in this respect in that, in case of doubt, no meaning should be attributed to the features of the characterising part of a claim if these are found in the prior art from which they are intended to be distinguished. In the present case, however, the distinction from US 3,561,506 (Exhibit ES 13), which is assessed in the contested patent, does not support the assumption that claim 1 can only protect the combination of valve actuating device and valve, because otherwise there would be no difference from the prior art.

105 US 3,561,506 (Exhibit ES 13) discloses a liquid dispensing device comprising a housing, a reservoir that can be filled with liquid, a container that can be connected to the housing, and an outlet unit connected to the housing (para. [0009]). The contested patent does not explicitly criticise this prior art. However, the disadvantages seen in relation to the (other) prior art also apply to US 3,561,506. It is not apparent that this device prevents unfiltered water from entering the liquid path of the filtered water, especially if the container is already installed but the filter cartridge has been forgotten. Nor do the defendants claim this. It is not apparent that US
3,561,506 already eliminates this disadvantage with a valve actuating device according to claim 1 is not apparent.

106 Furthermore, the defendants' argument could only be convincing if the US patent protected a valve actuating device that is objectively suitable for interacting with a valve corresponding to the contested patent, and the patent in dispute seeks to distinguish itself from US 3,561,506 by not limiting itself to the (supposedly already known) valve actuating device, but now seeking to protect a combination of valve actuating device and valve. However, this is not apparent and, in particular, cannot be inferred from Figure 2 of the US patent, to which the defendants refer. Nor do the defendants argue that US 3,561,506 "only" protects a valve actuating device. On the contrary, US 3,561,506 (Exhibit ES 13) discloses a fluid dispensing unit comprising various components, including a valve in the form of a flow control device.

107 In the present case, it is not necessary to decide whether the grant file can be used for interpretation (rejected: Munich Local Chamber, UPC_CFI_443/2024 order of 25 November 2024; Düsseldorf Local Chamber, UPC_CFI_452/2023, order of 9 April 2024; conditionally in favour: Munich Local Chamber, UPC_CFI_292/2023, order of 20 December 2023; left open: Court of Appeal, UPC_CoA_182/2024, order of 25 September 2024). Even if it were taken into account, the international preliminary report (Exhibit ES 14) does not indicate, as the defendants argue, that the contested patent was granted solely because, in the EPO's understanding, the valve is covered by the scope of protection of claim 1.

108 The international preliminary report (Annex ES 14) states that the subject matter of claim 1 differs from the valve actuating device known from US 3,561,506 in that the valve actuating device, when attached to the valve in the closed position, is designed to open the valve by exerting a horizontal force component (p. 1). It goes on to state that the shut-off bodies known from the prior art are only arranged to move in a vertical direction and are also only moved in a vertical direction to open the valve. It is not obvious to modify the valve actuation device of the valve from the prior art in such a way that a horizontal force component is exerted to open the valve (p. 2). Even if the EPO refers to the mobility of known shut-off bodies in its preliminary report, this does not mean that the patent was only granted because the valve is now also the subject of claim 1. The decisive factor on which the EPO bases its decision is the mode of operation of the valve's valve actuating device, in particular the application of a horizontal force component, which in turn requires that the valve's shut-off body must also be horizontally movable. In the EPO's view, the application of the horizontal force component is new and was not suggested. However, this is not necessarily linked to the fact that the valve is also the subject matter of claim 1.

109 For similar reasons, the defendant's reference to statements made by the plaintiff in the opposition proceedings is also unconvincing (Exhibit ES 15). Statements made by the applicant during the grant proceedings may, in principle, be indicative of how a person skilled in the art understands a feature or the claim, so that their consideration in the interpretation is, in principle, unobjectionable. In the present case, however, even with regard to the plaintiff's statements cited in the written submission of 8 November 2013, these do not contain any statement as to whether the valve itself is also the subject of claim 1 or whether "only" the valve actuation device of the valve is protected. In the latter case, the valve is the object of reference and the valve actuating device must be designed in such a way that it can objectively interact with the valve described in more detail. The spatial and physical design of the valve – and how it differs from the prior art – is therefore also relevant.

110 It further follows from the foregoing that the defendant's submission regarding the preliminary opinion of the Opposition Division dated 1 October 2014 (Exhibit MBN 1) is also unsuccessful. Nor can it be inferred from this statement that the EPO regarded the valve as part of the protected subject matter and that the patent was granted or not revoked in the opposition proceedings solely for this reason

. Apart from the fact that the opposition was withdrawn after the preliminary opinion, so that no decision was taken by the Opposition Division, the opinion does not reveal anything more than that the specific design of the valve, which differs from the prior art, is relevant to the design of the valve actuating device. However, this is also the case if "only" the valve actuating device, which must interact with the valve in the manner specified in the claim, is protected.

111 The same applies, finally, to the plaintiff's allegedly contradictory argumentation in the counterclaim for annulment.

2)

112 Claim 1 therefore protects a valve actuating device of a valve in accordance with feature 1. This is to be understood as a spatial-physical device which, as the term itself already indicates, serves to actuate a valve. The valve actuating device therefore serves a specific purpose.

a)

113 The valve to be actuated must be one that has a design in accordance with features 1a and 1b. The valve is designed in such a way that it is in the closed position (feature 1b ii) both when the liquid container is removed and when it is installed, in accordance with the task specified in paragraph [0010]. If untreated liquid is accidentally poured in, it cannot leak out or enter the liquid path of the treated liquid (para. [0013]). Unlike in the prior art, unfiltered water cannot flow unhindered into the collection container for filtered water when the filter cartridge is removed.

114 Since the valve is always in the closed position, a measure is required to release the outlet opening and allow the liquid to flow out (para. [0014] ff.). The outlet opening is released by means of the valve actuating device, which is designed to open the valve when attached to the valve in the closed position. If the valve actuating device is removed or is no longer attached, the valve closes again.

115 The manner in which the valve is actuated is standardised by feature 2 of claim 1. According to this, the valve actuating device is designed to open the valve by exerting a horizontal force component when attached to the valve in the closed position. The claim does not specify how, when and by what means the horizontal force component is exerted. In particular, it does not specify that the valve actuating device (itself) must exert a horizontal force or that the valve actuating device must move horizontally. Rather, it only refers to the application of a component, i.e. part of a force, during attachment and only specifies the direction in which this force component must be applied or act. In view of this, it is also in accordance with the claim, for example, if the valve actuating device is attached to the valve in a vertical direction, if and to the extent that, in this case, a horizontal force component is applied, possibly due to the design of the valve's shut-off body.

horizontal force component is applied. This is confirmed, among other things, by the preferred embodiments shown in Figures 1, 4 and 5. Furthermore, feature 2 does not contain any information on the magnitude of the horizontal force component to be applied. Nor is it necessary to specify this precisely. Any size that fulfils the purpose of exerting the horizontal force component, i.e. opening the valve in the closed position to allow water to flow, is included. Tilting the shut-off body of the valve is sufficient, as paragraphs [0031], [0034], [0068] and [0093] demonstrate.

116 The prerequisite for opening the valve by applying a horizontal force component when attaching the valve actuating device to the valve in the closed position is the mobility of the valve shut-off body in the horizontal and vertical directions, as provided for in feature 1a i 2. This free mobility enables the use of a device that exerts a horizontal force component (para. [0030]). The vertical mobility enables the shut-off body to be lifted, while the horizontal mobility enables it to be "pushed aside". However, patent claim 1 is not limited to exclusively horizontal or vertical movements of the shut-off body. As already mentioned, paragraphs [0031], [0034], [0068] and [0093] explicitly describe tilting of the shut-off body as being in accordance with the invention. Feature 1a i 2. therefore also includes tilting. The claim does not specify the extent to which the aforementioned mobility of the shut-off body must be present and whether one or the other mobility is used first when the horizontal force component is applied. In this respect, too, the only decisive factor is whether the valve is opened.

117 It follows from all of the above that the valve actuating device must be able to interact with a valve in accordance with features 1a and 1b. It must be objectively suitable for opening the valve in accordance with feature 2 when attached to the valve in the closed position by applying a horizontal force component, so that water can flow through the outlet opening.

118 The valve actuating device of the valve can be arranged as a separate component (paras. [0018], [0022], [0028], [0043], [0077]
liquid treatment cartridge (paras. [0017], [0028], [0048], [0067], [0103]) or also be designed as a component of the liquid container (paras. [0028], [0044], [0045]).

119 Claim 1 does not specify the shape or material of the valve actuating device. It may therefore be a device made of rigid or elastic materials and may, for example, have the shape of a pin, a plate, a ring, a sleeve or even a ring-shaped element (paras. [0027], [0049]). The design is only restricted insofar as it must be objectively suitable for interacting with the valve in accordance with features 1a and 1b as explained in order to achieve feature 2.

b)

120 According to subclaim 2, the valve actuating device may have at least one actuating element (para. [0023]). According to subclaim 3, the actuating element is preferably pluggable (para. [0024]), whereby the valve actuating device

can be designed to be plugged in both from above into the outlet opening and from below (para. [0042]).

121 The term "pluggable" is understood by those skilled in the art to mean plugging in, attaching or connecting. This corresponds to the general understanding as can be seen from the dictionary submitted by the parties. The contested patent specification does not indicate any restriction to a specific type of pluggability or to a different understanding. The passages cited in the description merely concern preferred embodiments and do not restrict the broader (subordinate) claim. Apart from that, it is precisely insertion (paras. [0042], [0078], [0086], [0091], [0092]) and plugging in/connecting (paras. [0081], [0083], [0084]) that are described as being in accordance with the invention. The technical meaning of pluggability also does not imply any restriction to a particular type of pluggability. The actuating element is part of the valve actuating device, which is to be attached to the valve in the closed position in order to open the valve by exerting a horizontal force component. The pluggability therefore relates to the valve; it is intended to support the attachment of the valve actuating device to the valve. This is possible with both clip-on and plug-in actuating elements.

3)

122 Claim 4 protects a liquid container of a liquid treatment device (feature 1).

123 The liquid container has a discharge opening and a valve arranged in the discharge opening in accordance with feature 2 of claim 4. The valve is therefore part of the liquid container. Its specific design is defined by features 3 and 4 of claim 4. According to these, the valve comprises a movable shut-off body and a valve seat (feature 3), whereby the shut-off body is captured in a valve chamber (feature 3a) and can move horizontally and vertically within the valve chamber (feature 3b). When the liquid container is installed in the liquid treatment device, the valve is in the closed position (feature 4). Water cannot therefore flow through the outlet opening. This is only possible when the valve actuating device is attached to the valve in the closed position, as it is designed to open the valve by exerting a horizontal force component (feature 5). In this respect, reference can be made to the above explanations.

4)

124 The subject matter of the asserted combination of claims 12 and 13 is a liquid treatment device with a liquid treatment cartridge and a liquid container according to one of claims 4 to 11.

125 A person skilled in the art understands a liquid treatment device within the meaning of feature 1 to be a device that treats a liquid or with which a liquid is treated. This can be, for example, a liquid filter device that can be used in particular for filtering water, especially drinking water (para. [0002]). The liquid treatment cartridge according to feature 1 is inserted into a liquid container

. Liquid flows through it for treatment before leaving the liquid container (paras. [0003], [0006], [0051] et seq.).

126 According to feature 6 of the asserted combination of claims, the valve actuating device, whose mode of operation and function are explained in feature 5 and to which reference can also be made in this regard, is arranged on the liquid treatment cartridge. This means that the valve is opened when the liquid treatment cartridge is inserted (paras. [0017], [0103]). This ensures that only treated liquid can leave the liquid container when untreated liquid is poured into the liquid container.

C. Counterclaim for annulment

127 The counterclaim for annulment is largely successful. The contested patent is largely invalid in its registered form. The alternative request to amend the contested patent is successful in the form of auxiliary request 16.

I.

128 Claims 1 and 4 of the patent in dispute are invalid. Claim 12 of the patent in dispute, on the other hand, is valid.

1)

129 Claim 1 of the contested patent in the registered version is invalid.

a)

130 However, the objection raised by the defendants regarding inadmissible extension is unsuccessful.

aa)

131 Article 138(1)(c) EPC provides that a European patent may be declared invalid with effect for a Contracting State if the subject-matter of the European patent extends beyond the content of the application as originally filed or, if the patent was granted on the basis of a divisional application, beyond the content of the earlier application as originally filed (Art. 123(2) EPC). In order to determine whether there has been an inadmissible extension, it must be ascertained what a person skilled in the art, using their general knowledge and objectively, would immediately and unambiguously derive from the entire application as filed at the time of filing, whereby an implicitly disclosed subject matter, i.e. a subject matter that is clearly and unambiguously derived from what is expressly stated, must also be considered part of the content. If the patent is a divisional application, this requirement applies to each earlier application (Court of Appeal, UPC_CoA_382/2024, order of 14 February 2025; Local Chamber The Hague, UPC_CFI_131/2024, order of 19 June 2024; Local Chamber Düsseldorf, UPC_CFI_363/2023, decision of 10 October 2024; Central Chamber Paris, UPC_CFI_316/2023, decision of 17 January 2025: Local Chamber Mannheim,

UPC_CFI_471/2023, Decision of 6 June 2025; Local Chamber Hamburg, UPC_CFI_173/2024 and 424/2024, decision of 10 July 2025).

bb)

132 On this basis, there is no inadmissible extension of claim 1 of the contested patent. The subject matter of claim 1 does not go beyond the content of the originally filed version of patent application WO 2010/081845 (Annex ES 10).

133 Claim 1 of the patent application relates to a valve actuating device. According to the wording of claim 1, this device is designed to open the valve when attached to the valve in the closed position. The valve actuating device is therefore disclosed as a valve actuating device for opening the valve (Annex ES 10, p. 3, lines 6-7, 16-18, p. 2 line 26). The skilled person also clearly and unambiguously understands from the patent application that the valve is to be opened by applying a horizontal force component from the valve actuating device. In the general description section, on page 6, lines 6 to 8 of the patent application, it is first emphasised that the free mobility of the shut-off body, i.e. its mobility in the horizontal and vertical directions, enables "the use of valve actuating devices or actuating elements acting in the horizontal direction". This is continued in lines 9 to 11, which state that the "shut-off body can be tilted, for example, by applying a horizontal force component to release the valve seat and thus to release the outlet opening." The mode of operation of the valve actuating device is therefore disclosed.

134 Insofar as the defendants argue that this mode of operation is disclosed in the patent application only in combination with a specific design of the valve's shut-off body, namely with an eccentrically arranged lever having a curved cam surface, as belonging to the invention applied for, this cannot be agreed with. On page 6, lines 12 to 14 of the patent application (Exhibit ES 10), it states: "It is therefore preferable that the shut-off body has an element protruding from the valve chamber, which is preferably an eccentric lever." Even though the introductory wording and, in particular, the word "therefore" establish a reference to the previous paragraph, in which the mode of operation is described, this reference is not to be understood in the sense of causality, as assumed by the defendants. The sentence continues and the use of the word "preferably" makes it clear that the design of the shut-off body (now described) is (only) one possible design of the shut-off body, but not a mandatory one. A causal connection in the sense that the application of the horizontal force component only leads to the tilting of the valve seat combined with the release of the outlet opening if the shut-off body has the aforementioned design will therefore not be inferred by a person skilled in the art from this sentence.

135 Furthermore, lines 12 to 14 on page 6 of the patent application (Annex ES 10) initially refer only to an element protruding from the valve chamber, but not to an eccentrically arranged lever. This is described only as a preferred protruding element. Lines 15 to 16 then describe a design of this (only) preferred lever with a cam surface as

"preferably". In this respect, too, it is therefore only a description of a preferred embodiment of a part of a preferred embodiment, but not a mandatory requirement. Accordingly, subclaims 13 to 15 of the patent application (Annex ES 10) also refer (only) to one of the aforementioned preferred embodiments. However, the patent application does not disclose a subclaim or a description containing the combination of all the features mentioned by the defendants.

136 Nor will the skilled person conclude, on the basis of functional or structural relationships, that the patent application discloses the aforementioned mode of operation exclusively in combination with a lever arranged eccentrically on the shut-off body and having a cam surface. First of all, the skilled person recognises that claim 1 of the patent application relates to the valve actuating device, meaning that the valve is (only) the reference object. Furthermore, it is not apparent that, for technical reasons, the claimed valve actuating device can only open the valve by applying a horizontal force component if the valve has a shut-off body to which an eccentrically arranged lever with a cam surface is attached. Rather, the skilled person understands from the original disclosure that a valve can (already) be opened by a valve actuating device by applying a horizontal force component if the valve has a shut-off body that is freely movable, i.e. movable in the horizontal and vertical directions. This is expressly stated in the general description section of the patent application (Annex ES 10) on page 6, lines 4 to 8, and is also found in claim 12 of the patent application. (Only) in this respect is there a functional connection.

137 Nothing else follows from the preferred embodiments described and illustrated in the patent application. It is true that they all show a valve with an eccentrically arranged lever with a cam surface. Nevertheless, they all consistently reveal (only) that the valve actuating device can open a valve by tilting it when a horizontal force component is applied during installation if the valve has a shut-off body that is freely movable. They therefore describe and illustrate the aforementioned functional relationship. However, the skilled person will not derive from them any further functional relationship that is generally valid for the claimed invention. This is because, according to the description on page 18, lines 13 ff., Figures 24 to 32 illustrate embodiments that are inserted from below and thus engage with the disc 26 or the spherical projection 28 shown in the figures.

b)

138 However, the technical teaching of claim 1 of the contested patent is anticipated by the prior art, thereby destroying its novelty.

aa)

139 According to Art. 54(1) EPC, an invention is considered new if it does not form part of the prior art. A technical teaching does not form part of the prior art if it differs from the prior art in at least one of the known features

. Only that which is immediately and unambiguously apparent to a person skilled in the art from the respective publication or prior use is anticipated by the prior art (Court of Appeal, UPC_CoA_182/2024, order of 25 September 2024; UPC_CoA_382/2024, order of 14 February 2025; Central Chamber Munich, UPC_CFI_252/2023, decision of 17 October 2024). Findings that an expert only obtains on the basis of further considerations or the use of additional documents or uses are not prior art (Local Chamber The Hague, UPC_CFI_239/2024, decision of 22 November 2024; Local Chamber Düsseldorf, UPC_CFI_16/2024, decision of 14 January 2025).

140 The burden of proof and presentation for facts concerning the invalidity of a patent lies with the plaintiff in nullity proceedings (Court of Appeal, UPC_CoA_335/2023 order of 26 February 2024), in this case the defendants in the infringement proceedings and plaintiffs in the counterclaim for nullity.

141 On this basis, the invention protected by claim 1 is not new in relation to the prior art cited by the defendants.

bb)

142 However, based on the defendants' submissions, no prior art that would negate the novelty of claim 1 can be identified in the form of generally known objects. Even if the defendants' assumption that objects such as pins, plates, rings, balls and sleeves were generally known on the priority date is correct and such objects may possibly constitute an embodiment of a valve actuating device, the defendants' submission is insufficient. The submission is vague and far too general. The defendants have not identified any specific object and explained in detail which has been used previously and which is suitable as a valve actuating device to interact with a valve in accordance with features 1a and 1b and to apply a horizontal force to it within the meaning of feature 2.

cc)

143 However, the technical teaching of claim 1 is anticipated by D 1 (WO 2005/118104 A 1) in a manner that destroys novelty.

144 In this context, particular importance must be attached to the fact that claim 1 (only) protects the valve actuating device, but not the valve itself. Rather, as explained above, the valve is (only) a reference object. The valve actuating device must (only) be suitable for interacting with a (hypothetical) valve that has the features mentioned in claim 1 and must be designed in such a way that, in accordance with feature 2, it can exert a horizontal force component when attached to such a valve in order to open it. Since, as a result, (only) the valve actuating device with its spatial and physical features suitable for a specific purpose is protected and, with regard to the valve, this is therefore a statement of purpose, the only relevant factor for the novelty test is whether a device with the spatialphysical characteristics as required by the contested patent for the valve actuating device is already disclosed in the prior art. If this is the case, the device is disclosed "as such", regardless of its intended use. Something else only applies if

the device disclosed as such with all its spatial and physical features is unsuitable for the intended purpose of the contested patent or requires modification before it can be used for this purpose.

145 D 1 discloses a device for filtering liquids with a filter cartridge 100 which, as shown in Figure 4 of D 1 below, has an invagination 131 in its bottom wall 112, to which a mandrel 132 is moulded, which extends vertically downwards (Annex D 1, page 19, line 21 ff.).

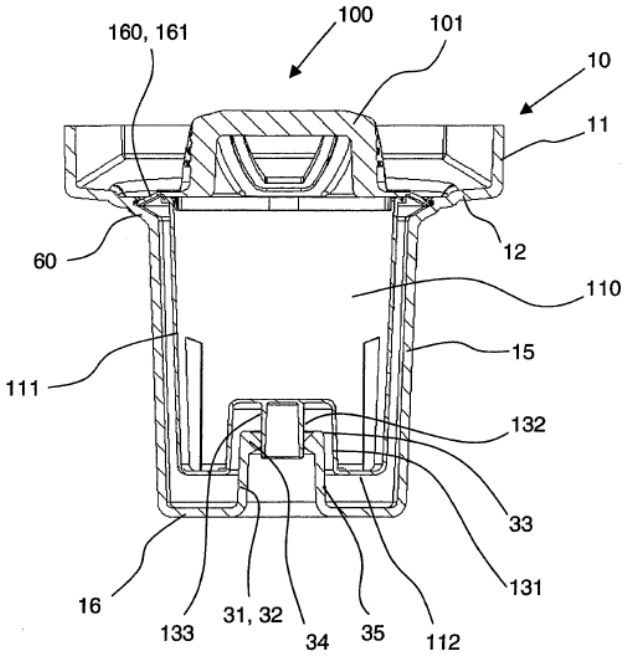


Fig. 4

146 The mandrel 132 of D 1 (undisputedly) discloses the spatial and physical features of the valve actuating device within the meaning of claim 1 of the contested patent. In paragraph [0067] of the contested patent, an annular mandrel (mandrel 62) formed on the underside of an invagination of a filter cartridge is explicitly described as a preferred embodiment of a valve actuating device (see also Figures 1 and 4 of the contested patent). D 1 therefore discloses a valve actuating device "as such". The fact that no valve (with the features 1a and 1b of claim 1) is mentioned in D 1 and/or that the mandrel 132 is not described as a valve actuating device but as a fixing means and guide element which also has a sealing function, and/or that no purpose within the meaning of the contested patent is mentioned in D 1 is irrelevant for the reasons set out above. What is decisive is the disclosure of all the spatial and physical features of the device protected by the patent.

147 The mandrel 132 of the D 1 and the valve actuating device disclosed therein are suitable for the intended use specified in the contested patent. The parties agree that when the filter cartridge 100 of D 1 is inserted from above into a liquid container, in whose outlet opening a valve corresponding to features 1a and 1b is arranged, the annular mandrel 132 can exert a

horizontal force component on the shut-off body of the valve during insertion, causing the shut-off body to be pushed or tilted to the side.

148 Insofar as the plaintiff nevertheless considers this to be insufficient because, when the shut-off body is pushed to the side, no water would flow through the "added" valve due to the design of the indentation 131 shown in D 1 in the bottom of the receiving chamber of the inlet funnel 10 and, in particular, the bead 34 shown there, this is not the correct approach. valve, this is not the correct approach. Even if the plaintiff is to be agreed with in this respect, in that the skilled person does not consider the disclosed mandrel 132 in isolation from the rest of the disclosure of D 1, it is nevertheless irrelevant whether the valve referred to in the contested patent can be "mentally inserted" into the design shown in D 1 (with the specific specifications shown there) and whether this additionally conceived valve would then be opened in a device corresponding to D 1 within the meaning of the contested patent. It is not a question of combining a valve according to the features of the contested patent with the disclosed teaching of D 1. The decisive factor is whether the valve actuating device shown in D 1 is designed in such a way that it can open a valve – possibly only imagined – corresponding to the contested patent by exerting a horizontal force component, so that the outlet opening is opened and water flows through it.

149 This can be assumed. Filter cartridges are usually inserted vertically or perpendicularly into a liquid container, as shown in D 1. When inserted in this way, a mandrel 132 moulded onto the underside of an invagination of the filter cartridge 100 and projecting vertically downwards exerts a vertical force on a valve located in the outlet opening of a liquid container. When the mandrel 132 is attached to the valve, a horizontal force component may also be exerted. When the pin 132 is attached, a horizontal force component can be exerted due to the design of the valve. The valve according to features 1a and 1b of the contested patent can, for example, be one that has a shut-off body with a free, upwardly protruding lever, as shown in all the figures of the contested patent. Such a valve is opened when the filter cartridge of D 1 is inserted vertically with the mandrel 132 shown, as the mandrel 132 engages the free lever. The vertical force exerted by the mandrel 132 causes a horizontal force component to act on the shut-off body. This horizontal force component causes the shut-off body, which can move in both the horizontal and vertical directions, to tilt, with the result that it partially releases the valve seat and water can flow through this opening to a practically usable extent.

dd)

150 Furthermore, the technical teaching of claim 1 is not new in view of D 2 (WO 2008/058576).

151 D 2 discloses a device 1 for preparing a brewed beverage, which comprises a mechanical timer 5. A shaft 7 protrudes from a side of the timer 5 opposite a hand knob 6 and rotates together with the timer about an axis 5'. The timer 5 is housed in a bracket 8, which contains a mounting plate 9 on the side facing away from the hand knob 6, through which the shaft 7 extends. An eccentric 10 is mounted on the shaft 7 and rotates with the shaft 7 around the axis 7'. The bracket 8 forms, together with the timer 5, the mounting plate 9, the

Eccentric 10 and a guide 11 form a unit. The timer 5 is connected via a connecting element 16 to a shut-off device 13, which closes an outlet device 14 from the brewing chamber 3. The shut-off device 13 is attached to one end of the connecting element 16. The end of the connecting element 16 opposite the shut-off device 13 is accommodated in the guide 11 in such a way that the connecting element 16 is centred. Below the guide 11, an actuating element 17 is arranged on the connecting element 16, which is provided with a substantially cylindrical or rotationally symmetrical peripheral surface 17a, with which the actuating element 17 can bear against or engage with the peripheral surface of the eccentric 10. After a set pulling time has elapsed, the shaft 7 is rotated, whereby a region 10b of the eccentric 10 remote from the axis bears against the circumferential surface 17a of the actuating element 17. This pushes the connecting element 16 to the side and places it in a tilted position in which the shut-off device 13 releases the opening 15. In the tilted position, the connecting element 16 is guided in the guide 11 (Exhibit D 2, p. 9, line 3 ff.). For illustrative purposes, Figures 1 and 3 of D 2 are shown below.

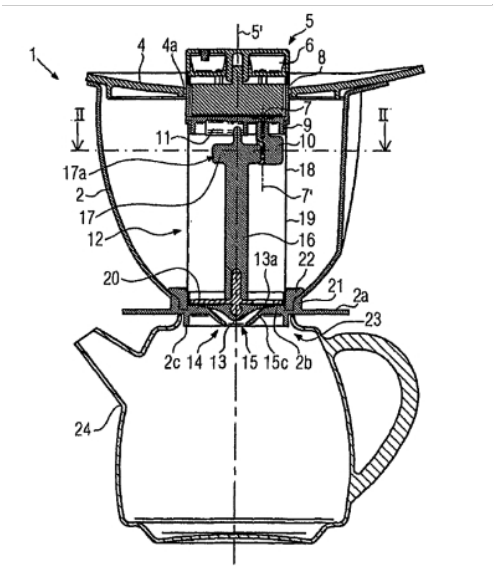


FIG. 1

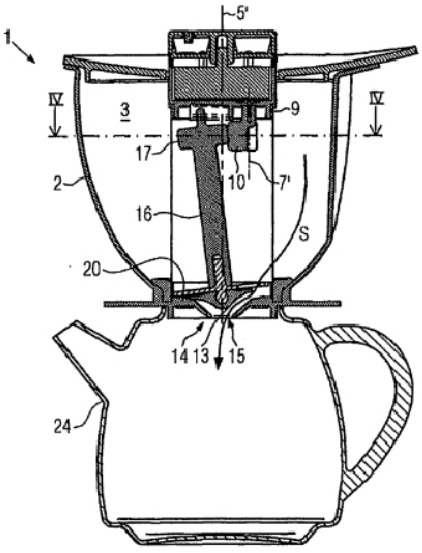


FIG. 3

152 Insofar as the plaintiff objects to D 2 on the grounds that it does not disclose a valve according to features 1a and 1b, this is not valid because D 2 does not have to disclose such a valve in view of the purpose specified in claim 1. Rather, it is sufficient to disclose the protected spatial and physical features of the valve actuating device and that the disclosed device is suitable for the stated purpose (see above, para. 144). Apart from that, D 2 discloses a valve according to the claim.

153 D 2 shows a valve with which the outlet opening 15 of the brewing container 2 can be closed and opened. For this purpose, the valve has a shut-off member 13, which is designed as a sealing gasket and seals the outlet opening 15 (Annex D 2, p. 6, lines 12 ff.). The shut-off member 13 contains an elastically deformable

Part 13a, whose diameter is significantly larger than the diameter of the conical wall part 15a and which thus acts as a valve (Appendix D 2, p. 6, line 18 ff., p. 7, line 1 ff.). The shut-off device 13 is attached to one end of the connecting element 16, at the other end of which an actuating element is arranged (Annex D 2, p. 7, lines 4 ff.). The shut-off device 13, the connecting element 16 and the actuating element 17 thus form a valve body or shut-off body within the meaning of feature 1a, and the conical wall section 15a of the outlet opening 15 of the brewing container 2 forms a valve seat in accordance with feature 1a. The valve or shut-off body is also captured in a valve chamber in accordance with feature 1a i 1, as it is housed in a cylindrical housing 18 which is closed at the top by a mounting plate 9 (drawn without reference marks in Figures 1 and 2, Figure 5 of D 2, p. 7, line 18 ff.).

154 The shut-off body formed by the shut-off member 13, the connecting element 16 and the actuating element 17 is also movable in the horizontal and vertical directions in the valve chamber formed by the housing 18 and the mounting plate 9, in accordance with feature 1a i. 2. of claim 1. With regard to the first-mentioned direction, this is undisputed between the parties. However, vertical mobility must also be assumed. This follows from Figure 3 and the description on page 9, lines 3 ff. of D 2. These show and describe that the connecting element 16, on which the shut-off device 13 and the actuating element 17 are located, can be tilted from a closed position to an open position. The connecting element 16 is pushed to the side and moves into a tilted position. However, this tilted position requires that the valve body be movable in both directions, i.e. vertically and horizontally. A specific range or extent of mobility in these two directions is not necessary. As explained, the only decisive factor is that the valve is opened and water can flow through it. Paragraph [0030] of the description of the contested patent explains that the shut-off body in the valve chamber is movable in the horizontal and vertical directions, and that this free mobility of the shut-off body enables the use of valve actuating devices or actuating elements acting in the horizontal direction. The skilled person understands from this that a horizontal force component causes the shut-off body to tilt. After reading the contested patent, the skilled person will therefore understand the mobility of the shut-off body in the horizontal and vertical directions to mean that the shut-off body can tilt. This is disclosed in D 2. In the tilted position, the shut-off device 13 releases the opening 15 (Annex D 2, p. 9, lines 9, 13 ff. and Figure 3).

155 D 2 also discloses features 1b i. and ii. of claim 1. The valve shown in D 2 is located in the outlet opening 15 of the brewing container 2. The brewing container 2 is a liquid container within the meaning of the contested patent. It is placed on a receiving vessel 24, which receives the prepared beverage (Exhibit D 2, p. 8, lines 15 ff.). Together with the receiving vessel 24, the brewing container 2 forms a liquid treatment device.

156 The D 2 also discloses a valve actuating device within the meaning of feature 1, which is designed in accordance with feature 2. The valve actuating device is the eccentric 10. After rotation of the shaft 7, its axially remote region rests against the peripheral surface 17a of the actuating element 17 (Appendix D 2, Figures 2 and 4), whereby the valve actuating element 16 is pushed to the side and moves into a tilted position, which leads to the opening of the outlet opening 15 (Appendix D 2, p. 9, lines

3 ff. and Figure 3). The eccentric 10 thus actuates the valve and moves it from the closed position to the open position so that water can flow through the outlet opening 15. This is achieved by applying part of the eccentric and exerting a horizontal force component.

2)

157 Claim 4 of the contested patent is not patentable.

a)

158 It can be left open whether the extension of the objection of inadmissible extension to claim 4 of the contested patent, as made in the reply to the counterclaim for annulment, is to be regarded as an extension of the claim within the meaning of Rule 263 of the Rules of Procedure and whether such an extension would be admissible. Even if this were the case, the objection would remain unsuccessful. The considerations set out in relation to claim 1 apply mutatis mutandis.

b)

159 However, the technical teaching claimed in claim 4 is prejudicial to novelty.

160 The novelty is not contradicted by D 3 (JP 3 110 210 U), which relates to a humidifier that uses a valve to close a storage chamber. In any case, this document does not disclose a valve chamber within the meaning of feature 3a of claim 4. Contrary to the defendant's submission, a person skilled in the art would not regard the cylindrical chamber 17 shown in Figures 5 and 6 of D 3, together with the coil spring 25, as such a chamber. The space of the cylindrical chamber 17 is not limited or restricted in any way at the top; rather, the valve body 22 rests on and closes the opening 18 of the cylindrical chamber 17. The coil spring 25 connects to the bottom. However, from the perspective of a person skilled in the art, its interior is not a chamber or a section of one.

161 Similarly, claim 4 is not disclosed in a manner that would destroy novelty by D 4 (WO 2009/015679). This also does not disclose feature 3a in any case. A valve chamber in which a shut-off body is trapped is not shown in Figure 2 of this document, to which the defendants refer. The defendants argue that, in view of Figure 2, the end of lever 18 may be guided through a slot in the base or guide element 21. Even if one assumes that the skilled person sees or reads a slot in Figure 2, a slot in the base or guide element 21 is not a valve chamber within the meaning of the contested patent. Whether, as the defendants argue, it is also an obvious option for the skilled person to arrange the lever 18 in an enclosure in the practical implementation of the filter system according to Figure 2 is irrelevant for the novelty examination. In this respect, a direct and unambiguous disclosure is required.

162 However, claim 4 of the contested patent is anticipated by D 2 in a manner that destroys its novelty. D 2 discloses all the features of claim 4. In order to avoid repetition, reference is made in this regard to the statements in paragraphs 156 to 161.

3)

163 Claim 12 of the contested patent, on the other hand, is patentable. The defendant's attacks on the validity of the patent are unsuccessful in this respect, even though claim 4, to which the claim refers, is not patentable for the reasons stated above.

a)

164 The technical teaching of claim 12, which protects a liquid treatment device with a liquid treatment cartridge and with a liquid container according to one of claims 4 to 11, is new.

165 The defendants do not claim that D 2 discloses a liquid treatment cartridge within the meaning of feature 1 of claim 1. They rely solely on D 3. However, it is not necessary to decide whether D 3 discloses a liquid treatment device according to claim 12. Even if this were the case, it does not disclose the other features, in particular feature 3a. A valve chamber as claimed is not shown.

b)

166 The technical teaching of claim 12 is also based on an inventive step.

aa)

167 According to Art. 56 EPC, an invention is considered to involve an inventive step if it is not obvious to a person skilled in the art from the prior art. This is always a question of the individual case and requires examination taking into account all relevant facts and circumstances. A retrospective approach should be avoided here.

168 Inventive step must be assessed from the perspective of a person skilled in the art on the basis of the entire state of the art, including the general knowledge of the person skilled in the art. It is assumed that the person skilled in the art had access to the entire publicly available state of the art at the relevant time. The decisive factor is whether the claimed subject matter is such that the skilled person would have found it on the basis of his knowledge and skills, for example through obvious modifications of what is already known (Central Chamber Munich, decision of 16 July 2024, UPC_CFI_1/2023; Central Chamber Munich, decision of 17 October 2024, UPC_CFI_252/2023).

169 In order to assess whether a claimed invention was obvious to a person skilled in the art, a starting point in the prior art must first be established. It must be justified why the person skilled in the art would consider a particular part of the prior art to be a realistic starting point. A starting point is realistic if its teaching would have been of interest to a person skilled in the art who, on the priority date of the patent in question, wanted to develop a product or process similar to that disclosed in the prior art and thus had a

similar underlying problem to that of the claimed invention (see Court of Appeal, order of 26 February 2024, UPC-CoA_335/2023 App_576355/2023, p. dd34 at "cc"; Central Chamber Munich, Decision of 16 July 2024, UPC_CFI_1/2023; Central Chamber Munich, Decision of 17 October 2024, UPC_CFI_252/2023; Central Chamber Paris, Decision of 29 November 2024, UPC_CFI_307/2023; Central Chamber Paris, Decision of 26 December 2024, UPC_CFI_338/2023 UPC_CFI_410/2023; Local Chamber Düsseldorf, decision of 10 October 2024, UPC_CFI_363/2023; Local Chamber Düsseldorf, decision of 10 April 2025, UPC_CFI_50/2024; Local Chamber Hamburg, UPC_CFI_173/2024 and 424/2024, decision of 10 July 2025). There may be several realistic starting points. It is not necessary to determine the "most promising" starting point (Central Chamber Munich, decision of 16 July 2024, UPC_CFI_1/2023; Central Chamber Munich, decision of 17 October 2024, UPC_CFI_252/2023; Central Chamber Paris, decision of 5 November 2024, UPC_CFI_315/2024; Central Chamber Paris, decision of 26 December 2024, UPC_CFI_338/2023 UPC_CFI_410/2023).

170 In general, a claimed solution is obvious if the skilled person would be motivated by the state of the art, i.e. had an incentive or reason to consider the claimed solution and implement it as the next step in the further development of the state of the art (Court of Appeal, order of 26 February 2024, UPC_CoA_335/2023 App_576355/2023, p. 34 f.; Central Chamber Munich, decision of 16 July 2024, UPC_CFI_1/2023; Central Chamber Munich, decision of 17 October 2024, UPC_CFI_252/2023; Local Chamber Düsseldorf, decision of 10 October 2024, UPC_CFI_363/2023; Local Chamber Mannheim, Decision of 2 April 2025, UPC_CFI_365/2023; Local Chamber Düsseldorf, Decision of 10 April 2025, UPC_CFI_50/2024. Different approach: Local Chamber Munich Panel 1, Decision of 4 April 2025, UPC_CFI_501/2023). Depending on the facts and circumstances of the individual case, it may be permissible to combine disclosures of the prior art.

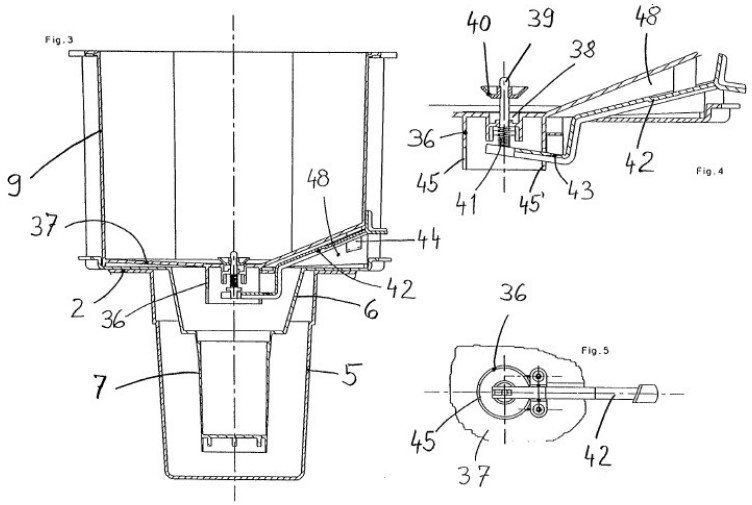
bb)

171 On this basis, it cannot be determined that the technical teaching protected in claim 12 is obvious to a person skilled in the art from the prior art.

172 In their attack on the validity of claim 12, the defendants limited themselves to citing DE 196 15 102 (Exhibit D 5; hereinafter: D 5) and US 6,524,477 B1 (Exhibit D 6; hereinafter: D 6). Otherwise, they referred to their previous statements made in connection with the (alleged) lack of inventive step with regard to claim 1. This does not lead to success.

173 D5 discloses a water purification device which comprises, among other things, a filtrate container 1, a lower cartridge holder 2 with a second funnel neck 3 with a detachably inserted second cartridge 4 and an intermediate chamber 5, an upper cartridge holder 6 with a first funnel neck 7 and a first cartridge 8 detachably inserted therein, and an upper tank 9 with supply means 10. A ring support 36 is attached to a base 37 of the upper tank 9, which is open downwards in the shape of a circular disc. At the top, the ring support 36 is covered by the base 37 except for an outlet opening 38.

closed. The ring support 36 surrounds a valve tappet 39, which holds a valve cone 40 at the top and closes the outlet opening 38 in a [closed] position. A spring 41 tensions the valve cone 40 into the closed position. A valve lever 42 can be rotated about a horizontal axis 43 in such a way that clockwise rotation of the valve lever 42 causes the valve 39-41 to open. In this position, the valve lever 42 can be locked in place by locking means 44. By controlling the shut-off valve, the user can precisely determine when filtration begins, namely when he opens the shut-off valve to allow the raw water to flow down through the outlet opening into the upper cartridge holder. On the other hand, the user can operate the shut-off valve to close the outlet opening and remove the upper tank from the device even when it is still partially filled, for example to fill it completely under a tap or well outlet. This is illustrated below in Figures 3 to 5 of D 5.



174 Even if, in favour of the defendant, it were assumed that D 5 is a realistic starting point in the above sense, which in particular also shows a filter treatment cartridge in accordance with the claim, and if, furthermore, in favour of the defendant, it were assumed that the skilled person would have had reason to consult D 6, and finally, it were assumed that D 5 – as the defendants have stated with regard to claim 1 – displays all the features of the claim except for features 5 and 3b, and therefore only lacks the disclosure of the application of a horizontal force component or the mobility of the valve's shut-off body in the horizontal direction, the combination of D 5 with D 6 does not lead to the solution of claim 12 of the contested patent. According to the defendants' own submission, D 6 does not disclose the aforementioned features either. Consequently, it is not clear under what circumstances it would be obvious to a person skilled in the art to provide a device with features 5 and 3b.

II.

175 The plaintiff has filed an alternative request to amend the contested patent and defends the contested patent in the alternative with the alternative requests 1 to 16, including alternative requests 4A, 6A, 9A and 11A, submitted as annexes to the written statement of 28 February 2025, whereby the alternative requests are submitted in numerical order.

1)

176 The alternative request for amendment of the patent is admissible. In particular, it is not late.

177 The request was included in the response to the counterclaim for revocation, as provided for in Rule 30.1(a) of the Rules of Procedure. The fact that it was not initially resubmitted or submitted separately in the workflow provided for by the CMS is irrelevant in the present case. According to Rule 4.1 sentence 2 of the Rules of Procedure, the parties are "required to use the official forms available online", which is why the workflows specifically provided for in the CMS must be used as a matter of principle. This serves the purpose of inclusion in the electronically managed file, the assignment of the respective pleadings or applications, and, where applicable, also the assurance of "correct" handling by the law firm or the court or the continuation of a workflow, but is in principle only due to the current programming of the CMS. However, the technical implementation in the CMS cannot lead to the requirements of the rules of procedure being tightened and pleadings being disregarded, even though they have been submitted to the file in electronic form in accordance with the rules of procedure, in due form and in due time, and the opposing party has been made aware of them and has been able to comment on them without restriction.

2)

178 If the registered version of the disputed patent is invalid, even in part, the plaintiff defends the disputed patent in the alternative, as it confirmed in the oral hearing upon request, solely in the versions of the total of twenty auxiliary requests in accordance with their numerical order. The auxiliary requests each contain closed sets of claims, which in each case include the subordinate claims 1, 4, 12 and
15 (numbering according to the registered version) in a limited version. The plaintiff therefore only defends the contested patent to a limited extent in accordance with the respective sets of claims. Since the court must decide in accordance with the parties' submissions pursuant to Art. 76(1) EPC, there is no need in the present case to examine whether the subordinate claims of the contested patent in the registered version are to be declared invalid only in part pursuant to Art. 65(3) EPC and, if necessary, upheld by combination with uncontested (sub)claims.

179 The (alternative) defence of the contested patent by means of the closed sets of claims means that the contested patent can only be maintained on the basis of an auxiliary request in which each of the subordinate claims of the contested patent is included in a grantable version. In the present case, this can only be stated for auxiliary request 16.

3)

180 The contested patent cannot be upheld with the set of claims according to auxiliary request 1. In any case, claim 1 in the version of this auxiliary request is not patentable.

181 Claim 1 of auxiliary request 1 (Annex AUX_REQUEST_1) comprises, in addition to the features of granted claim 1, the features of granted claim 2 and granted claim 3, "... wherein the valve actuating device (60), when attached to the valve (20) in the closed position (20) to open the valve (20) by exerting a horizontal force component, wherein the valve actuating device has at least one actuating element (61), wherein the actuating element (61) is pluggable."

182 It can be left open whether this amendment is inadmissible due to a violation of Article 84 EPC. Even if it were admissible, claim 1 in this version also lacks the required novelty. The presence of an actuating element of the valve actuating device, which is also pluggable, is also disclosed in D 1 by means of the mandrel 132 disclosed therein.

4)

183 The contested patent cannot be maintained with the set of claims according to auxiliary request 2 either. Irrespective of all the contentious issues relating to claims 1 and 2 in the version of this auxiliary request (Annex AUX_REQUEST_2), maintenance fails in any case because the auxiliary request, as claim 3, still has the registered claim 4 as its subject matter. Claim 3 of auxiliary request 2 is therefore prejudiced by D 2 in terms of novelty.

5)

184 The contested patent cannot be upheld with the set of claims according to auxiliary request 3 either. In any case, this contains a non-patentable claim 2.

185 Claim 2 of auxiliary request 3 (Annex AUX_REQUEST_3) is based on registered claim 4. In addition, the feature that "the shut-off body (24) is tilted by engaging a horizontal force component to release the valve seat (23) and thus to release the outlet opening (18)" has been included."

186 Notwithstanding the other disputed issues between the parties, it should be noted that D 2 not only discloses all the features of the registered claim 4, but also the release of the outlet opening and the tilting of the shut-off body (see in particular Figure 3). Claim 2 of auxiliary request 3 is therefore not new.

6)

187 For the same reason, the contested patent cannot be upheld with the set of claims according to auxiliary request 4 (Annex AUX_REQUEST_4) or the set of claims according to auxiliary request 4A (Annex AUX_REQUEST_4A). In any case, these sets of claims contain an unpatentable claim 3 and 2, respectively.

188 The sets of claims contain – now as claim 3 and claim 2 – the registered claim 4 with the aforementioned additional feature that the shut-off body (24) is tilted by engaging a horizontal force component to release the valve seat (23) and thus to release the outlet opening (18). However, this claim is anticipated by D 2, which destroys its novelty.

7)

189 The contested patent cannot be maintained with the set of claims according to auxiliary request 5. In any case, the set of claims contains an unallowable claim 1.

190 Claim 1 of the auxiliary request 5 (Annex AUX_REQUEST_5) is on a
"Liquid treatment cartridge for a liquid treatment device (1), comprising a valve actuating device (60) arranged on the liquid treatment cartridge" and also includes the registered claims 2 and 3 as well as the additional feature that the shut-off body has an element protruding from the valve chamber.

191 Claim 1 of auxiliary request 5 is inadmissible. It contravenes Art. 123(3) EPC.

192 According to Art. 123(3) EPC, a European patent may not be amended in such a way as to broaden its scope. The scope of protection defines the extent of a patent in the event of enforcement of rights arising from the patent. Pursuant to Art. 69(1) EPC, the scope of protection of a European patent is determined by the patent claims, which must be interpreted in conjunction with the description and drawings. The patent claims specify the subject matter of the patent, i.e. the technical teaching to be protected. The scope of protection and the subject matter of the patent are therefore not (necessarily) identical.

193 In order to determine whether an extension of the scope of protection can be assumed, it is first necessary to determine the scope of protection of the claim in the registered version. The scope of protection of the amended claim must then be determined and it must be asked whether the amended version extends the scope of protection to something that was not previously covered by the scope of protection in the registered version. In the present case, the latter is to be affirmed. The court does not share the plaintiff's view that claim 1 of auxiliary request 5 merely constitutes a restriction of registered claim 1 due to the arrangement requirement for the valve actuating device.

194 Registered claim 1 relates to a specific device. It contains only a technical teaching relating to a valve actuating device. The design and purpose of the valve actuating device – its suitability for interacting with a valve having the characteristics specified in claim 1 – are the subject of the claim, which does not specify whether the valve actuating device is arranged on another device and, if so, where. The arrangement of the protected device is therefore not part of the technical teaching protected by the claim.

195 A liquid treatment cartridge is a device that must be distinguished from the valve actuating device. The registered claim 1 does not mention the liquid treatment cartridge, which is why the claim does not contain any technical teaching for action in this respect. Specifications or features relating to a liquid treatment cartridge in any form are not included in registered claim 1. Consequently, a combination of a valve actuating device with a liquid treatment cartridge or the arrangement of the valve actuating device on the liquid treatment cartridge is also not the subject of registered claim 1.

196 The scope of protection of the registered claim 1 does not go beyond what has been stated. Its starting point is the patent claim. Consequently, it does not cover a liquid treatment cartridge or a combination of a liquid treatment cartridge and a valve actuating device, nor does it cover the arrangement of the valve actuating device on a liquid treatment cartridge. Nothing else can be inferred from paragraph [0017]. This paragraph describes that the valve actuating device can be arranged, for example, on the liquid treatment cartridge of a liquid treatment device. This embodiment corresponds to the variant separately protected in subclaim 13, with reference to claim 12. In contrast, this arrangement is not covered by the scope of protection of claim 1.

197 Claim 1 of auxiliary request 6, on the other hand, claims not only the valve actuating device but also a fluid treatment cartridge. The inclusion of a second device that was not covered by the scope of protection of the registered claim 1 therefore represents not only the inclusion of an additional feature of the valve actuating device but also an extension of the scope of protection. The protection of claim 1 is not reduced, but extended to a further device. The fact that the device previously protected on its own must be comprised by the second device and arranged on it does not alter this.

8)

198 The contested patent is also invalid with regard to the sets of claims according to auxiliary request 6 (Annex AUX_REQUEST_6), auxiliary request 6A (Annex AUX_REQUEST_6A) and auxiliary request 7 (Annex AUX_REQUEST_7). These sets of claims contain an inadmissible claim 1 in any case. The respective claims 1, like claim 1 of auxiliary request 5, relate to a liquid treatment cartridge. This contravenes Art. 123(3) EPC. Reference can be made to the previous statements.

9)

199 The contested patent is not patentable with the set of claims according to auxiliary request 8 (Annex AUX_REQUEST_8), nor with the set of claims of auxiliary request 9 (Annex AUX_REQUEST_9), nor with the set of claims according to auxiliary request 9A (Annex AUX_REQUEST_9A). In any case, the sets of claims contain an unallowable claim 2 or 3. Claim 2 of auxiliary request 8, claim 3 of auxiliary request 9 and claim 2 of auxiliary request 9A correspond to claim 2 of

auxiliary request 3. The above therefore applies. The aforementioned claims are prejudicial to novelty as they are anticipated by D 2.

10)

200 The contested patent is also not grantable with the set of claims according to auxiliary request 10 (Annex AUX_REQUEST_10), according to auxiliary request 11 (Annex AUX_REQUEST_11), according to auxiliary request 11A (Annex AUX_REQUEST_11A) or according to auxiliary request 12 (Annex AUX_REQUEST_12). The respective claims 1 of these sets of claims are inadmissible.

201 Claims 1 of auxiliary request 10 and auxiliary request 11, as well as 11A and auxiliary request 12, differ in their wording from claim 1 of auxiliary request 5. They are not directed to a "liquid treatment cartridge for a liquid treatment device, comprising a valve actuating device of a valve arranged on the liquid treatment cartridge", but rather to a "valve actuating device (60) of a valve (20), wherein the valve actuating device (60) is arranged on a liquid treatment cartridge
(40) is arranged for a liquid treatment device." However, this different wording does not change anything in substance. The considerations mentioned in relation to claim 1 of auxiliary request 5 also apply here. The scope of protection of the registered claim 1 is impermissibly extended by claim 1 according to auxiliary requests 10, contrary to Article 123(3) EPC. The combination of a liquid treatment cartridge and a valve actuating device is protected.

11)

202 The contested patent is also invalid with the set of claims according to auxiliary request 13 (Annex AUX_REQUEST_13) or according to auxiliary request 14 (Annex AUX_REQUEST_14). Claims 2 and 1 of these sets of claims contain the registered claim 4 unchanged. As already explained, this claim is anticipated by D 2, which destroys its novelty.

12)

203 Finally, the contested patent is also not patentable with the claim set according to auxiliary request 15 (Annex AUX_REQUEST_15).

204 Claim 1 of this auxiliary request is the registered claim 4 with the addition
"that the shut-off body (24) is tilted by engaging a horizontal force component to release the valve seat (23) and thus to release the outlet opening (18)." It therefore corresponds to claim 2 of auxiliary request 3, which is why reference can be made to the above statements. The claim is not new in relation to D 2.

13)

205 The contested patent is to be upheld to the extent of the set of claims according to auxiliary request 16 (Annex AUX_REQUEST_16). The objections raised by the defendants are not valid.

a)

206 Auxiliary request 16 is admissible pursuant to Rule 30.2 of the Rules of Procedure. The defendants were able to comment on this new auxiliary request in their rejoinder to the amendment request. They also made use of this opportunity.

b)

207 Claim 1 of auxiliary request 16 corresponds to the registered claim 13, which refers back to claim 12, and additionally contains the feature that "the shut-off body is tilted by engaging the horizontal force component to release the valve seat and thus to release the outlet opening." In the amended version, claim 1 reads as follows:

> "Liquid treatment device with a liquid treatment cartridge (40) and a liquid container (5),
> wherein the liquid container (5) has an outlet opening (18) and a valve (20) arranged in the outlet opening (18),
> characterised in that
> that the valve (20) comprises a movable shut-off body (24) and a valve seat (23), wherein the shut-off body (24) is trapped in a valve chamber (36) and is movable in the valve chamber (36) in the horizontal and vertical directions,
> that the valve (20) is in the closed position when the liquid container (5) is installed in the liquid treatment device (1),
> and
> that a valve actuating device (60) is arranged on the fluid treatment cartridge, which, when attached to the valve (20) in the closed position,
> (20) to open the valve (20) by exerting a horizontal force component, such that the shut-off body (24) is tilted by engaging the horizontal force component to release the valve seat (23) and thus to release the outlet opening (18)."

aa)

208 The defendant's objection that the inclusion of the additional feature constitutes a violation of Art. 84 EPC and Art. 123(2) EPC is unsuccessful.

209 Any amendment to the contested patent must satisfy the requirements of Article 84 EPC. Under Article 65(2) EPC, the court may only revoke a patent in whole or in part on the grounds specified in Articles 138(1) and 139(2) EPC, meaning that lack of clarity is not a ground for revocation as it is not included in the exhaustive list of grounds for revocation. Consequently, the features of a patent claim contained in the granted version do not have to be examined under Article 84 EPC. However, this does not mean that an amendment to a claim may not be examined in this respect. On the contrary, Rule 30.1(b) PPR requires explicitly that a request for amendment of the patent must include, inter alia, an explanation of why the amendment complies with the requirements of Article 84 EPC. It must therefore be examined whether the amendment introduces a lack of clarity (see Central Chamber Paris, UPC_CFI_309/2023, decision of 5 November 2024 on R. 50.2 RPC).

210 In this case, the defendant's objection in this regard is unfounded. The requirements of Art. 84 EPC are met. Claim 1 of auxiliary request 16 specifies the subject matter for which protection is sought. It is clear and concise and supported by the description. The inclusion of the feature "that the shut-off body (24) is tilted by engaging the horizontal force component to release the valve seat (23) and thus to release the outlet opening (18)" does not give rise to any concerns. This does not result in a lack of clarity. The feature relates to the effect of the valve actuating device on the valve. This is unambiguous.

211 Nor does the additional feature lead to an inadmissible extension pursuant to Art. 123(2) EPC. The feature is disclosed in the patent application (Annex ES 10) on page 3, lines 16 ff., 22 ff.

bb)

212 There is also no inadmissible extension pursuant to Art. 123(2) EPC insofar as claim 1 of auxiliary request 16 refers to valve actuation by a horizontal force component without requiring the shut-off body to have an eccentric lever with a cam surface. To avoid repetition, reference is made to the relevant comments on registered claim 1.

cc)

213 Claim 1 of auxiliary request 16 is also based on an inventive step within the meaning of Article 56 EPC. Even if it were assumed that D 6 was a realistic starting point and that the skilled person would have had reason to refer to JP H08-258895 (Annex D 7, German translation Annex D 7a), the combination of D 6 and D 7 would not lead to the solution of claim 1 of auxiliary request 16. It is not apparent that the combination would have suggested to the skilled person to provide a valve actuating device designed to open the valve when attached to the valve in the closed position by exerting a horizontal force component. D 6 provides no indication in this regard (para. 174). Nor does D 7. When the valve of D 7 is opened, only vertical forces are exerted. The flat receiving portion (12) of the water receiving tray (11) strikes (from below) the flat end (22b) of the receiving portion (12); this exerts a vertical force. This force is counteracted (from above) by the force of the spring (24), which presses the valve shaft (22) downwards at its flat end (22b). This is also (only) a vertical force. Nevertheless, this causes the valve (23) or valve element (21) to tilt due to the protruding portion (25) at the lower end portion of the valve shaft (22). This generates a torque that causes the tilting. In contrast, the application of a horizontal force component when attaching a valve actuating device is not shown or suggested.

c)

214 Claim 10 of auxiliary request 16 is admissible. The fact that claim 10 corresponds to registered claim 15 and that the defendants did not challenge it in their counterclaim for annulment does not preclude its admissibility.

215 However, the defendants rightly point out that, pursuant to Article 76(1) of the EPC, the court is bound by the parties' claims and may not award more than has been claimed. This also applies to a counterclaim for revocation. The subject matter of the dispute is determined by the claims of the counterclaimant for revocation, Article 43 EPC. If the counterclaimant for revocation only partially challenges a patent, the court is not permitted to deal with the unchallenged part. The subject matter of the dispute determined by the claimant for revocation cannot be changed or extended by the counterclaimant for revocation, not even by means of an (alternative) request for amendment of the patent. A patent can only be defended by a defendant in nullity proceedings to the extent that it is challenged by the counterclaimant for nullity. In the absence of a subject matter in dispute, self-restraint with regard to unchallenged claims is inadmissible.

216 Claim 10 of the auxiliary request does not constitute a limitation of an uncontested registered claim. Rather, claim 10 corresponds to the registered claim 15. The fact that it has a different numbering is irrelevant. The replacement of the words "12 to 14" with "previous" and the deletion of "with a filter cartridge" are also harmless. These are merely editorial changes that were made as a result of the revision of the previous claims in the set of claims and avoid duplication. These linguistic changes have no significance in terms of content.

D. Merits of the action

217 The infringement action is partially well-founded.

I.

218 Insofar as the plaintiff or the parties refer in part to several contested embodiments, it should be clarified that only one embodiment is the subject of the dispute.

219 According to Article 43 EPC, the parties determine the subject matter of the proceedings. In the case of an infringement action, the subject matter of the dispute is determined by the plaintiff by means of the claims set out in the statement of claim and the facts presented in support of those claims (Rule 13(1)(g), (k), (l), (n) RPO). The (actual) facts of the case presented by the claimant, together with the claim, specify the legal consequences sought. Accordingly, the facts from which the defendant's actions are to be derived, which are or are to be qualified as an infringement of the patent in dispute, are relevant for determining the subject matter of a patent infringement action (Rule 13(1)(l) RPP). These facts typically include, first and foremost, the actual design of a specific product or process with regard to the features of the asserted patent claim, referred to as the contested embodiment.

220 Even if the mention of a product name, order number, model name or similar may contribute to the identification of an alleged embodiment, which is why it is generally advisable to reproduce this in a statement of claim, the alleged embodiment is not determined solely by the designation, name or number. As explained above, what is decisive is the actual design of the infringing product in relation to the features of the contested patent. It is therefore necessary to present the facts in this respect. A different actual design of a product that is relevant in view of the features of the contested patent therefore leads to different embodiments. This is the case even if the different designs are manufactured, offered and/or distributed under the same designation.

221 On this basis, only one embodiment is the subject of these proceedings. Even though the plaintiff names Philips brand filter cartridges with different designations as infringing, it presents the same actual design for these with regard to the features of the asserted patent claims.

II.

222 No direct patent infringement pursuant to Art. 25 EPC of claim 1 in the version to be upheld in auxiliary request 16 can be established. The contested embodiment is undisputedly not a liquid treatment device with a liquid container.

III.

223 However, the contested embodiment indirectly infringes claim 1 of auxiliary request 16 within the meaning of Article 26(1) EPC.

224 According to Art. 26(1) EPC, a patent confers on its proprietor the right to prevent third parties, without his consent, in the territory of the Contracting Member States in which the patent has effect, persons other than those entitled to use the patented invention to offer or supply means relating to an essential element of the invention for use of the invention in that territory, if the third party knows or ought to have known that these means are suitable and intended for use of the invention. Indirect patent infringement therefore requires the existence of objective and subjective elements.

1)

225 The objective conditions are met in the present case.

a)

226 The contested embodiment is objectively suitable for use in the invention according to claim 1 in the maintained version according to auxiliary request 16. It is designed in such a way that direct use of the protected teaching with all its features is possible by the recipient. When inserting the contested embodiment into the liquid funnel of the

plaintiff's water carafes, a horizontal force is exerted on the "PerfectFit" valve by means of the semi-circular protrusion on the underside of the filter cartridge in such a way that the valve's shut-off body is tilted horizontally and water can flow through the outlet opening. This can be seen in the photographs reproduced in para. 14 et seq. and in Annexes MB 14 and MB 15. Furthermore, this is undisputed between the parties.

227 The contested embodiment is also a means that relates to an essential element of the invention protected by the patent. This can be assumed to be the case if the means is capable of interacting functionally with one or more features of the patent claim in realising the protected inventive concept. What constitutes an essential element of the invention in this sense must be determined on the basis of the subject matter of the invention. Since the patent claim is decisive in determining which subject matter is protected by the patent, all features named in the patent claim are generally essential elements of the invention. This applies regardless of whether they are included in the preamble or in the characterising part of the patent claim. In particular, it is irrelevant whether they relate to the "core" of the invention or whether the essential element of the invention distinguishes the subject matter of the patent claim from the prior art.

228 In the present case, the liquid treatment cartridge is mentioned in claim 1 in accordance with auxiliary request 16. There are no indications that it should nevertheless be regarded as non-essential in this particular case. On the contrary, the liquid treatment cartridge does not play a completely subordinate role in the context of the protected invention. It alone is responsible for treating the liquid within the liquid treatment device and thus fulfils the purpose of the treatment device, namely the treatment or filtration of the liquid filled into the device. Furthermore, the valve actuating device is arranged on it in accordance with the claim, which causes the valve equipped in accordance with the claim to open by exerting a horizontal force component. This force component causes the shut-off body of the valve to tilt, which allows the filtered liquid to flow. If the valve actuating device is not attached to the valve, the valve is in the closed position, which prevents the flow of liquid. Because the valve actuating device is arranged on the liquid treatment cartridge, this opening is performed "automatically" by the valve actuating device when the cartridge is inserted into the liquid treatment device.

229 The defendants offer the contested embodiment in Austria, Germany, France and Italy and also supply it for use of the invention in the territories of the aforementioned contracting member states. The double territorial reference required by Article 26(1) EPCU is therefore given.

230 The defendants offer and supply the contested embodiment even to persons who are not authorised to use the patented invention. This does not preclude the recipients of the offer and purchasers of the contested embodiment from being private end users who, pursuant to Art. 27a EPGÜ, are privileged and cannot themselves be sued for patent infringement on the basis of this privilege. This privilege does not apply to

third parties. According to the legal fiction of Art. 26(3) EPGÜ, private end users are expressly not considered to be entitled to use the invention within the meaning of paragraph 1.

b)

231 Those supplied by the defendants are not entitled to use the invention protected by claim 1 in accordance with auxiliary request 16. The defendants' objection of exhaustion pursuant to Art. 29 EPCU is not valid.

aa)

232 According to Art. 29 EPC, the rights conferred by the European patent do not extend to acts relating to a product protected by the patent after the product has been placed on the market in the European Union by the patent proprietor or with his consent. The right to which the patent proprietor is entitled under the patent is therefore limited throughout the Community if these conditions are met. The lawful acquirer of a product placed on the market by the patent holder or with his consent is entitled to use it for its intended purpose, to sell it to third parties or to offer it to third parties for one of these purposes.

233 Since the concept of exhaustion is expressly regulated in Article 29 of the EPC, there is no need to refer to the national law of the contracting states. Rather, the conditions for exhaustion must be developed independently and autonomously by the EPC itself. The private opinions submitted by the parties on the legal situation in Austria, France and Italy are therefore not decisive, nor is the legal situation in Germany as presented by the parties. The parties themselves agree on this point. However, the private opinions submitted and the legal situation described in Germany show that the concept of exhaustion is implemented in each of the four legal systems mentioned and that there is fundamental agreement on the starting points with regard to the decisive issues in this case. Despite differences in terminology, the same requirements are essentially examined in terms of content.

234 The intended use of a patent-protected product also includes the usual maintenance and restoration of its usability if the functionality or performance of the specific product is wholly or partially impaired or eliminated due to wear and tear, damage or other reasons. However, intended use does not include any measures that result in the reproduction of a patented product. The patent holder's exclusive right to manufacture is not exhausted when a copy of the patented product is placed on the market for the first time.

235 If a part of a patented product is replaced or substituted, it must therefore be examined whether this replacement or substitution constitutes permissible use in accordance with the intended purpose or whether it constitutes an impermissible remanufacture of the patented product. The decisive factor here is whether the replacement or substitution preserves the identity of the specific patented product already placed on the market

or whether it creates a new product in accordance with the invention. This is assessed on the basis of a weighing up of the interests worthy of protection of the patent holder in the economic exploitation of the invention on the one hand and the purchaser in the unhindered use of the specific product according to the invention placed on the market on the other, taking into account the unique nature of the patent-protected product.

236 One factor to be considered in this assessment is whether the replacement or substitution of the part in question can normally be expected during the product's lifetime and whether, as a result, the market or consumers can reasonably expect to be able to continue using the purchased product or to use it multiple times by means of the replacement part. If this is the case, it can generally be assumed that this is a normal maintenance measure and therefore a permissible use of the patented product placed on the market. However, the situation is different in exceptional cases where the technical effects of the invention are reflected precisely in the replacement part. In such cases, the replacement of the part means that the technical and economic advantages of the invention are realised once again and the identity of the patented product originally placed on the market is lost.

bb)

237 On this basis, no exhaustion has occurred in the present case.

238 The plaintiff does sell water filter systems consisting of a water carafe and filter cartridge in some Member States of the European Union, whereby, for example, the system with the designation "Style" contains a MAXTRA PRO ALL-IN-1 filter cartridge in addition to a water carafe with the "PerfectFit" valve system (Annex ES 3). The filter cartridge of the water filter system must also be replaced as intended during the service life of the system. According to the unanimous submission of the parties, the filter cartridge is a wearing part or consumable item that is normally and regularly expected to be replaced. The market and consumers therefore have a legitimate expectation that the water filter system can be used multiple times or continue to be used by replacing the filter cartridge.

239 In accordance with the principles set out above, it could therefore be assumed that this is a normal and thus permissible maintenance measure, unless the technical effects of the technical teaching of claim 1 in the version of the auxiliary request would appear in the replaced (wear) part. Ultimately, however, this question does not need to be clarified. The assumption of exhaustion fails because the filter cartridge offered and distributed by the plaintiff does not itself have the features of a filter cartridge according to claim 1 as amended in auxiliary request 16.

240 Claim 1 according to auxiliary request 16 requires that the shut-off body of the valve, by engaging the horizontal force component (when attaching the valve actuating device to the valve in the closed position), leads to the release of the valve seat and is thus tilted to release the outlet opening. However, the latter cannot be determined. The underside of the filter cartridge offered and distributed by the plaintiff

As can be seen in paragraph 10, the filter cartridge offered and distributed has a sleeve on the underside, on the inner wall of which two slanted guide elements are arranged. When the filter cartridge is inserted into the water carafe, the sleeve grips the shut-off body of the "PerfectFit" system in order to cause the guide elements to engage with corresponding grooves in the shut-off body. This engagement forces the shut-off body to rotate, causing the shut-off body of the "PerfectFit" system to slide over the slanted surfaces attached to the bottom of the valve (highlighted in green in the schematic drawing of the shut-off body shown above) and be lifted from the valve seat. Consequently, no tilting occurs; rather, this is prevented by the sleeve. The valve actuating device on the MAXTRA+ filter cartridge is not designed to actuate the valve by tilting the shut-off body.

241 The defendants' assertion that the valve tilts as soon as the sleeve with the guide elements comes into contact with the valve is unsuccessful. This assertion is based on the premise that the filter cartridge is not inserted completely straight into the water jug. In the present context, which concerns the question of exhaustion, however, only the proper and complete insertion of the filter cartridge into the water funnel is relevant. Only to this extent did the plaintiff place the water filter system on the market with its consent.

2)

242 The subjective elements of indirect patent infringement are present. The contested embodiment is intended for use of the invention in the aforementioned contracting states. In this respect, too, the double territorial reference is given. In addition, the defendants knew that the means they offered and supplied were suitable and intended for use of the invention. Both the intended use on the part of the recipients of the offer or the customers at the time of the offer or delivery and the subjective knowledge of the defendants are evident in the present case from the recommendations for use on the packaging of the contested embodiment. The various packaging explicitly states and advertises the compatibility of the contested embodiment with the plaintiff's water filter systems.

IV. Legal consequences

243 The established patent infringement justifies the legal consequences explained below.

1)

244 Taking into account the circumstances of the case, pursuant to Art. 26 EPGÜ in conjunction with Art. 63(1) EPCU, to continue infringing the contested patent in the version of claim 1 in accordance with auxiliary request 16 (claim B.I.2). However, an unrestricted injunction is not possible in the present case, even though there is a higher probability that the contested embodiment is being used in accordance with the invention.

245 If the contested embodiment can also be used without a patent, as in this case, only a limited prohibition is justified, which ensures that, on the one hand, economic trade in the contested object outside the scope of the property right remains unaffected and, on the other hand, the direct patent-infringing use by the customer is excluded with sufficient certainty. Suitable measures for this purpose include, in principle, warnings to customers not to act in accordance with the patent-compliant teaching without the consent of the property right holder, as well as a contractual cease-and-desist agreement with the customer, which may be linked to the payment of a contractual penalty to the property right holder in the event of a breach of the cease-and-desist agreement. The precautionary measures to be taken by the supplier or provider of a product that can be used both in a manner that infringes the patent and in a manner that is patent-free are determined after weighing up all the circumstances in each individual case. It must be taken into account that the measures must be suitable and sufficient to prevent patent infringements with sufficient certainty, on the one hand, and must not unreasonably impede the distribution of the product for patent-free use, on the other.

a)

246 In the present case, warnings such as those set out in the order below are appropriate and sufficient.

aa)

247 The contested embodiment is offered to commercial customers and delivered to them, who then resell it. This is evidenced in particular by the test purchases carried out by the plaintiff. These were made via online platforms, whereby the platform operators not only acted as service providers or intermediaries, but also as sellers, as evidenced by the invoices submitted to the file (e.g. Annexes MB 10).

248 With regard to commercial customers, a warning notice as requested by the plaintiff must be issued. It is appropriate and sufficient to prevent further infringements of the patent in dispute with sufficient certainty. Commercial customers, who are expected to be aware of the intellectual property rights situation, will already be endeavouring to avoid patent infringement in their own interests. If they are informed in an offer addressed to them that they may not "use" the contested embodiment without the consent of the plaintiff as the owner of the patent in dispute – which in this case apparently means offering and supplying for the purpose of using the invention – they will refrain from further distribution of the contested embodiment or obtain the consent of the plaintiff. No evidence has been presented or is otherwise apparent that could lead to a different conclusion.

249 It has not been argued, nor is it otherwise apparent, that the use of this warning notice is unreasonable for the defendants.

bb)

250 The contested embodiment is also offered to private end users. As a rule, they do not have any knowledge of patent law. For reasons of comprehensibility and, consequently, for reasons of effectiveness and function of a warning notice, a different wording than that used for commercial customers is therefore required. The notice requested by the plaintiff, stating that the contested embodiment "is not for use in liquid containers of the "BRITA" brand with
"PerfectFit" are suitable" is clear and understandable to private end users. If a private end user takes note of this information, they will know what they should and should not do. In particular, they will also know which of the plaintiff's devices are involved. They can easily identify these devices on the basis of the aforementioned valve system, which the plaintiff also advertises. The reasons why the contested embodiment is not suitable for use are irrelevant to them and do not require further explanation.

251 Insofar as the plaintiff also wishes to include in the warning notice that the contested embodiment cannot replace the liquid treatment cartridges of the "BRITA" brand, this cannot be complied with. This addition is (technically) inaccurate. Nor is it necessary, because the warning notice that the contested embodiment is not suitable for use in the "BRITA" brand liquid containers sufficiently ensures that private end users will not purchase the contested embodiment in order to use it in the plaintiff's systems.

252 In order for private end users to be able to read or take note of the warning notice, it must be expressly and conspicuously present in every offer to private end users.

253 It can generally be assumed that private end users will heed warning notices. No circumstances have been presented that would indicate that this is not the case here. Nor has it been argued that the defendants would be unreasonably disadvantaged by the affixing of such a warning notice.

b)

254 However, the contractual penalty requested in the case of delivery to commercial customers is not to be imposed.

255 The enactment of the requested obligation to obtain a written cease-and-desist declaration with penalty clause in favour of the plaintiff is economically equivalent to an unrestricted ban on the distribution of the contested embodiment due to the foreseeable reactions of (potential) commercial customers. This would require special justification, which is not apparent in the present case. The plaintiff has not substantiated that and why a warning notice would be insufficient in the specific circumstances of the individual case to prevent further direct infringements and that the risk of patent-infringing use of the contested embodiment cannot be countered without a contractual penalty. The necessity of a contractual penalty is not apparent.

256 The comment that the managing director of defendants 1) and 2) would of course ignore his own warning notice is nothing more than a blanket assertion.

257 Insofar as the plaintiff argues that the use of the contested embodiment is obviously aimed – due to the explicit advertising on the packaging – at use in accordance with the patent with the plaintiff's water carafes, it is precisely this advertising that is eliminated by means of the warning notice, and the offer to commercial customers also contains a separate warning notice. Apart from that, the defendants have argued that the contested embodiment fits into a large number of other water carafes with oval filter inserts available on the market, as is also indicated in part on the packaging of the contested embodiment. The plaintiff has not specifically countered this argument.

258 The plaintiff's argument that, due to the outstanding reputation and popularity of the plaintiff's products, patent infringement would be almost inevitable if the contested embodiment were to be resold is also unfounded. This is because the defendants cannot be held responsible for this. According to Article 26 of the EPC, they are only liable if, at the time of sale of the contested cartridges, they knew or should have known that the customers would use the cartridges in accordance with the patent. However, the warning notice (on the packaging, among other places) expressly and clearly points out that the contested embodiment should not be used in the plaintiff's products mentioned. Furthermore, there are other water carafes on the market besides those of the plaintiff.

259 Furthermore, the appropriateness of the amount of the contractual penalty claimed has not been demonstrated. The plaintiff's submission in this regard is general. According to the defendant's uncontested submission, the contested embodiment is sold (to private end consumers) for approximately €5 per unit. The minimum contractual penalty of €1,000 demanded by the plaintiff is disproportionate because it is 200 times this price. It is not clear why this should be justified.

3)

260 The defendants are also obliged to provide the plaintiff with information and to render account (claim B.II., B.III.1).

261 The obligation to provide information arises from Article 67 EPGÜ. The information is necessary for calculating and assessing the method by which damages will be sought. In this context, the plaintiff may also request the submission of supporting documents, namely invoices or, if these are not available, delivery notes. The claimant has a legitimate interest in being able to verify the accuracy of the information on a random basis (Local Chamber Düsseldorf, UPC_CFI_7/2023, decision of 3 July 2024; Local Chamber Düsseldorf, UPC_CFI_16/2024, decision of 14 January 2025; Local Chamber Mannheim, UPC_CFI_210/2023, decision of 22 November 2024).

262 The requested auditor's reservation allows for an appropriate balance between the injured party's interest in accurate information and the infringer's legitimate interests in confidentiality. Since the auditor may only act to the extent specified in the decision and is also bound to secrecy vis-à-vis the injured party, the selection may also be made by the plaintiff (Local Chamber Mannheim UPC_CFI_210/2023, decision of 22 November 2024; Local Chamber Düsseldorf, UPC_CFI_16/2024, decision of 14 January 2025).

263 The court understands request B III.2 to mean that no request for disclosure of the books is being made pursuant to Art. 68 EPGÜ in conjunction with R. 131.1 c), R. 141 VerfO – such a request would be rejected at the infringement proceedings stage – but that this request is for the presentation of accounts with supporting documents. Only this corresponds to a reasonable assessment of the application (see also Local Chamber Mannheim UPC_CFI_210/2023, decision of 22 November 2024; Local Chamber Düsseldorf, UPC_CFI_16/2024, decision of 14 January 2025) and also appears in the (unsuccessful) wording of the request.

264 According to Art. 68(3)(a), (b) EPGÜ in conjunction with Rule 191(1) Alt. 2 VerfO, the defendants must already provide information in the infringement proceedings which the plaintiff needs in order to be able to verify the accuracy of the information and obtain evidence for its calculation of damages. This also includes the submission of supporting documents.

265 The information rights provided for in the EPC, as set out in particular in Article 67 EPC and Article 68(3)(a) and (b) EPC in conjunction with Rule 191(1) Alt. 2 RPC, also apply to periods prior to the entry into force of the EPC (Local Chamber Mannheim, UPC_CFI_162/2024, decision of 11 March 2025; Local Chamber Düsseldorf, UPC_CFI_50/2024, decision of 10 April 2025).

4)

266 The determination of the award of damages is based on Art. 26 in conjunction with Art. 68(1) EPGÜ (claim B.IV.). The defendants should have recognised, with due care, that their actions infringed the patent in dispute.

5)

267 The threat of a penalty payment for failure to comply (Art. 63(2) EPC) does not raise any concerns from the point of view of proportionality. The basis for the threat of penalty payments with regard to the provision of information and accounting is Art. 82(1), (4) EPC and Rule 354.3 RPC. The "up to ..." requested by the applicant with regard to the amount of the penalty payment provides the necessary flexibility to take into account the circumstances of the individual case, including the conduct of the infringer, in the event of a possible infringement and, on that basis, to be able to set an appropriate periodic penalty payment in accordance with Art. 82(4) sentence 2 EPC in conjunction with Rule 354.4 RPC.

6)

268 Application B. V. is admissible. In particular, it is neither late nor vague pursuant to Rule 263 of the Rules of Procedure. However, the application for a declaratory judgment is unfounded on the merits.

269 Pursuant to Article 64(1) EPC, the court may, at the request of a plaintiff, order that appropriate measures be taken in respect of products which, according to the findings of the court, infringe a patent and, where applicable, in respect of materials and equipment used principally for the creation or manufacture of those products. Pursuant to Article 64(2), possible appropriate measures include
a) CPEL, the determination of patent infringement. Consequently, the EPO cannot only determine the non-infringement of a patent in the context of a negative declaratory action pursuant to Art. 32(1) b) CPEL. Rather, it also has the power to positively determine patent infringement.

270 However, Art. 64 EPC does not apply to indirect patent infringement. The subject matter of indirect patent infringement pursuant to Art. 26 EPC is a means. This does not in itself fulfil all the characteristics of a patent claim, which is why it is not in itself a product for which patent infringement is established. Only on the basis of the specific act of use and in combination with other means, etc., can the claim be fully realised, so that a patent infringement can then be established. In view of this threat to the patent, the offering and supplying of the means is prohibited; the risk should not be realised and the patent infringement should be prevented. The patent-free use of the means, on the other hand, is (still) permitted.

271 This does not conflict with the powers of the court or the consequences that may be imposed pursuant to Articles 63, 67 and 68 EPCU, even in the case of indirect patent infringement pursuant to Article 26 EPCU. Articles 63, 67 and 68 EPCU are worded differently from Article 64 EPCU. They do not refer to a product that infringes a patent, but to "patent infringement" or "infringer". These provisions therefore focus on the act or the person committing the act. Indirect patent infringement and indirect infringers can easily be subsumed under these terms. The different wording suggests that the term "patent-infringing product" was deliberately used in Article 64 EPC and that the remedies available under Article 64 EPC are limited to this.

272 This is consistent with the fact that the measures listed (non-exhaustively) in Article 64 EPC are not appropriate per se due to the possible patent-free use of the product pursuant to Article 26 EPC.

V.

273 The decision on costs is based on Article 69(2) EPC in conjunction with Rule 118(5) RPD.

VI.

274 Pursuant to Art. 82(2) EPC, Rule 118(8) sentence 2 RPC, the court may make any order or measure subject to the provision of security, the amount of which it shall determine.

275 The order for security for enforcement is therefore at the discretion of the court. The interests of the patent holder in the effective enforcement of its property right must be weighed against the interests in the effective enforcement of

possible claims for damages in the event of a subsequent reversal of the decision (Appeal Court, UPC_CoA_365/2025, order of 21 May 2025; Local Chamber Düsseldorf; UPC_CFI_50/2024, decision of 10 April 2025).

276 It is therefore always necessary to examine each case individually. Factors to be taken into account when deciding whether to order security include the financial situation of the claimant, which may give rise to legitimate and real concerns that a possible claim for damages cannot be enforced and/or executed, or can only be enforced and/or executed at disproportionate expense, if the first-instance decision is set aside or amended. The relevant facts and arguments must be presented by the defendant, who bears the burden of proof in this regard. If such an argument has been made, it is incumbent on the plaintiff to substantiate these facts and reasons, especially since he usually has knowledge and evidence of his financial situation. It is also the plaintiff's responsibility to explain, if necessary, why, despite the reasons put forward by the defendant, his interest in enforcing his property right without security prevails (Court of Appeal, UPC_CoA_365/2025, order of 21 May 2025; Local Chamber Düsseldorf; UPC_CFI_50/2024, decision of 10 April 2025).

277 The defendants have not presented any reasons that would justify making enforcement in the present case dependent on the provision of security. The court therefore refrains from ordering such security for enforcement.

VII.

278 The plaintiff has uncontestedly submitted a value in dispute of €1,000,000.00 for the infringement proceedings. There is no indication that this value in dispute is understated. The value in dispute of the nullity proceedings is therefore, in accordance with clause 2 b) (2)
(ii) of the Administrative Committee's Directive on the determination of court fees and the upper limit for reimbursable costs of 24 April 2023.
. According to this provision, in the absence of relevant information, the value in dispute of a counterclaim for revocation generally corresponds to the value of the infringement action plus 50%.

DECISION:

A.

I. European patent 2 387 547 B 1 is declared invalid with effect for the territory of the contracting member states in which the patent has effect, insofar as its claims extend beyond the following version:

1. Liquid treatment device with a liquid treatment cartridge (40) and a liquid container (5), wherein the liquid container (5) has an outlet opening (18) and a valve (20) arranged in the outlet opening (18), characterised in that the valve (20) comprises a movable shut-off body (24) and a valve seat (23), wherein the shut-off body (24) is trapped in

a valve chamber (36) and is movable in the valve chamber (36), that the valve (20) is in the closed position when the liquid container (5) is installed in the liquid treatment device (1), and that the liquid treatment cartridge a valve actuating device (60) is arranged which, when attached to the valve (20) in the closed position (20) to open the valve (20) by exerting a horizontal force component, such that the shut-off body (24) is tilted by engaging the horizontal force component to release the valve seat (23) and thus to release the outlet opening (18).

2. Liquid treatment device according to claim 1, characterised in that the shut-off body (24) has an element (29) protruding from the valve chamber (36).

3. Liquid treatment device according to claim 2, characterised in that the element (29) is an eccentrically arranged lever (30).

4. Liquid treatment device according to claim 3, characterised in that the lever (30) has a cam surface (32).

5. Liquid treatment device according to claim 3 or 4, 5, wherein the shut-off body (24) has a longitudinal axis (33), characterised in that the lever (30) extends from the cam surface (32) to the longitudinal axis (33) or beyond.

6. Liquid treatment device according to one of claims 3 to 5, 10, characterised in that the lever (30) extends vertically upwards from the shut-off body (24).

7. Liquid treatment device according to one of claims 1 to 6, characterised in that the valve chamber (36) is bounded downwards by the valve seat (23) and upwards by a barrier disc (34).

8. Liquid treatment device according to claim 7, characterised in that the valve seat (23) is formed by a valve seat body (22), wherein the valve seat body (22) delimiting the valve chamber (36) downwards and laterally and the barrier disc (34) delimiting the valve chamber (36) upwards, wherein, in particular, the barrier disc (34) has a slot.

9. Liquid treatment device according to one of the preceding claims, characterised in that the valve actuating device (60) is an annular element (62) or consists of a finger ring.

10. Use of a liquid treatment device according to one of the preceding claims for filtering water, wherein the liquid treatment device is a liquid filter device.

II. In all other respects, the counterclaim for annulment is dismissed.

B.

I. The defendants are prohibited from

1. in Austria and/or Germany and/or France and/or Italy,

liquid treatment cartridges with a valve actuating device, which located on the fluid treatment cartridge,

to be offered and/or supplied when they are suitable for use in

in a liquid treatment device with a liquid treatment cartridge and a liquid container, wherein the liquid container has an outlet opening and a valve arranged in the outlet opening, characterised in that the valve comprises a movable shut-off body and a valve seat, wherein the shut-off body is trapped in a valve chamber and is movable in the valve chamber in the horizontal and vertical directions, in that the valve is in the closed position when the liquid container is installed in the liquid treatment device, and that a valve actuating device is arranged on the liquid treatment cartridge, which, when attached to the valve in the closed position, is designed to open the valve by exerting a horizontal force component, such that the shut-off body is tilted by engaging the horizontal force component to release the valve seat and thus to release the outlet opening,

without

- in the case of offers to commercial customers, expressly and conspicuously indicating in the offer that these liquid treatment cartridges may not be used in a liquid treatment device with the above-mentioned features without the consent of the plaintiff as the owner of EP 2 387 547 B1;

- furthermore, expressly and conspicuously indicating that the liquid treatment cartridges are not intended for use in liquid containers of the "BRITA" brand with "PerfectFit" are suitable.

II. The defendants are ordered

1. to provide the plaintiff with information in an orderly list – insofar as the defendants have the relevant data available – in electronic form regarding the extent to which they have committed the acts described in section B.I since 23 May 2019, specifying:

   a) the individual deliveries, broken down by delivery quantities, -times, -prices and type designations, as well as the names and addresses of the customers,

   b) the individual offers, broken down by offer quantities, times, prices and type designations, as well as the names and addresses of the commercial recipients of the offers,

   c) the advertising carried out, broken down by advertising media, their circulation, distribution period and distribution area, and, in the case of Internet advertising, the Internet addresses, the placement periods and the number of hits,

   d) the production costs broken down by individual cost factors and the profit achieved,

   whereby the list containing the accounting data must be submitted in an electronic form that can be evaluated by means of EDP,

   the defendants reserve the right to disclose the names and addresses of non-commercial customers and recipients of offers to a certified public accountant based in the Federal Republic of Germany, to be designated by the plaintiff and bound to confidentiality towards the plaintiff, instead of to the plaintiff, provided that the defendants bear the costs thereof and authorise and oblige him to inform the plaintiff, upon specific request, whether a particular customer or recipient of an offer is included in the list;

2. to provide the claimant with information on the products referred to in B.I. in a list structured for each month of a calendar year and according to patent-infringing products, starting from 23 May 2019, namely

   a) the origin and distribution channels of the products,

   b) the quantities delivered, received or ordered and the prices paid for the infringing products,

   c) the identity of all third parties involved in the manufacture or distribution of the infringing products,

   whereby the following documents are to be provided for each month of a calendar year from 23 May 2019 onwards as evidence of the information provided under 2. and for each patent-infringing product in

electronic form that can be evaluated using a computer:

invoices, or if these are not available, delivery notes for the individual deliveries, broken down by name and address of the commercial recipients of the sales offers for all products sold or otherwise disposed of.

III. It is hereby determined that the defendants are obliged to compensate the plaintiff for all damages incurred or to be incurred as a result of the actions referred to in B. I. from 23 May 2019 onwards.

IV. In the event of any violation of the orders under B. I. and B II., the defendants shall pay a penalty of up to €250,000.00 to the court.

V. In all other respects, the action is dismissed.

C.

The costs of the infringement action shall be borne by the claimant (50%) and the defendants (50%).

The defendants shall bear 10% of the costs of the counterclaim for annulment and the claimant shall bear 90%.

D.

The value in dispute of the action is set at 1,000,000.00€ . The value in dispute of the counterclaim for annulment is set at 1,500,000.00€ .

E.

The orders in sections B. I. to B. II. shall only be enforceable after the plaintiff has informed the court which part of the orders it intends to enforce and has submitted a certified translation of the orders into the official language of the contracting Member State in which enforcement is to take place, and after the defendants have been served with the notification and the (respective) certified translation.

Presiding Judge Ulrike Voß	Ulrike Voß Digitally signed by Ulrike Voß Date: 21 August 2025 10:23:41 +02'00'
Legally qualified judge Dr Daniel Voß	DanielVoß Digitally signed by Daniel Voß Date: 21 August 2025, 10:35:39 +02'00'
Legally qualified judge Mojca Mlakar	MOJCAMLAKAR Digitally signed by MOJCA MLAKAR Date: 21 August 2025, 10:40:12 +02'00'
Technically qualified judge Dr Marc van der Burg	MARCWILLEM DIRKVanderBurg Digitaal ondertekend door MARC WILLEM DIRK Van der Burg Date: 21 August 2025, 17:39:49 +02'00'

For the Assistant Registrar	Anja Mittermeier Digitally signed by Anja Mittermeier Date: 22 August 2025 08:20:33 +02'00'

INFORMATION ON THE APPEAL

Any party whose claims have been rejected in whole or in part may appeal against this decision to the Court of Appeal within two months of the decision being served (Art. 73(1) EPC, R. 220.1(a), 224.1(a) RPO).

INFORMATION ON ENFORCEMENT

A certified copy of the enforceable decision shall be issued by the Deputy Registrar at the request of the enforcing party, R. 69 RegR.

The decision was announced in open court on 22 August 2025.

Presiding Judge Ulrike Voß	UlrikeVoß Digitally signed by Ulrike Voß Date: 22 August 2025 09:32:27 +02'00'