



**Munich local division**  
**UPC\_CFI\_184/2025**  
**UPC\_CFI\_549/2025**

**Decision**  
**of the Court of First Instance of the Unified Patent Court,**  
**Munich local division**  
**issued on 16 June 2026**

Claimant

**Albert Handtmann Maschinenfabrik GmbH & Co. KG**  
Hubertus-Liebrecht-Str. 10–12 – 88400 – Biberach – DE

represented by: Dr Bernd Allekotte and Dr Elvira Bertram  
(Grünecker Patent and Attorney-at-law Consultants PartG mbB)

supported by: Dr Moritz Höffe and Sabine Gebhardt  
(Grünecker Patent and Attorney-at-law Consultants PartG mbB)

DEFENDANT

**VEMAG Maschinenbau GmbH**  
Weserstraße 32 – 27283 – Verden – DE

represented by: Sönke Scheltz, Harald Förster, Dr Markus Golrad  
(Eisenführ Speiser Patent Attorneys-at-law and Solicitors PartGmbH)

supported by: Markus Schulz and Dr Christian Hanses  
(Eisenführ Speiser Patent Attorneys-at-law and Solicitors PartGmbH)

PATENT AT ISSUE

European Patent No. 3 106 035

PANEL/CHAMBER

Panel 1a of the Munich local division.

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

JUDGES INVOLVED

This decision was issued by the presiding judge, Dr Matthias Zigann, as judge-rapporteur, the legally qualified judge Mojca Mlakar, the legally qualified judge Tobias Pichlmaier and the technically qualified judge Uwe Ausfelder.

LANGUAGE OF THE PROCEEDINGS

German

DATE OF THE ORAL HEARING

22 April 2026

DATE OF PRONOUNCEMENT OF THE DECISION

16 June 2026

FACTS

1. The parties are competitors in the market for food-processing machinery. The defendant manufactures and distributes vacuum filling machines bearing the designations 'DPnx' and 'HPnx' (the contested designs). Each of these features a receiving basket for a sausage-filling trolley. The holding basket, in conjunction with a lifting device, allows the sausage-filling trolley to be tilted so that its contents can be emptied from above into the hopper of the vacuum filling machine:

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

Infringing embodiment 1:



Angegriffene Ausführungsform 2:



The holding basket in each case comprises a blue rubber element. In the contested embodiment, this is connected directly to the U-shaped support structure of the holding basket via a metal strip; in embodiment 2, it is connected via four tabs or webs.

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

2. The claimant is the registered proprietor of European Patent 3 106 035 relating to a receiving basket for a lifting device and a method for feeding a food-processing machine. The patent in suit was filed on 19 June 2015. Notice of grant was issued on 19 September 2018. The patent in suit comprises 18 claims, including a main claim (claim 1) relating to a receiving basket and sub-claims 2 to 7 and 16 to 18, which relate to it directly or indirectly; a dependent claim 10 relating to a lifting device with a receiving basket according to one of claims 1 to 9; a dependent claim 11 relating to a filling machine comprising a lifting device according to claim 10; a dependent claim 12 relating to a sausage-filling trolley, with a sub-claim 13 relating thereto; a dependent claim 14 relating to a method of feeding a food-processing machine with a lifting device according to claim 10, and a sub-claim 15 relating thereto.

The registered claims 1, 10, 11, 12 and 14 read as follows in the language of grant:

Claim 1:

1. Aufnahmekorb (4) für eine Hebevorrichtung (2) einer lebensmittelverarbeitenden Maschine (1), insbesondere einer Füllmaschine, zur Aufnahme eines Brätwagens (5), der als U-förmige Tragstruktur ausgebildet ist,  
**dadurch gekennzeichnet, dass**  
der Aufnahmekorb (4) ein daran befestigtes Dichtelement (7) aufweist, das sich an zumindest eine Außenwand des Brätwagens (5) anlegen kann, wobei das Dichtelement (7) sich zumindest entlang einer der drei Seiten ( $S_1$ ,  $S_2$ ,  $S_3$ ) der Tragstruktur erstreckt, vorzugsweise zumindest entlang der Einkippseite  $S_1$ .

Claim 10:

10. Hebevorrichtung (2) zum Aufnehmen, Anheben und Entleeren eines Brätwagens (5) in eine lebensmittelverarbeitende Maschine (1) insbesondere Füllmaschine, mit einem Antrieb (12), einem Hubelement (3) und einem mit dem Hubelement (3) verbundenen Aufnahmekorb (4) zur Aufnahme eines Brätwagens (5) nach mindestens einem der Ansprüche 1 bis 9 .

Claim 11:

11. Füllmaschine (1) zum Abfüllen pastöser Masse mit einem Trichter (6) zum Einfüllen der pastösen Masse, einem Förderwerk zum Fördern der pastösen Masse in ein Füllorgan, insbesondere Füllrohr und mit einer Hebevorrichtung (12) nach Anspruch 10.

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

Claim 12:

12. Brätwagen (5) zum Beschicken einer lebensmittelverarbeitenden Maschine mit einer Öffnung an der Oberseite, über die der Brätwagen entleerbar ist, insbesondere Füllmaschine (1), **dadurch gekennzeichnet, dass** der Brätwagen (5) an zumindest einer Außenwand ein Dichtelement (7) aufweist, das sich an zumindest einer Seite eines Aufnahmekorbs (4) einer Hebevorrichtung der lebensmittelverarbeitenden Maschine (1) anlegen kann.

Claim 14:

14. Verfahren zum Beschicken einer lebensmittelverarbeitenden Maschine, insbesondere einer Füllmaschine (1), mit einer Hebevorrichtung nach Anspruch 10 mit folgenden Schritten:

- Einschleiben und Befestigen eines mit pastöser Masse gefüllten Brätwagens (5) in einen Aufnahmekorb (4) der Hebevorrichtung (2), der als U-förmige Tragstruktur ausgebildet ist, wodurch sich zumindest zwischen einer Außenwand des Brätwagens (5) und einer entsprechend gegenüberliegenden Seite des Aufnahmekorbs (4) eine längliche Dichtstelle bildet,
- Anheben und Entleeren des Brätwagens (5) in die lebensmittelverarbeitende Maschine (1), insbesondere Füllmaschine, und
- Absenken und Entnehmen des Brätwagens (5).

The patent in suit is in force in the Federal Republic of Germany, Austria, the Netherlands, France and Italy. The Board of Appeal of the European Patent Office has rejected a preliminary objection directed against the patent in suit (Annexes K6–K8, ES2 and ES4).

3. The claimant considers that the embodiments challenged in the action constitute a literal, or alternatively equivalent, direct infringement of claims 1 (including 2, 3, 4 and 6), 10 and 11 of the patent in suit.
4. The defendant contests the claim. In its counterclaim for revocation, it further challenges the validity of the patent in suit in its entirety. It argues that the patent in suit should be declared invalid on the grounds of lack of patentability pursuant to Article 138(1)(a) EPC, Article 65(2) UPC Agreement in conjunction with Article 54 EPC (lack of novelty) or in conjunction with Article 56 EPC (lack of inventive step). The patent is not novel (Article 54 EPC) in relation to ES7 (EP 0 242 820 A1) or in relation to the alleged prior use disclosed in GLASS VSM 300 (set of annexes ES10) and, furthermore, does not involve an inventive step (Article 56 EPC) when starting from ES10 in the light of common general knowledge; when starting from ES8 (US 2,756,883) in the light of

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

ES11 (EP 0 339 375 A1); or, taking ES9 (publication on VSM-F by GLASS) as a starting point in the light of US 2,756,883 (ES8).

5. The Claimant initially defended the patent in suit, inter alia, by means of auxiliary claims 1 to 14 (Exhibit K30). At the hearing, in response to a question from the court, she stated that she was defending the patent in suit primarily to the extent of auxiliary claim 2 (HA 2), as the first auxiliary claim to the extent of the granted version and as the second auxiliary claim to the extent of the previous auxiliary claim 1 (HA 1). The remaining auxiliary claims 3 to 14 remained unchanged. The applications in the infringement action are to be understood accordingly.
6. Patent claim 1 according to the previous auxiliary claim 2 differs from that of the granted version in the following amendments (K30, K31) (see below for the breakdown of features):

Feature 1.5\_HA 1:

wherein the sealing element (7) extends at least along one of the three sides ( $s_1$ ,  $s_2$ ,  $s_3$ ) of the supporting structure, ~~preferably~~ at least along the tilting side  $s_1$ , wherein

Feature 1.6\_HA 2:

~~Receiving basket (4) according to claim 1, characterised in that~~ the sealing element (7) is configured as a sealing strip, which is, ~~in particular,~~ at least partially made of flexible material.

In doing so, the adverb 'preferably' was deleted from feature 1.5 of granted claim 1 (previous auxiliary request 1), thereby making the optional feature 'at least along the tilting side  $S_1$ ' a mandatory feature. Furthermore, the extension corresponding to granted sub-claim 2 – without 'in particular' – was added to the claim. Consequently, sub-claim 2 of the granted version was deleted, and the numbering and cross-references of the remaining sub-claims were adjusted accordingly.

7. The claim was filed on 28 February 2025. The date of service on the defendant is deemed to be 21 March 2025. The written procedure ended on 2 January 2026. An interim hearing took place on 22 January 2026, and the oral hearing on 22 April 2026. The claimant initially contested the defendant's assertion that the VSM300 machine manufactured by GLASS (Exhibit ES10) constituted prior use of the subject-matter of the granted claims. At the hearing, the examination of the witness summoned for this purpose became unnecessary due to the amendments made that day to the applications in defence of the patent in suit (the previous auxiliary application 2 becoming the main application). The witness who appeared was not examined.

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

8. By email dated 5 May 2026, the Claimant informed the Chamber that, following discussions between the parties prompted by the Chamber at the hearing, no amicable settlement had been reached and that a written decision was therefore required.
9. This decision was pronounced at a public hearing on 16 June 2026.

#### APPLICATIONS OF THE PARTIES

#### 10. Action for infringement

The claimant's final claim was as follows:

I. That the defendant be ordered to refrain from

1. a holding basket for a lifting device of a food-processing machine, in particular a filling machine, for holding a sausage-filling trolley which is designed as a U-shaped supporting structure, wherein the holding basket has a sealing element attached thereto which can bear against an outer wall of the sausage-filling trolley, wherein the sealing element extends at least along one of the three sides of the supporting structure, at least along the tipping side  $s_1$ , and the sealing element is designed as a sealing strip which is at least partly made of flexible material,

to be manufactured in the Federal Republic of Germany and/or to be offered for sale, placed on the market or used in the Federal Republic of Germany, Austria, the Netherlands, France and/or Italy, or to be imported or possessed for the aforementioned purposes,

(direct infringement of claim 1 pursuant to HA 2),

in particular where

the flexible material of the sealing element is selected from the group comprising elastomers,

(direct infringement of claim 2 pursuant to HA 2)

in particular where

the sealing element comprises a flexible sealing lip,

(direct infringement of claim 3 according to HA 2)

in particular where

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

the sealing strip is designed in such a way that a channel can form between the receiving basket and the sausage trolley,

(direct infringement of claim 5 according to HA 2)

and/or

2. a lifting device for receiving, lifting and emptying a sausage trolley into a food-processing machine, in particular a filling machine, comprising a drive, a lifting element and a receiving basket connected to the lifting element as per Section I 1 for receiving a sausage trolley

in the Federal Republic of Germany and/or to offer, place on the market or use it in the Federal Republic of Germany, Austria, the Netherlands, France and/or Italy, or to import or possess it for the aforementioned purposes;

(direct infringement of claim 9 pursuant to HA 2)

and/or

3. a filling machine for filling pasty masses, comprising a hopper for feeding the pasty masses, a conveyor for conveying the pasty mass into a filling element, in particular a filling tube, and a lifting device as defined in Section I.2

in the Federal Republic of Germany, and/or to offer, place on the market or use it in the Federal Republic of Germany, Austria, the Netherlands, France and/or Italy, or to import or possess it for the aforementioned purposes;

(direct infringement of claim 10 pursuant to HA 2).

II. The defendant is ordered, within a period of 30 days following service of the notice within the meaning of Rule 118(8), first sentence, of the RoP and, where applicable, the certified translation at its own expense,

1. to recall from commercial customers the products referred to in Section I which have been placed on the market since 19 September 2018, whilst informing them that this Court (judgment of the Munich local division of the Unified Patent Court of &, Case No. &) has found that the products infringe the European patent

3 106 035 held by the Claimant, and whereby the defendant must give a binding undertaking to third parties to reimburse the costs incurred, to cover the packaging and



UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

transport costs, to reimburse the customs and storage costs associated with the return of the products, and to take the products back,

2. and to remedy the infringing nature of the products referred to in Section I which are in its direct or indirect possession or ownership.

III. The defendant is ordered to provide the claimant, within 30 days of service of the notice within the meaning of Rule 118(8), first sentence, of the RoP and, where applicable, the certified translation, with information as to the extent to which it has committed the acts referred to in Section I since 19 September 2018, specifying

1. the origin and distribution channels of the devices referred to in Section I, specifying

a) the names and addresses of the suppliers and other previous owners, and

b) the names and addresses of the commercial customers and the points of sale for which the products were intended;

2. the quantity of products delivered, received or ordered, as well as the prices paid for the products in question;

3. the identity of all third parties involved in the distribution of the products referred to in Section I;

4. the cost price, specifying the individual cost components, and the profit realised,

whereby copies of the relevant purchase documents (namely invoices, or alternatively delivery notes) must be submitted as evidence of the information provided, with details requiring confidentiality being redacted from the data subject to disclosure.

IV. The claimant is permitted to publicise and publish the decision in whole or in part in the media, in which case the defendant shall reimburse the costs of a full-page publication (print) in three specialist media, each at the claimant's discretion, amounting to EUR 15,730.00.

V. In the event of any breach of

1. the decision set out in Section I and

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

2. the orders set out in Sections II and III

the defendants shall pay a recurring penalty payment to the court, the amount of which shall be determined by the court.

VI. It is hereby ordered that the defendant shall compensate the claimant for any damage already incurred and any damage yet to be incurred as a result of the acts referred to in Section I since 19 October 2018, the amount of which is to be determined in subsequent proceedings. The defendant is further ordered to pay, on a provisional basis, EUR 50,000.00 as lump-sum damages.

VII. The defendants are ordered to bear the costs of the proceedings.

With regard to the alternative claims, reference is made to the submitted pleadings and annexes (Annex K21).

The defendant's latest submission was as follows:

I. The claim is dismissed. In

the alternative:

II. The defendant is permitted to carry out a recall, permanent removal from distribution channels and the provision of information within a period of 30 days.

III. The defendant reserves the right, instead of issuing a recall, to bring the contested embodiments into a state that does not infringe European Patent EP 3 106 035 by removing the mounting basket to which the metal strip with the sealing lip is welded and replacing it with a mounting basket that does not have a sealing element, and the removed housing basket, including the sheet metal strip welded to it and the sealing lip, is destroyed.

IV. The decision or order awarding the claimant provisional damages is made conditional upon the claimant providing the defendant with security amounting to 120 per cent of the respective sum to be enforced.

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

## 8. Counterclaim:

### The defendant most recently requested:

European Patent 3 106 035 be declared null and void in its entirety with effect for the territories of the Contracting Parties to the Agreement on a Unified Patent Court in which it enjoys protection, namely with effect for the Federal Republic of Germany, Austria, the Netherlands, France and Italy.

### The claimant's latest claim was:

I. The patent in suit be amended in accordance with the previous alternative claim 2 and upheld on that basis. The counterclaim for revocation be dismissed in all other respects.

II. The defendant (and counter-claimant) is ordered to pay the costs of the counter-claim for revocation.

In the alternative:

III. The patent in suit be amended in accordance with one of the new alternative claims 1–14 and upheld on that basis.

### POINTS AT ISSUE

9. The main point of dispute between the parties is the correct interpretation of the features 'sealing element' and 'extension along the supporting structure'.

10. The parties continue to hold differing views as to whether the subject-matter of the patent in suit, as set out in the previous auxiliary claim 2, is novel or was suggested by the prior art.

### REASONS

#### *Subject-matter of the patent in suit*

11. In its granted form, the patent at issue relates to a receiving basket for a lifting device for receiving, lifting and emptying a sausage-filling trolley in accordance with the general term of claim 1. The patent at issue further relates to a lifting device according to claim 10 with a receiving basket connected to its lifting element as defined in at least one of claims 1 to 9, a filling machine with a lifting device according to claim 10, a sausage-filling trolley according to claim 12 and a method according to claim

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

14 for loading a food-processing machine with a lifting device as per claim 10.

12. In the food industry, lifting devices are used to feed food-processing filling machines or cutters. These lifting devices are usually designed as boom-type or mast-type lifting mechanisms and can be mounted on a machine, such as a filling machine or a cutter, or designed as a stand-alone unit. These lifting devices are designed to accommodate containers, some of which are standardised, known as sausage-filling trolleys. The sausage trolleys are fitted with castors. Typically, the sausage trolley is positioned within the lifting device's receiving unit in such a way that it is securely locked in place to prevent it from falling out, i.e. it is held in a fixed position and can be raised by the lifting device above the filling hopper of a filling machine. There, the sausage trolley is then tilted and its contents emptied into the filling hopper. Subsequently, the sausage trolley is returned to its starting position by the lifting device and removed by the operator by releasing the locking mechanism on the lifting device. When feeding cutters, the cutter bowl is loaded in the same way (patent specification, para. [0002]). During the transport of the full sausage trolleys to the machine across the usually wet floor, the wheels and underside of the trolley pick up contaminated splash water from the floor. During the loading process, the sausage-filling trolley is positioned upside down above the opening of the filling hopper. In this position, splash water or condensation on the underside of the trolley and in the wheel area can run down the outer walls of the container and enter the filling hopper, thereby contaminating the contents (paragraph [0003]).
13. According to the patent specification, DE 195 00 326 A1 (K9) already discloses a lifting device with a cover in the form of a hinged hood, designed to prevent contaminants from the sausage-filling trolley entering the hopper. The cover comprises several hinged plates that rest against the upper edge of the sausage-filling trolley. A particular disadvantage here is the hygiene of the hinged mechanism, as well as the high effort involved and the high manufacturing costs. Furthermore, there are additional risks due to the danger of body parts, e.g. fingers, becoming trapped or crushed. Moreover, the cover device is only suitable for a specific type of sausage-making trolley in each case (para. [0004]). US 2005/0269364 A1 (K10) discloses a device for emptying a refuse container, in which an opening in the lower region is to be sealed against an opening in a hopper (para. [0005]).
14. Building on this, the patent in suit sets out as its objective to provide a receiving basket or lifting device, as well as a corresponding method, which, during the loading process, prevent contamination of the food by splash water from the floor in a simple, reliable and cost-effective manner (paragraph [0006]).
15. As a solution [0007], the patent at issue proposes, in granted claims 1, 10, 11, 12 and 14, a collection basket (claim 1), a lifting device (claim 10), a

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

filling machine (claim 11), a sausage-filling trolley (claim 12) and a method (claim 14), the features of which can be categorised as follows:

Claim 1:

- 1.1 A holding basket (4) for a lifting device (2) of a food-processing machine (1), in particular a filling machine,
- 1.2 for receiving a sausage-filling trolley (5) which is designed as a U-shaped support structure,
- 1.3 characterised in that the holding basket (4) comprises a sealing element (7) attached thereto,
- 1.4 which can bear against at least one outer wall of the sausage-filling trolley (5),
- 1.5 wherein the sealing element (7) extends at least along one of the three sides ( $s_1$ ,  $s_2$ ,  $s_3$ ) of the supporting structure, preferably at least along the tipping side  $s_1$ .

Claim 10:

Lifting device (2) for receiving, lifting and emptying a sausage trolley (5) into a food-processing machine (1), in particular a filling machine, comprising a drive (12), a lifting element (3) and a receiving basket (4) connected to the lifting element (3) for receiving a sausage trolley (5) according to at least one of claims 1 to 9

Claim 11:

Filling machine (1) for filling with a paste-like mass, comprising a hopper (6) for feeding the paste-like mass, a conveyor mechanism for conveying the paste-like mass into a filling element, in particular a filling tube, and a lifting device (12) as per claim 10.

Claim 12:

Sausage-filling trolley (5) for feeding a food-processing machine, comprising an opening on the upper side through which the trolley can be emptied, in particular a filling machine (1), characterised in that the sausage-filling trolley (5) comprises, on at least one outer wall, a sealing element (7) which can be brought into contact with at least one side of a receiving basket (4) of a lifting device of the food-processing machine (1).

Claim 14:

A method for feeding a food-processing machine, in particular a filling machine (1), with a lifting device according to claim 10, comprising the following steps:

- inserting and securing a sausage-filling trolley (5) filled with a paste-like mass into a receiving basket (4) of the lifting device (2), which is designed as a U-shaped support structure, thereby forming an elongated sealing point at least between an outer wall of the sausage-filling trolley (5) and a correspondingly opposite side of the receiving basket (4),
- Lifting and emptying the sausage-filling trolley (5) into the food-processing machine (1), in particular a filling machine, and
- Lowering and removing the sausage-filling trolley (5).

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

16. In the version of the previous auxiliary claim 2 (HA 2), which the Claimant raised at the hearing on the main claim, the structured form of the now valid claim 1 reads as follows (changes from the granted version are indicated by the court by striking through or underlining):

Claim 1 according to HA 2:

- 16.1 A holding basket (4) for a lifting device (2) of a food-processing machine (1), in particular a filling machine,
- 16.2 for receiving a sausage-filling trolley (5) which is designed as a U-shaped supporting structure,
- 16.3 **characterised in** that the receiving basket (4) comprises a sealing element (7) attached thereto,
- 16.4 which can bear against at least one outer wall of the sausage-filling trolley (5),
- 16.5 wherein the sealing element (7) extends at least along one of the three sides ( $s_1$ ,  $s_2$ ,  $s_3$ ) of the supporting structure, ~~preferably~~ at least along the tilting side  $s_1$ ,
- 16.6 wherein the sealing element (7) is designed as a sealing strip, which is, in particular, at least partially made of flexible material.

*Person skilled in the art*

17. The person skilled in the art responsible for the subject-matter of the invention holds a degree in mechanical engineering from a university of applied sciences, having graduated with a Dipl.-Ing. (FH) or Bachelor (B.Eng) qualification, and has several years' experience in the design and development of filling machines for the food processing industry, including associated lifting devices and receiving baskets.

*Interpretation of the patent in suit*

18. Some features require explanation.

19. **Claim 1.1** merely claims the **receiving basket** for a lifting device of a food-processing machine; it does not, therefore, claim the lifting device or the machine itself. The receiving basket need only be suitable for the lifting device and does not (yet) need to be attached to it.

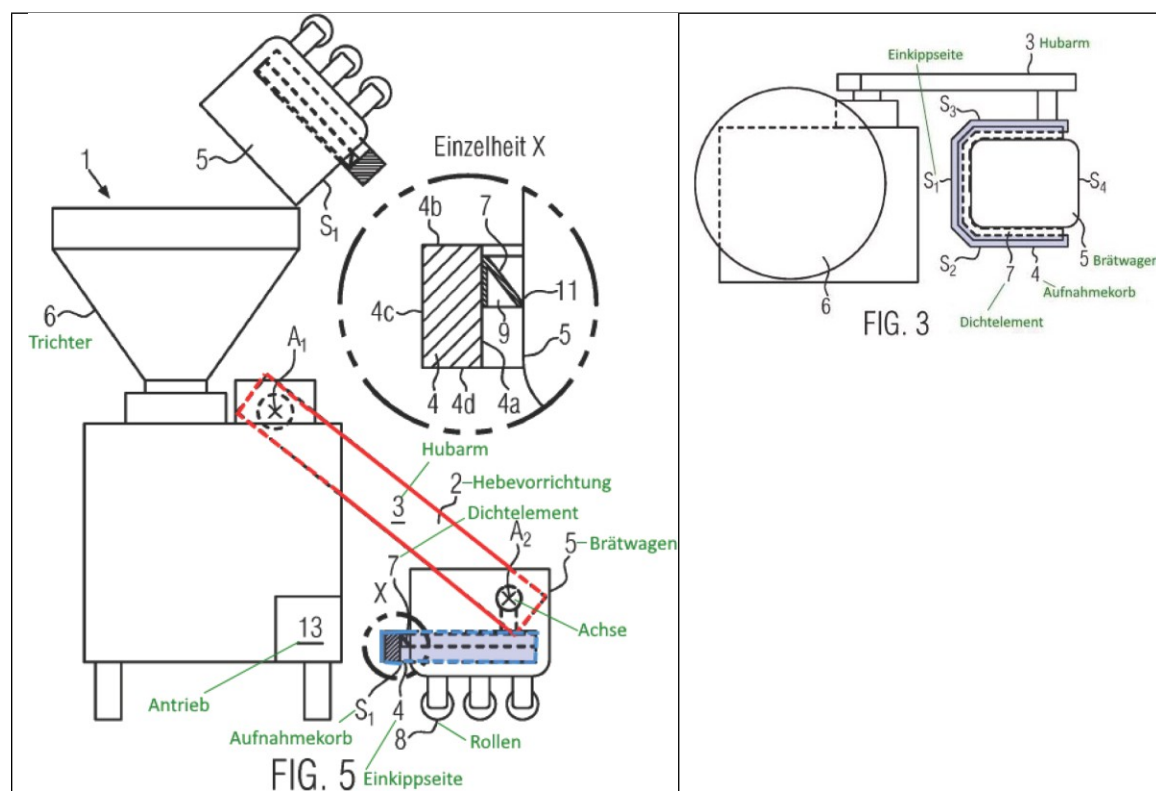
20. Taken purely at face value, **feature 1.2** ('[food-processing machine] for receiving a sausage-filling trolley (5) which is designed as a U-shaped supporting structure') states that the **sausage-filling trolley (!)** is **designed as a U-shaped supporting structure**. However, this corresponds neither to the description nor to the figures. Instead, in the light of the description, paragraph [0011], the person skilled in the art interprets the feature such that the relative clause there refers to the subject of the main clause, in this case the 'holding basket' in feature 1.1. Consequently, the holding basket (and not the sausage-filling trolley)

- be suitable for holding a sausage trolley and
- be designed as a U-shaped support structure.

UPC\_CFI\_184/2025

UPC\_CFI\_549/2025

In the embodiment, this is shown schematically as follows (the holding basket marked in blue by the court in each instance):



21. The **U-shaped** and thus three-sided **supporting structure** of the holding basket is reflected in **feature 1.5**, which refers to the three sides ( $s_1$ ,  $s_2$ ,  $s_3$ ) of the supporting structure.

22. The functional and purpose-related specifications ‘for a lifting device of a food-processing machine’ (feature 1.1) and ‘for holding a sausage-filling trolley’ (feature 1.2) merely define the subject-matter protected by the patent insofar as it must be suitable for use in performing the function and serving the purpose specified in the patent claim. In the present case, it is apparent from the features that the holding basket must be suitable for a lifting device of a food-processing machine and must be designed in such a way that it is suitable for holding a sausage-filling trolley. However, this requirement does not presuppose a specific lifting device (feature 1.1) nor suitability for a specific sausage-filling trolley (feature 1.2, and also 1.4). The design of the machine and the sausage-filling trolley, as illustrated in the examples of embodiment, is not reflected either in patent claim

1 nor in the subsequent patent claims. Whether a receiving basket is suitable for a specific lifting device or for a specific sausage-filling trolley depends not only on the requirements that patent claim 1 imposes on the nature of the receiving basket itself, but also on the nature of the components to which the receiving basket is connected, as defined in the patent claim. The less stringent the requirements placed on these components, the less stringent the requirements for the design of the holding basket. Features 1.1 and 1.2, with regard to the lifting device and

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

the sausage trolley, no specific requirements regarding the spatial and physical configuration of the holding basket can be inferred, because claim 1 does not specify how such a lifting device or such a sausage trolley must be configured. The fact that certain designs were common in the prior art and were, at least in part, prescribed by standards does not lead to a different assessment, as patent claim 1 makes no reference to such designs or standards. Even a reference to customary or commercially available products would not give rise to any relevant restrictions in this respect, as the patent at issue does not specify how the range of such products is to be determined.

23. In accordance with **feature 1.3**, the holding basket comprises a **sealing element**. This sealing element is, as defined by the feature, secured to the holding basket, i.e. attached to it (see also paragraph [0008] / column 2, lines 23–28). As regards its function and the resulting structure, it is merely stated that it can bear against at least one outer wall of the (unspecified) sausage-cooking trolley (**feature 1.4**); see below for further details. The sealing element extends at least along one of the three sides of the supporting structure (**feature 1.5**). The structure and exact function of the sealing element remain undefined (see above). Based on the description and the dependent claims, the following applies to the sealing element as defined in the claims:

- In accordance with feature 1.6, it is designed as an (elongated) sealing strip, for example as a drip guard (para. [0009] / col. 2, lines 42–46).
- It is made, at least in part, of a flexible material, e.g. from the group of elastomers (para. [0009] / col. 2, lines 48–50, para. [0033]).
- It may comprise a flexible sealing lip (para. [0010] / col. 2, lines 58–col. 3, line 3, para. [0033]).
- It may be fitted in such a way that it can be replaced (para. [0016] / col. 3, line 57–col. 4, line 2), para. [0038] / col. 9, line 28 et seq.).
- In this context, the – detachably mounted – sealing element “may, for example, be inserted into a rail fixed to the holding basket” (para. [0038] / col. 9, lines 28–31).
- Further means for interchangeable attachment may include, for example: a magnetic connection, a snap-fit fastener, a plug-in connection, or a bayonet lock (para. [0038] / col. 9, lines 38–41).

Although **feature 1.4** requires that the sealing element be capable of bearing against at least one outer wall of the sausage-making trolley, this is evidently achieved only by the flexible material (‘flexible sealing lip’) of the sealing element and not by the entire sealing element (see also para. [0010]). Conversely, this means:

Although the ‘sealing element’ must be **attached to the U-shaped (feature 1.2) mounting basket** in accordance with feature 1.3, this does not mean that the sealing element must be made entirely of flexible material. Instead,



UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

it may comprise further components and need not be made in one piece (from a single material). Consequently, the sealing element need not be secured to the mounting basket using the flexible material. It is sufficient for other possible (stiffer) components of the sealing element to be secured to the mounting basket.

The defendant's contrary view, that the flexible material of the sealing element must be **directly attached** to the U-shaped support structure, is, however, incorrect. Insofar as the defendant quotes from the decision of the Board of Appeal, this deals with the direct attachment of the sealing element to the U-shaped support structure, but not with the flexible element. Nor is the defendant's view correct that the claimant's interpretation (Statement of Claim, para. 73, that any other fastenings of the sealing strip via further elements of any design, which are attributable neither to the U-shaped support structure nor to the fastening element) is not covered by the claim, the description or the examples of embodiment. Nor is the defendant's view correct that the sealing element must be fixed directly to the U-shaped supporting structure for the sausage trolley (where applicable, via auxiliary elements on the supporting structure, such as a rail; see paragraph [0038] / column 9, lines 29–31). Nor does such an interpretation follow from the reference in the specification of the patent in suit, in paragraph [0004], to DE 195 00 326 A1 (K9). For, as evidenced by the explanations in column 3, lines 36–39, in conjunction with lines 62–66 and Figures 1 and 2 of K9, the sealing lip 14 shown there is attached to the casing 12 (column 2, lines 17–19), which in turn is pivotally mounted on the lifting device 3 and not on the supporting structure of the receiving basket. K9 therefore contains no indication of the interpretation sought by the defendant, namely that the flexible material of the sealing element must be attached directly to the supporting structure.

Furthermore, the defendant's view that the sealing element is always depicted in the examples of embodiment **as a separate and even one-piece component** is incorrect. For, apart from the fact that the examples of embodiment do not limit the subject-matter of the claims, column 8, lines 30–34 / paragraph [0033], for example, expressly states that the sealing element 'is, in particular, formed at least partly from flexible material'. This means that at least the sealing lip 11 is formed from flexible material. The flexible material may, for example, be selected from the group of elastomers." Thus, the sealing element – in this case a sealing strip previously described in paragraphs [0031] and [0032] (see column 8, lines 10 and 29) – is not necessarily formed as a single piece and may therefore consist of further, unspecified components. See also col. 2, lines 48–50 / para. [0009]: "Advantageously, the sealing strip is formed at least partly from a flexible material"; also para. [0010]:

'It is particularly advantageous for the sealing element to have a flexible sealing lip which can press against the sausage trolley in order to achieve a particularly good sealing effect.' Insofar as the defendant refers to Fig. 5 and argues that the sealing element 7 shown there does not feature a metal strip, and that even if it did, it would not form part of the sealing element, this argument is not convincing. This is because Figures 5 to 7 – as stated in paragraph [0039] – essentially correspond to Figures 1 to 3. It is true that the sealing elements depicted there are apparently made of flexible material (paragraph [0031] / column 7, line 46 in conjunction with column 8, lines 2–5). However, paragraph [0033] adds that the sealing element may (only) be formed at least partly from flexible material. Conversely, this means that the sealing element – irrespective of

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

the illustrations in the examples of embodiment – may also be formed from several materials.

**Fastening the sealing element** to the U-shaped support structure of the holding basket within the meaning of feature 1.3 also encompasses fastenings such as those listed in paragraph [0038], namely, for example, via a rail attached to the holding basket, as well as, for instance, a magnetic connection, a snap-fit fastener, a plug-in connection, a bayonet lock, etc.

**24. The sealing element extending along one side of the supporting structure (feature 1.5)**

does not mean that both parts must be in direct contact with one another, nor that the sealing element must extend over the entire length of that side of the supporting structure. This follows from the general understanding of the language. For example, a path may run alongside a river or a pipeline may run alongside a railway line, even though there are green belts or safety distances between them in each case. The patent specification does not suggest any different interpretation. The fact that the preposition ‘along’ does not, in itself, denote a course over the full spatial extent is also shown in paragraph [0023]. It expressly states there that the channel extends ‘along the entire width of the sausage-making trolley’. The addition of ‘the entire width’ would be linguistically superfluous if the term ‘along’ alone were already sufficient to express an extension across the entire width. The person skilled in the art therefore infers from the patent specification that ‘along’ may also encompass an extension in sections.

**25. According to feature 1.6, the sealing element is designed as a strip.** In common parlance, a person skilled in the art understands a ‘strip’ to mean a long, narrow component. This understanding is also confirmed by the description and the examples of embodiment. These all show sealing strips in the form of long, narrow components that are substantially longer than they are wide and thick, and describe them accordingly (para. [0009], col. 2, lines 42–47: ‘[...] a correspondingly elongated sealing strip [...]').

*Regarding the counterclaim for nullity*

**26. At the oral hearing, the claimant declared the previous auxiliary claim 2 to be the main claim.** In so far as the claimant thereby no longer defends the patent in suit in the form in which it was granted, it is to be declared invalid without further examination of the merits. In this respect, the counterclaim for invalidity is partially successful.

**27. However, to the extent of the previous auxiliary claim 2, the patent in suit is found to be valid.** The counterclaim for nullity is to be dismissed in this respect.

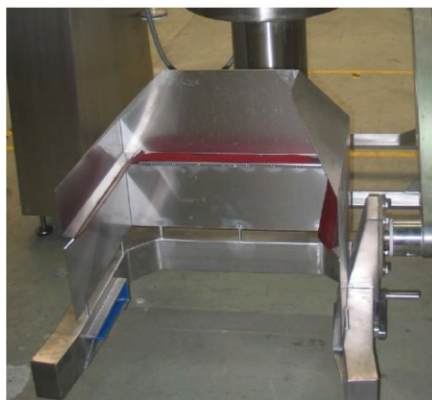
**28. The previous auxiliary claim 2 is admissible.** The subject-matter of claim 1 as set out in the previous auxiliary claim 2 is undisputedly disclosed in the original application. It corresponds to the subject-matter of granted claim 5 in so far as the latter refers back to claim 1. The subject-matter of granted claim 5 is apparent from the original claim 1 in conjunction with sub-claims 2 and 5, which refer back to it, as well as paragraph [0007] / column 2, lines 30–34 of the publication document. The remaining claims 2 to 12 of the previous auxiliary request

2

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

correspond in wording to the original claims 3, 4, 6 to 14. The subject-matter of claim 13 according to the previous auxiliary request 2 is derived from the original claim 15, with the addition that the receiving basket is designed as a U-shaped supporting structure in accordance with the original claim 5. The subject-matter of claim 14 in accordance with the previous auxiliary request 2 corresponds to the original claim 16. There is no extension of the scope of protection.

29. The subject-matter of claim 1, as set out in the previous auxiliary request 2, is novel in relation to the GLASS VSM 300 machine, serial number 2750 (Annexes ES12, ES10j). This is because this machine does not feature a sealing element as defined by the patent, which is configured as a sealing strip attached to the receiving basket in accordance with feature 1.6 in conjunction with feature 1.3:

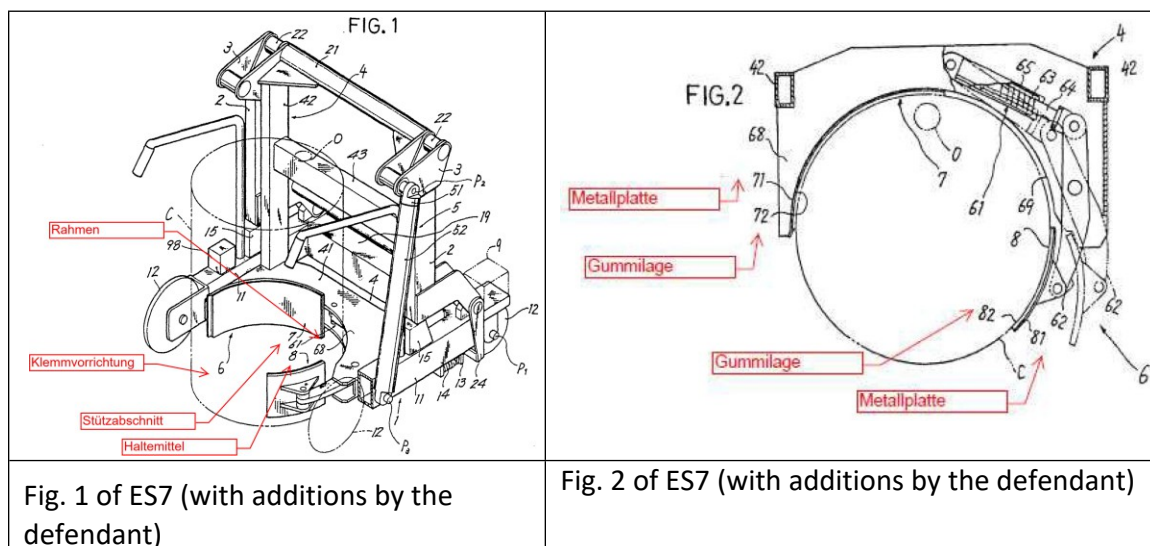


Extract from ES10j

In so far as the defendant argues that ES10j also shows a sealing element configured as a sealing strip (feature 1.6), this may well apply to the apparently flexible material of red colour shown there. It may also be the case that it can lie against at least one outer skin of the sausage-filling trolley (feature 1.4). Furthermore, this red-coloured flexible material extends along all three sides of the U-shaped supporting structure (features 1.2, 1.5). However, this red-coloured flexible material is not attached to the receiving basket in accordance with (the absent) feature 1.3. Since the receiving basket must be designed as a U-shaped supporting structure (features 1.1, 1.2), only this U-shaped supporting structure counts as the receiving basket, and not any attachments to which a sealing strip might be fixed. Accordingly, in the case of the ES10j, the red-coloured flexible material in question is not attached to the receiving basket, but to the (additional) sheet metal structure serving as a chute.

30. The subject-matter of claim 1, as set out in the previous auxiliary request 2, is also novel in relation to the prior art as disclosed in citation ES7 (EP 0 242 820 A1). In so far as the defendant asserts that the rubber layers 72 and 82 in ES7 have a strip-like shape, this is not the case. These are in fact formed as (rubber) sheets ('rubber sheet') and not as strips within the meaning of the technical understanding defined above.

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025



31. The subject-matter of the previous auxiliary claim 2 is also based on an inventive step.

32. On pages 52–53 of the document of 3 November 2025, the defendant stated the following regarding the legal validity of the subject-matter of the previous auxiliary claim 2:

‘Claim 1 according to auxiliary claim 2 has merely been amended by incorporating the features of claim 2 of the patent in suit as granted. With regard to claim 2, we had already argued that these features, too, are anticipated by the prior use of VSM 300. As is immediately apparent from the photograph of Annex ES10j shown above, the sealing element in the VSM 300 is also designed as a sealing strip made of flexible material, which can be recognised by its slightly wavy structure in comparison with the metal behind it. In addition, we refer to the written witness statement of Mr X. [name redacted] as set out in Annex ES12, section 3.

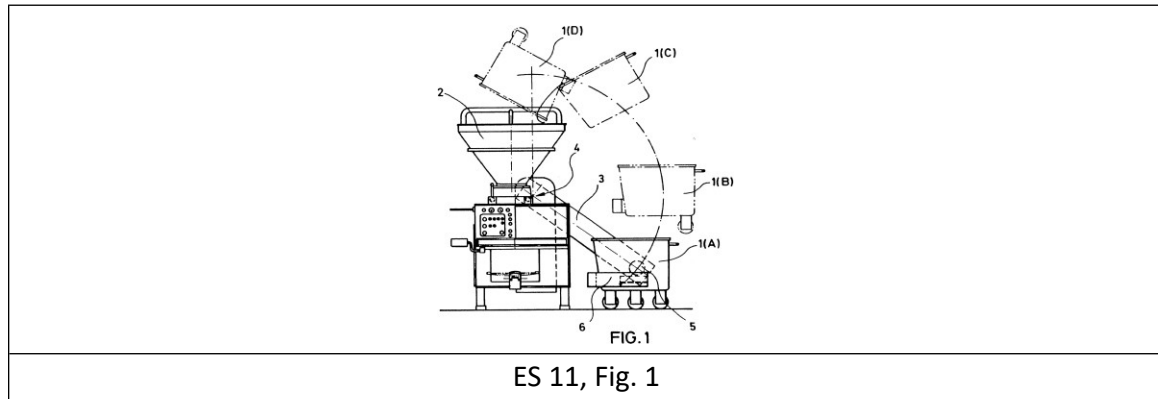
Furthermore, the subject-matter of claim 1 is also not novel in relation to EP 0 242 820 A1 (ES7), as in ES7 too the sealing element (rubber layers 72, 82) is in the form of a strip, and rubber is a material that is at least partially flexible. With regard to the remaining features, we refer to our comments on the main claim. Claim 1 pursuant to auxiliary claim 1 [meaning the previous auxiliary claim 2] is therefore not valid, nor are the dependent claims referring back to it.”

The defendant has therefore not disputed in documents the existence of an inventive step in relation to the previous auxiliary claim 2.

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

33. The arguments against inventive step put forward orally by the defendant for the first time at the hearing must be rejected as out of time. Irrespective of this, they do not support the conclusion that the subject-matter was suggested by the prior art. In detail:
34. In so far as the defendant argued at the hearing that the person skilled in the art would adapt the lifting device of the machine according to ES10/ES12 to a wider filling hopper by omitting the chute, which would then no longer be required, but not those components featuring the sealing strip, the Court does not accept this. There is simply no argument as to why ES10/ES12 should constitute a realistic starting point for solving the problem addressed by the patent in suit, namely protection against contamination from dirty water found on the sausage-making trolley. The sealing lip of ES10/ES12 is clearly inclined upwards. Its primary purpose is therefore to prevent any filling material (sausage meat) remaining in the chute from falling onto the ground between the chute and the sausage-making trolley when the trolley is tilted back. Even if one were to accept ES10/ES12 as a realistic starting point, there is no argument as to why the person skilled in the art should provide a larger filling container. Furthermore, there is no explanation as to why the person skilled in the art should then recognise that a chute is no longer required. Finally, there is no explanation as to why the person skilled in the art would not then omit all structures above the U-shaped support structure, but would instead selectively omit only those parts located above the red sealing strip. In the Board's view, there is no reason for this either. This is because, without a chute, the actual purpose of the upward-sloping sealing lip – namely, to prevent goods lying on the chute from sliding back onto the floor – is no longer served. At the priority date, support structures for sausage-filling trolleys without a chute, and thus also without a sealing lip, were known. All this can only be explained by the retrospective approach adopted by the defendant, which, however, must be disregarded when assessing whether the invention was obvious.
35. In so far as the defendant argued for the first time at the hearing against the main claim (and not merely against the subsidiary claims, as in the document of 3 November 2025 at para. 119) that the person skilled in the art would combine the prior art ES 11 with the machine according to ES 10/ES 12, the Board does not accept this argument either. ES 11 (EP 0 339 375 A1) discloses a generic food-processing machine with a lifting device and a receiving basket; however, it does not disclose any sealing elements:

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025



The defendant has not submitted any arguments as to where the person skilled in the art would obtain the inspiration to further develop ES 11. Even if he were to combine ES 11 with ES 10/ES 12, the resulting receiving basket would still not feature a sealing strip within the meaning of the claimed patent, as set out in the previous auxiliary claim 2. This is because, as explained above, the sealing element in ES10/ES12 is ordered approximately in the centre of the chute. The chute cannot be regarded as a strip. In order to obtain a sealing element configured as a sealing strip, the person skilled in the art would have to take further steps. As explained above, these steps are not obvious.

36. The further co-dependent claims 9 (lifting device), 10 (filling machine), 13 (method) and the sub-claims relating thereto are supported by claim 1 of the previous auxiliary claim 2, to which they relate directly or indirectly. Sub-claim 11 with sub-claim 12, both in accordance with the previous auxiliary claim 2, relate to a sausage-filling trolley. The defendant has not submitted any arguments regarding this. Irrespective of this, the prior art at issue in the proceedings cannot call into question novelty and inventive step. Consequently, the previous auxiliary claim 2 is grantable.

37. The Claimant's further new alternative claims are therefore no longer relevant.

#### *Regarding the action for infringement*

38. At the hearing, the claimant limited the infringement claim in its principal claim to the subject-matter of the previous auxiliary claim 2. Furthermore, it extended the time limit for the claim for recall to 30 days and provided for a one-month grace period in the claim for a declaratory judgement. In doing so, it has unconditionally limited the claim, which is always permitted under Rule 263.3 of the RoP.

39. The contested embodiments make direct and literal use of the asserted and maintained patent claims.

UPC\_CFI\_184/2025

UPC\_CFI\_549/2025

40. The holding baskets of both contested embodiments feature a U-shaped support structure. An elongated sheet metal strip with a thickness of 3 mm is attached to this in each case. A blue rubber element is in turn attached to this. Both components are designed as strips and extend along the tilting side of the support structure.
41. The metal strip and the blue rubber element are, as shown in the description, to be regarded as components of the sealing element. The sealing element of the contested embodiments is therefore partly formed from flexible material. Taken as a whole, a strip as defined by the patent is also present.
42. In contested embodiment 1, the sealing element, consisting of the metal strip and the blue rubber element, is welded directly onto the supporting structure and is thus secured to it.
43. In contested embodiment 2, there is admittedly no complete welding. Rather, there is a connection at only four points via tabs each 28 mm wide. Nevertheless, the sealing element is thus connected to or secured to the supporting structure within the meaning of the patent in suit. Feature 1.3 does not, in fact, require a continuous fastening. Nor does it follow from the fact that, according to feature 1.5, the sealing element must extend along at least one side of the supporting structure.
44. The fulfilment of the remaining features and claims is, quite rightly, not in dispute between the parties.

#### *Legal consequences*

45. In view of the established direct infringement of the patent in accordance with its literal meaning, the legal consequences claimed are to be ordered as requested. This includes the payment of provisional lump-sum damages amounting to EUR 50,000.00. The defendant has not disputed the amount claimed.
46. The wording requested by the defendant specifies the conduct required in relation to the recall and destruction of the goods and could therefore be included in the operative part of the judgment to enhance legal certainty without partially dismissing the infringement claim.
47. No order for security for enforcement was made. The defendant has failed to submit any arguments as to why such security is necessary.

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

48. The threat of a penalty payment distinguishes between the claim for an injunction and the claim for recall, destruction and disclosure. The amount of the penalty payment is based on the value in dispute of the infringement claim, which both parties have agreed is EUR 500,000 and which has been set at that figure by the judge-rapporteur.
49. The Chamber assesses the respective degrees of success and failure as 20 per cent to 80 per cent, to the detriment of the defendant. The counterclaim for nullity is partially successful because the claimant has withdrawn to the version set out in the previous alternative claim 2. However, this does not significantly diminish the economic success of the infringement action. The machines presented as contested embodiments 1 and 2 are still covered by the claims.



UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

## DECISION

I. European Patent 3 106 035 is declared invalid with effect for the Federal Republic of Germany, Austria, the Netherlands, France and Italy in so far as it extends beyond the following version of the claims (previous auxiliary claim 2):

1. A receiving basket (4) for a lifting device (2) of a food-processing machine (1), in particular a filling machine, for receiving a sausage-filling carriage (5) which is designed as a U-shaped supporting structure,

characterised in that

the receiving basket (4) comprises a sealing element (7) attached thereto, which can bear against at least one outer wall of the sausage-filling carriage (5),

wherein the sealing element (7) extends at least along one of the three sides (S1, S2, S3) of the support structure, ~~preferably~~ at least along the tilting side (S1), wherein

~~2. A collection basket (4) according to claim 1, characterised in that the sealing element (7) is designed as a sealing strip, which is, in particular, at least partially made of flexible material.~~

~~23. A receiving basket (4) according to claim 1 or 2, characterised in that the flexible material of the sealing element is selected from the group of elastomers:~~

~~34. A receiving basket (4) according to at least one of claims 1 to 23, characterised in that the sealing element (7) comprises a flexible sealing lip (11).~~

~~45. A receiving basket (4) according to at least one of claims 1 to 34, characterised in that the sealing element (7) extends along several sides of the supporting structure and either comprises several sealing strips or is formed as a continuous L- or U-shaped sealing strip.~~

~~56. A holding basket (4) according to at least one of claims 12, characterised in that the sealing strip (7) is configured such that a channel (9) can form between the holding basket (4) and the sausage trolley (5).~~

~~67. A receiving basket (4) according to at least claim 56, characterised in that the channel (9) extends, at least in sections, at an angle to the longitudinal axis of the corresponding side (S1, S2, S3) of the receiving basket.~~

~~78. A receiving basket (4) according to claim 56, characterised in that the sealing strip (7) comprises sealing elements (10a, b) which seal the channel (9) laterally.~~

~~89. Collection basket (4) according to at least one of claims 1 to 87, characterised in that the sealing element is fitted in such a way that it can be replaced.~~

~~910. Lifting device (2) for receiving, lifting and emptying a sausage-filling trolley (5) into a food-processing machine (1), in particular a filling machine, comprising a drive (12), a lifting element (3) and a receiving basket (4) connected to the lifting element (3) for receiving a sausage-filling trolley (5) according to at least one of claims 1 to 98.~~

UPC\_CFI\_184/2025

UPC\_CFI\_549/2025

~~1011~~. Filling machine (1) for filling with a paste-like mass, comprising a hopper (6) for feeding the paste-like mass, a conveyor mechanism for conveying the paste-like mass into a filling element, in particular a filling tube, and a lifting device (12) as per claim 109.

~~1112~~. Sausage-filling trolley (5) for feeding a food-processing machine, comprising an opening on the upper side through which the sausage-filling trolley can be emptied, in particular a filling machine (1), characterised in that the sausage-filling trolley (5) has, on at least one outer wall, a sealing element (7) which can be brought into contact with at least one side of a receiving basket (4) of a lifting device of the food-processing machine (1).

12. Sausage-filling trolley (5) according to claim 11, characterised in that the sealing element

(7) is ordered in the lower third of the sausage-filling trolley.

~~132~~. Method for feeding a food-processing machine, in particular a filling machine (1), with a lifting device according to claim ~~10~~, comprising the following steps:

- inserting and securing a sausage-filling trolley (5) filled with a paste-like mass into a receiving basket (4) of the lifting device (2), which is designed as a U-shaped support structure, whereby an elongated sealing point is formed at least between an outer wall of the sausage-filling trolley

- (5) and a correspondingly opposite side of the receiving basket (4),

- Lifting and emptying the sausage-filling trolley (5) into the food-processing machine (1), in particular a filling machine, and

- lowering and removal of the sausage-filling trolley (5).

~~143~~. A method according to claim ~~13~~14, characterised in that a channel (9) is formed between the receiving basket (4) and the sausage trolley (5), into which splash water from the base of the sausage trolley (5) flows whilst the latter is swivelled for emptying.

~~154~~. Receiving basket (4) according to at least claim ~~56~~, characterised in that the channel (9) extends along the entire width or part of the width of one side of the sausage carriage (5).

~~165~~. A collection basket (4) according to at least one of claims 1-8 or 15, characterised in that a locking device (12) is provided which locks the sausage-filling trolley (5) locked and secured in such a way that the side surface of the sausage trolley is at a predetermined distance (a) from the surface (4a) of the holding basket (4) facing the container, and the sealing element (7), when the sausage-filling trolley (5) is not installed, has a width (b) that is greater than the distance (a).

~~176~~. Receiving basket (4) according to at least one of claims ~~1-8~~11, 15 or 16, characterised in that the sealing element (7) is designed as an inflatable element.

II. In all other respects, the counterclaim for declaration of invalidity is dismissed.

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

III. The defendant is ordered to refrain from

1. a holding basket for a lifting device of a food-processing machine, in particular a filling machine, for holding a sausage-filling trolley which is designed as a U-shaped supporting structure, wherein the holding basket comprises a sealing element attached thereto which can bear against an outer wall of the sausage-filling trolley, wherein the sealing element extends at least along one of the three sides of the supporting structure, at least along the tipping side  $s_1$ , and the sealing element is designed as a sealing strip which is at least partly made of flexible material,

to be manufactured in the Federal Republic of Germany and/or to be offered for sale, placed on the market or used in the Federal Republic of Germany, Austria, the Netherlands, France and/or Italy, or to be imported or possessed for the aforementioned purposes,  
(direct infringement of claim 1 as upheld),

in particular where

the flexible material of the sealing element is selected from the group comprising elastomers,  
(direct infringement of claim 2 as maintained)

in particular where

the sealing element comprises a flexible sealing lip,  
(direct infringement of claim 3 as maintained)

in particular where

the sealing strip is designed in such a way that a channel can form between the receiving basket and the sausage trolley,  
(direct infringement of claim 5 as maintained)

and/or

2. a lifting device for receiving, lifting and emptying a sausage trolley into a food-processing machine, in particular a filling machine, comprising a drive, a lifting element and a receiving basket connected to the lifting element as described in Section III 1 for receiving a sausage trolley

to be manufactured in the Federal Republic of Germany and/or to be offered for sale, placed on the market or used in the Federal Republic

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

Germany, Austria, the Netherlands, France and/or Italy, to place on the market or to use, or to import or possess for the aforementioned purposes;  
(direct infringement of claim 9 as upheld)

and/or

3. a filling machine for filling pasty masses, comprising a hopper for feeding the pasty masses, a conveyor mechanism for conveying the pasty mass into a filling element, in particular a filling tube, and a lifting device as defined in Section III.2

in the Federal Republic of Germany, and/or to offer, place on the market or use it in the Federal Republic of Germany, Austria, the Netherlands, France and/or Italy, or to import or possess it for the aforementioned purposes;  
(direct infringement of claim 10 as upheld).

IV. The defendant is ordered, within a period of 30 days following service of the notice within the meaning of Rule 118(8), first sentence, of the RoP and, where applicable, the certified translation at its own expense,

1. to recall from commercial customers the products referred to in Section III which have been placed on the market since 19 September 2018, whilst informing them that this Court (judgment of the Munich local division of the Unified Patent Court of 17 June 2026, Case Nos. UPC\_CFI\_184/2025 and UPC\_CFI\_549/2025) has found that the products infringe the Claimant's European Patent 3 106 035, and the defendant must give a binding undertaking to third parties to reimburse the costs incurred, to bear the packaging and transport costs incurred, to reimburse the customs and storage costs associated with the return of the products, and to take the products back,
2. to remedy the infringing nature of the products referred to in Section III, which are in its direct or indirect possession or ownership,

whilst the defendant reserves the right, instead of a recall, to bring the contested embodiments into a state that does not infringe European Patent EP 3 106 035 in its maintained version, by removing the holding basket to which the metal strip with the sealing lip is welded, is removed and replaced with a housing basket which does not comprise a sealing element, and the removed housing basket, including the sheet metal strip welded thereto and the sealing lip, is destroyed.

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

V. The defendant is ordered to provide the claimant, within 30 days of service of the notice within the meaning of Rule 118(8), first sentence, of the RoP and, where applicable, the certified translation, with information as to the extent to which it has committed the acts described in Section III since 19 September 2018, specifying

1. the origin and distribution channels of the devices referred to in Section III, specifying

a) the names and addresses of the suppliers and other previous owners, and

b) the names and addresses of the commercial customers and the points of sale for which the products were intended;

2. the quantity of products delivered, received or ordered, as well as the prices paid for the products in question;

3. the identity of all third parties involved in the distribution of the products referred to in Section III;

4. the cost price, specifying the individual cost components, and the profit realised,

whereby copies of the relevant purchase documents (namely invoices, or alternatively delivery notes) must be submitted as evidence of the information provided, with details requiring confidentiality being redacted from the data subject to disclosure.

VI. The Claimant is authorised to publicise and publish the decision in whole or in part in the media, in which case the defendant shall reimburse the costs of a full-page publication (print) in three specialist media, each at the Claimant's discretion, amounting to 15,730.00 euros.

VII. In the event of any breach of the Order set out in paragraphs III, IV and V, the defendants shall pay a recurring penalty payment to the court, namely, in the case of a breach of paragraph III, up to 500,000 EUR per breach, and in the case of a breach of paragraphs IV or V, up to 10,000 EUR per day of the breach.

VIII. It is hereby ordered that the defendant shall compensate the claimant for any damage already incurred and any damage yet to be incurred as a result of acts referred to in Section III since 19 October 2018, the amount of such damage to be determined in subsequent proceedings.

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

IX. The defendant is ordered to pay the claimant provisional lump-sum damages of EUR 50,000.00 within 30 days of service of the notice within the meaning of Rule 118.8, first sentence, of the RoP.

X. In all other respects, the action for infringement is dismissed.

XI. All further applications by the parties are dismissed.

XII. The claimant shall bear 20 per cent and the defendant 80 per cent of the costs of the proceedings.

XIII. This decision is immediately enforceable without the provision of security.

#### INFORMATION ON APPEALS

Any party whose applications have been rejected in whole or in part may lodge an appeal against this decision with the Court of Appeal within two months of service of the decision (Art. 73(1) UPC Agreement, R. 220.1(a), 224.1(a) RoP).

#### INFORMATION ON ENFORCEMENT

(Art. 82 UPC Agreement, Art. 37(2) EPGs, R. 118.8, 158.2, 354, 355.4 RoP)

A certified copy of the enforceable decision or enforceable order shall be issued by the Deputy-Registrar on application by the party seeking enforcement, Rule 69 of the Rules of Procedure.

#### INSTRUCTIONS TO THE REGISTER

Once this decision has become final, certified copies shall be forwarded to the European Patent Office and to the national patent offices referred to above.

UPC\_CFI\_184/2025  
UPC\_CFI\_549/2025

Issued in Munich on 16 June 2026

|                                                                                   |  |
|-----------------------------------------------------------------------------------|--|
| Dr Zigann<br>Presiding Judge and judge-rapporteur                                 |  |
| Mlakar<br>Legally qualified judge                                                 |  |
| Dr Zigann, standing in for legally qualified judge<br>Pichlmaier, who is on leave |  |
| Ausfelder<br>Technically qualified judge                                          |  |
| Standing in for the Deputy-Registrar                                              |  |