



UPC_CFI_583/2025 & UPC_CFI_1435/2025
Order of the Court of First Instance
of the Unified Patent Court
delivered on 16/06/2026
(R105.5 order following the interim conference)

APPLICANT – CLAIMANT

Bostik, Inc.

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USA

Represented by Gaëlle BOUROUT
and other representatives of the Law firm
Linklaters LLP Paris

RESPONDENTS – DEFENDANTS

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Boulogne-Billancourt, FR

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4-Henkel AG & Co. KGaA.,

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5-Henkel Nederland B.V.,

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3432 NZ, Nieuwegein, DE

6-Henkel Italia S.r.l.,

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20157, Milano, DE

Represented by Marcus GROSCH
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PATENT AT ISSUE

Patent no.

EP 1 725 627 B1

DECIDING JUDGE

Judge-rapporteur

Carine Gillet

LANGUAGE OF PROCEEDINGS: English

ORDER

1. Pursuant to R. 105 and R. 106 of the Rules of procedure (RoP), an interim conference was held on 1st June 2026 by video-conference, where all parties were represented. This conference was recorded.
2. In accordance with R.105.5 RoP, following the interim conference, the judge-rapporteur shall issue an order setting out the decisions taken.

I- Main legal issues R. 104 (a) RoP

3. In accordance with R. 104(a), the parties have discussed with the judge-rapporteur and agreed on the main points of law as identified by the Judge-Rapporteur in his note sent to the parties, by email on 21 May 2026 and 22 May 2026, as follows:
4. The present proceedings relate, on the one hand, to a claim of infringement of the patent-in-suit, owned by Bostik, by certain Henkel products in the Liofol® range and, on the other hand, to a counterclaim seeking the revocation of the patent.
5. The interpretation of the patent is disputed between the parties, and certain features of Claim 1 need further explanation by each party, in particular, the structure of Claim 1 into two features, which refer to two phases of the product that is the subject of the invention. In addition, the following features must be interpreted: feature 1.1.2. 'non-self-crosslinking emulsion', feature 1.2.1. 'peelable and non-resealable closure for a flexible package', feature 1.2.2. 'cohesive strength of at least 188.11 g/cm' and feature 1.2.3. 'drying on a substrate above 127 °C '.
6. The validity of the patent is contested on the grounds of added-matter, insufficient disclosure, novelty over D1 (with the question of the standard of proof of prior use) and inventive step over common general knowledge (CGK (D6 to D9)) and over different combinations: prior use products + CGK, D1 + CGK, D1+D2, prior use products or D1 + D3 or D4.
7. The alleged direct and indirect infringement acts are disputed, particularly on the grounds that the Court lacks jurisdiction, regarding the Spanish and the UK national parts of the patent and that the existence of the alleged acts is not substantiated especially with regard to the involvement of each defendant. There is also the question of the time limitation for the alleged infringement acts.
8. Corrective measures are requested by the Claimant (interim award for material prejudice (9 million Euros) and moral prejudice(100.000 Euros), resulting from infringement acts,

security for costs (50.000 Euros), information's communication or alternatively, an expertise; publication of the upcoming decision).

II- Other decisions

1 -Bostik's Withdrawal

9. By communication on 29 May 2026, the Claimant withdrew its infringement action, regarding two defendants' products (Liofol®CS 7500-22 and CS7416).
10. Henkel does not object to the withdrawal of the claim, as it has no legitimate interest in pursuing the action in respect of the two products mentioned above. Henkel points out, however, that this withdrawal will have an impact on costs (to be determined in subsequent proceedings).
11. Considering Bostik's withdrawal, arguments relating to Henkel's products Liofol®CS 7500-22 and CS7416, are excluded from consideration at the oral hearing. The infringement action still remains for the two other alleged infringing products (Liofol® CS22-861 and CS7300-21).

2-value of the case

12. Each party sets the value of its action at the amount of three million Euros, so the total value of the proceedings is set at 6 million Euros.
13. There is no dispute between the parties regarding the value of the case. In accordance with the decision of the administrative Committee dated 25 April 2023, the amount of the recoverable costs is set at 600.000 Euros.

3-Settlement

14. The parties were asked about any agreement between them and were informed of the possibility of using the facilities of the PMAC. They stated that, at this stage, there were no negotiations between them.

4-Definition of the skilled person

15. According to BOSTIK (Reply to SOD n°89), the skilled person is "an engineer in materials science holding at least a master's degree, and with several years of professional experience in the flexible-packaging industry and practical expertise in formulating and testing water-based cold-seal cohesive coatings", whereas for HENKEL (P.23- point E SoD 04.11.25), the person skilled in the art, is " a chemist with a particular focus on physical chemistry and several years of experience in the specialized field of adhesive bonding technology and with the formulation, usage and application of cold seal adhesives".

BOSTIK agrees that the parties' proposed definitions are largely aligned and can be merged. The only remaining point concerns the inclusion of specific experience in adhesives used in the flexible packaging industry. This element should form part of the definition.

16. HENKEL responds that the person skilled in the art, to whom the claimant refers, is one who has experience in the technology of adhesives and flexible packaging, which is undisputable. However, such a definition must not determine or influence the assessment of inventive step. According to HENKEL, it is accepted that the person skilled in the art is not necessarily confined to a specific field in which the technical problem arises, and that he may possess expertise in neighbouring or related technical fields, including parallel technologies.
17. The Person skilled in the art, is the one who, at the date of the patent in suit, is seeking to develop a product or process similar to that disclose the main relevant features as those disclose in the challenged patent, or which address the same or similar underlying problem, without being confined to the narrow specific technical field of the invention, but extending to similar or related technical fields.
18. In the patent in suit, considering the problem to be solved, the skilled person is an engineer in chemistry, with education on physical chemistry and having experience in the specialized field of adhesive bonding technology and with the formulation, usage and application of cold seal adhesives, including, among other things, flexible food packaging.

5-exclusion of documents and arguments

-Bostik's Application

19. In the application filed on 21 May 2026, based on R. 32.3 RoP, BOSTIK asks the Court to:
 - Declare inadmissible and exclude from the proceedings (UPC_CFI_583/2025) the arguments put forward by Henkel in its Rejoinder to the Defence to the Application to amend the patent dated 7 May 2026, as detailed in the following table and as reflected in Exhibit A in support of the present application;

Bostik's Reply dated 7 April 2026	Henkel's Rejoinder dated 7 May 2026
Lack of disclosure of features 1.2.2/1.2.3	Sec. A.I.1.a) (p. 4-8)
Lack of disclosure of features 1.2/1.2.1	Sec. A.I.1.b) (p.8-9)
No basis for combination of different product stages	Sec. A.I.1.c) (p. 9-10)
No basis for combination of features of feature group 1.2	Sec. A.I.1.d) (p. 10-11)
Structural inconsistencies regarding different product stages render the claim non-enabling	Sec. A.I.2.a) (p. 11)
Lack of novelty over prior use products	Sec. A.I.3 (p. 12-18) Exhibit QE 59
Lack of novelty over D1 – Non-self-crosslinking nature of the acrylic emulsion disclosed by D1	Sec. A.I.4.a)(2)(b) (p. 20-21)
Addition of water clearly and unambiguously disclosed (Feature 1.1.3)	Sec. A.I.4.a)(3) (p. 21)
Disclosure of Feature Group 1.2 of amended claim 1 of AR1	Sec. A.I.4.b) (p. 21-23) Except the paragraph starting with numeral (2) on p.22, but including the sub-paragraphs (a) and (b) of the same
Inventive step, including determination of the relevant technical field, common general knowledge, relevance of cited documents, and obviousness starting from the prior use product or D1	Sec. A.I.4. (p. 23-31)
Lack of novelty over prior use products for AR 3 - public availability of TDS is sufficiently demonstrated and proven	Sec. A.III.3.(a) (p. 34-35), from the second sentence onwards
The public availability of the TDS is not determinative with regard to the specific additional limitation of AR 3	Sec. A.III.3.(b) (p. 35), first sentence

-Declare inadmissible and exclude from the proceedings (UPC_CFI_583/2025) Exhibit QE 59 filed in support of the inadmissibly late-filed arguments listed above.

20. In support of its request, BOSTIK argues that, unlike R. 30 and R. 32 ROP, the written submissions filed on 7 May 2026 by HENKEL are not strictly limited to a response to the arguments previously put forward by BOSTIK on 7 April 2026. The arguments relate to the patent as granted and not to the auxiliary claims. Exhibit QE 59 is inadmissible, as late-filed.
21. In its comments submitted on 28 May 2026, HENKEL requests that the Claimant's Application be rejected.

In the first alternative, in case the Court does not reject the Claimant's Application, the defendants request pursuant to Rule 9.2 and 29 (e) RoP that:

-the Claimant's submission in marg. nos. 168 to 181 (in their entirety), marg. no. 263 (insofar as D 7 and D 11 are discussed therein), marg. nos. 271 to 273 (insofar as D 11 is discussed therein), 294 to 310 (in their entirety), marg. no. 332 (insofar as D 7 is discussed therein) and marg. no. 384 (insofar as confidentiality is discussed therein) of its Rejoinder to the Reply to the Defence to the Counterclaim for Revocation and Reply to the Defence to the Application to Amend the Patent dated 7 April 2026 be rejected.

In the second alternative, in case the Court does not reject the Claimant's Application and does also not reject the referenced parts of Claimant's submission (as requested by the above request in the first alternative), Henkel requests pursuant to R. 36 RoP that:

-The Defendants are allowed to submit further written comments on the Claimant's submission in marg. nos. 168 to 181 (in their entirety), marg. no. 263 (insofar as D 7 and D 11 are discussed therein), marg. nos. 271 to 273 (insofar as D 11 is discussed therein), 294 to 310 (in their entirety), marg. no. 332 (insofar as D 7 is discussed therein) and marg. no. 384 (insofar as confidentiality is discussed therein) of its Rejoinder to the Reply to the Defence to the Counterclaim for Revocation and Reply to the Defence to the Application to Amend the Patent dated 7 April 2026, within a deadline the Court deems appropriate.

-The Defendants would then resubmit the responsive arguments which have already been submitted in the Rejoinder to the Reply to Defence to the Application to Amend the Patent dated 7 May 2026.

22. HENKEL replies in short:

-Any arguments on non-infringement or claim construction or validity, or any new arguments or exhibits have been submitted, it is only an answer to new arguments developed by the Claimant (at a late stage) or an answer to arguments incorporated into Bostik's submissions by way of broad references.

-It is allowed to reiterate and clarify its arguments already made in its previous statements.

-On the contrary, if the new arguments put forward by the Claimant were allowed, HENKEL has the right to answer, in accordance with the controversial principle (which he has already done, in its submissions).

23. According to R.9.2 RoP, the Court may disregard any step, fact, evidence or argument which a party has not taken or submitted in accordance with a time limit set by the Court or these rules. R.29 (e) RoP provides that the Claimant may lodge a rejoinder to the reply together with any reply to the defence to an application to amend the patent, pursuant to R32, if applicable. R. 32.3 states that the proprietor may lodge a reply to the defence to the application to amend the patent (here expected on 07 April 2026), and the defendant may, within one month of the service of the Reply, lodge a Rejoinder to the Reply (here on 07 May 2026).

24. It is apparent from a review of the case-law that, regardless of the front-loaded nature of the proceedings, there is nothing to prevent a party from responding to arguments raised in the previous written submission (UPC_CoA_265/2024, 18 September 2024, Volkswagen v NST; UPC_CFI_316/2023, 17 January 2025 NJOY v Juul Labs). It may also be considered

that further and clearer elaborations of arguments already raised should be declared admissible, provided that they do not constitute new arguments.

25. In the case at hand, HENKEL cannot be criticised for having clarified its position and provided further explanations regarding arguments it had already set out in its previous statement of defence in response to Bostik's pleadings.
26. Similarly, Henkel cannot be criticised for having submitted lately Exhibit QE 59 (M. Stephenson's affidavit on 06 May 2026), as this document supplements the witness's previous statements, and is in response to Bostik's objections regarding public access to technical documents relating to the allegedly infringing products (BOSTIK's submissions 07 April 2026 § 151-152 and 168-181).

Bostik's application to exclude arguments and evidence as inadmissible must be dismissed. In these circumstances, alternative claims 1 and 2 put forward by HENKEL are devoid of purpose.

-Henkel's claims

27. On its rejoinder dated 5 March 2026 (Rejoinder, pages 78-83), HENKEL asks some Bostik's exhibits filed in the Reply to CounterClaim for Revocation, filed on 05 January 2026, be rejected pursuant R9.2 RoP (PC 61: Mr Pardal's affidavit ; PC 62: Mr Byoungchul's affidavit -complementary test on product CS22-861 at least)); PC 63: Mr Byoungchul's affidavit CS22-861); PC 66: Mrs Foucher's affidavit on product CS7300-21); PC 67: Mr Byoungchul's affidavit on product CS22-861 and PC 69: technical documentation on CS7416).

In support of its claim, HENKEL states that these exhibits are inadmissible, as new and late-filed without any reason and PC 61 has the sole purpose to circumvent previous orders.

28. First of all, the exclusion of PC69 is not relevant anymore, because it relates to CS7416 products for which there was a withdrawal.
29. HENKEL states (pages 78 and 79) that Exhibit PC 61 corresponding to an affidavit made by M. Francis Pardal is a way to circumvent a previous procedural order made by the JR and the panel, excluding Exhibit 16, without filing an appeal (Order on 24 September 2025 and 22 October 2025). In addition, HENKEL is surprised that Exhibit 61 is not subject to confidentiality.
30. However, Exhibit 16 was excluded on purely procedural grounds (failure to comply with the provisions of R. 4 RoP, requiring the simultaneous filing of both the redacted and unredacted versions of a document for which confidentiality is sought). Exhibit 61 is given by another author, and this document has been rightly filed as soon as possible after the above-mentioned orders. This document could not, therefore be regarded either as having been submitted late or as constituting a procedural manoeuvre.
31. Exhibits PC 62 and PC 63 relate to additional FTIR tests concerning the non-self-crosslinking nature of the acrylic. However, Bostik could not have known, at the SoC stage, that the defendant would rely on the lack of evidence regarding this property (§ BOSTIK 847–851). It is the same for PC66 and 67, which relate to additional tests at 130 °C for 30 seconds (instead of 127 °C and 45 seconds and which are in response to the arguments put forward by HENKEL.

Therefore, there are no grounds for granting HENKEL's request.

6-submission of a single document

32. The parties were asked to submit a single document with all their claims, limited to the operative part only, which compile all the claims set out by each party in its submissions, and BOSTIK was asked to update its claims taking into account, the withdrawal, regarding to alleged infringing products.
33. On 11 June 2026, BOSTIK has submitted as requested, an English translation of the statement of defence, which was originally filed in French, along with the updated version.

III- oral hearing

1- Confirmation of the oral hearing's date

34. The interim conference then focused on preparation for the oral hearing, which is to take place as scheduled in the order dated 9 December 2025 on:

3 July 2026, at 9h30 am

Paris Court of Appeal

Salle Vassogne

1 boulevard du Palais

75001 Paris

2 -Detailed organisation

35. The times and order of the oral arguments are set as follows (in accordance with the note from the judge-rapporteur, with minor amendments agreed with the representatives).

1-Duration of the hearing

In accordance with R.113 RoP, the presiding judge may set time limits for parties' oral submissions in advance of the oral hearing

The oral hearing will last from 9 :30 am to 5 :00 pm at the latest, including the preliminary introduction and the breaks.

2-Detailed organisation

9: 30 am to 9:40 am

Preliminary introduction

by the Presiding judge and presentation of the case by the JR

9:40-10:40

Presentation of EP 627 and claim interpretation

30 min for each party: first Bostik, then HENKEL

Specifically what does it mean:

-two parts: features 1 and 2 are distinct and disclose two stages of the same product (coating for bonding before it is coated and dried, and product obtained by the method to obtain a final closure), i.e., compositional and functional features

-feature 1.1.2 “non self-crosslinking emulsion” what is crosslink, external cross-linking

-feature 1.2.1 “peelable and non-resealable closure for a flexible package”- what does “peelable” and “non-resealable” mean?

-feature 1.2.2 “cohesive strength of at least 118,11 g/cm”

What is an “adhesive/ cohesive failure”- “adhesive and cohesive “strength

-feature 1.2.3 “drying on a substrate above 127 °C” (Henkel: drying duration of 30 seconds and below, a longer duration lies outside the scope of the patent)

10:40 to 11 am

Break

11:00 am-1:pm

Validity or invalidity of the patent at issue

60 min for each party, HENKEL first and then BOSTIK

1-added matter:

-Combination of feat. 1.1 and 1.2: impossible combination

-Combination of features 1.2.2 and 1.2.3: not directly and non-ambiguously derivable from the original application QE 1

-Combination of feat 1.2.1 (PNR system) and feature group 1.1

-feat. 1.2.2. (What is “cohesive strength” which is not explicitly disclosed in the original application?).

2- insufficient disclosure

Uncertainty and incompleteness of the disclosure (combination of two stages of the same material)
Reproducibility by the person skilled in the art?

3-novelty over D1

-Prior use of primaseal 22-088 and 22-121: standard of proof of prior use?

Statement of Mr Stephenson (QE 7) + Recipe’s reconstruction: level increase of two ingredients, replacement of a product (Primaseal 22-088).

Relevance of this reconstruction regarding the prior use?

-over D1 cited in the opposition proceedings

Compliance of D1 with feat. 1.2?

disclosure of “free from crosslink” and “non-self crosslinking” polymer?

Resealability (adhesive can be broken and remade several times)

Relevance of Henkel’s reproduction QE 29?

4-lack of inventive step

-Common General Knowledge (D6 to D9)

-Combination of Prior use products and CGK

-combination D1 + CGK

-combination D1+ D2

-combination prior use products or D1 + D3 or D4 (for Claims 13 and 15 only).

5-conditionnal amendments AR 1 to 3

Lunch Break: 1 pm to 2:15 pm

2:15 pm to 2:45 pm **Rebuttals**
15 min for each

2:45 pm-3:45 pm **Alleged infringement**
30 min for each party, BOSTIK first, then HENKEL

- lack of jurisdiction for the Spanish and UK national part?
- evidence
- prescription: from 14 February 2019 to 14 February 2025/
- direct and indirect infringement Claims 1,2, 3, 8-10 & 12
 - Loctite® Liofol CS 7300-21:
Reproduction of Claim 1, feature 1 is not contested by Henkel.
Reproduction of Claim feature 2 is disputed: video QE40 and Bostic Exhibit n°66 – resealable closure or not?
 - Loctite® Liofol CS 22-861
Compliance with features 1, 1.1.3 and 1.2.2- 3 not disputed: PC36, PC 41, PC42
Compliance with feature 1.1.4 not disputed: additive ingredients: PC 39 bis and 40 bis – QE49-51-no additives mentioned in the datasheets of CS7416 (exhibit n°69-QE 52-55) but not contested.

3:45 pm to 4:00 pm **Rebuttals**

4:00 pm- 4:50 pm **Corrective measures**
25 min for each party, BOSTIK first, then HENKEL

- interim award on material prejudice (Bostik: 9M°)
and moral prejudice: Bostik Euros100.000
- Security for Costs: Euros 50.000 for the claimant
- disclosure of information
- separate proceedings on costs

4: 50 pm- 5:pm **Conclusion by the parties**

President's concluding remarks and information regarding the date on which the decision will be delivered

End of the Oral Hearing: 5 pm

For these reasons,
the judge-rapporteur orders that:

-The value of the infringement action UPC_CFI_583/2025 is set at an amount of EUROS 3 million and the counterclaim (UPC_CFI_1435/2025) also to a value of EUROS 3 million, resulting in a total of EUROS 6 million,

- The infringement action still remains for the two alleged infringing products Liofol® CS22-861 and CS7300-21, after BOSTIK's withdrawal relating to Henkel's products Liofol®CS 7500-22 and CS7416,
- The skilled person is an engineer in chemistry, with education on physical chemistry and having experience in the specialized field of adhesive bonding technology and with the formulation, usage and application of cold seal adhesives, including, among other things, flexible food packaging,
- BOSTIK's Application for exclusion of arguments and Exhibit QE 59, submitted by HENKEL on 07 April 2026, is dismissed,
- HENKEL's request to exclude BOSTIK's Exhibits PC 61, PC 62, PC 63, PC 66, PC 67 is dismissed, while PC 69 becomes irrelevant to the case, after the withdrawal,
- HENKEL shall submit via CMS, by 26 June 2026, a consolidated document setting out the operative parts of its requests at the time of the closure of the written procedure,
- The interim procedure is closed and the oral hearing proceedings commence on the date of this order.

Issued in Paris, on 16 June 2026
Carine Gillet, Judge-rapporteur

ORDER DETAILS

UPC number: UPC_CFI_583/2025

Related proceedings: UPC_CFI_1435/2025

Action type: Infringement Action and Counterclaim for revocation

Order type: R.105.5 RoP order following the interim conference

Date of issue: 16/06/2026