

Final Order
of the Court of Appeal of the Unified Patent Court
issued on 21 August 2026
concerning a request for provisional measures

HEADNOTES:

Where two patents are the subject of the proceedings and the claim or application is successful in respect of only one patent, it is generally appropriate to apportion the costs in proportion to the values of the two patents. However, it may also be regarded as appropriate to order the unsuccessful party to bear the costs attributable to the respective patent.

KEYWORDS:

- Legal costs, successful only in part (Art. 69(2) UPCA)

APPELLANT (APPLICANT IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

SharkNinja Operating LLC, Needham, MA, United States
(hereinafter also referred to as “SharkNinja”)

represented by Paul Bettridge, European Patent Attorney and other patent attorneys and attorneys at law of
Carpmaels & Ransford LLP, London, United Kingdom

RESPONDENTS (DEFENDANTS IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

1. **Groupe SEB France**, Écully, France
2. **S.A.S. SEB**, Selongey, France
3. **SEB International Service (SIS)**, Faucogney et La Mer, France
4. **Groupe SEB WMF Consumer GmbH**, Geislingen an der Steige, Germany
(hereinafter also jointly referred to as “SEB”)

all represented by Thomas Bouvet, attorney at law, and other attorneys at law of Jones Day, Paris,
France

PATENT AT ISSUE

EP 3 689 198

LANGUAGE OF THE PROCEEDINGS

English

DECIDING JUDGES

Panel 2

Rian Kalden, legally qualified judge and presiding judge

Patricia Rombach, legally qualified judge and judge-rapporteur

Ingeborg Simonsson, legally qualified judge

Max Tilmann, technically qualified judge

Marc van der Burg, technically qualified judge

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

“Decision” in UPC-CFI-1594/2025, issued by the Local Division Paris on 10 April 2026.

ORAL HEARING

23 July 2026

FACTS

1. SharkNinja is proprietor of the European patent 3 689 198 (hereinafter “patent at issue”). The application was filed on 9 August 2018 and published on 5 August 2020; the mention of the grant of the patent was published on 4 January 2023. The patent at issue claims priority of 9 August 2017 and is in force in France and Germany. No opposition was filed against the patent.
2. Claim 1 of the patent at issue reads as follows:

“A cooking system (20) for cooking food, the cooking system (20) being functional in a plurality of cooking modes, the cooking system (20) comprising:
a housing (22) defining a hollow chamber (30) configured to receive a food container (24), said housing (22) having an upper portion (34) defining an opening to said hollow chamber (30);
a first lid (32) adapted to cover said opening to said hollow chamber (30), the cooking system (20) configured to operate in an air frying mode when said first lid (32) covers said opening; and a first heating element (82) associated with said housing (22) and a second heating element (84) associated with said first lid (32);
characterized by
a second lid (37) configured to couple to at least one of said housing (22) and said food container (24) to cover said opening to said hollow chamber (30) when the cooking system (20) operates in a conductive cooking mode.”
3. SharkNinja and SEB are competitors in the field of small kitchen appliances.
4. On 10 October 2025, SEB launched a new range of cooking devices, named “Cookeo Infinity” (hereinafter “attacked embodiment”) on the French market. Shark Ninja became aware of the availability of the attacked embodiments on 15 October 2025 and filed an application for provisional measures on 14 November 2025 before the Paris Local Division against SEB, for alleged infringement of the patent at issue and EP 3 689 201 (hereinafter “EP’201”).
5. On 17 February 2026 SharkNinja withdrew its request regarding EP’201.

6. With the impugned “decision” (hereinafter: impugned order) the Paris Local Division “noted” the withdrawal of the request under EP’201 and dismissed SharkNinja’s application for provisional measures against SEB. The Paris Local Division ordered SharkNinja to bear the legal costs incurred by SEB and to pay SEB an interim cost award amounting to EUR 120,000 “corresponding to the recoverable costs for EP’201”.
7. Regarding the patent at issue, the Paris Local Division held that claims 1, 2, 3, 5-8 of the patent at issue as well as a combination of claims 1 and 8 were more likely than not invalid for lack of novelty over Utility Model CN 202312830 U (translation, Exhibit SEB-7.1 bis, hereinafter “Tredy”). According to the Paris Local Division, SharkNinja did not put forward any arguments to contest the invalidity of claim 4.
8. SharkNinja appealed the impugned order.

PARTIES’ REQUESTS

9. In summary, SharkNinja requests that the Court of Appeal set aside the impugned order in its entirety and order SEB,
 - subject to a (possibly repeated) penalty payment of up to EUR 1,000 per infringing product and/or, in the case of continuous infringement, of up to EUR 100,000 per day, payable to the Court by the respective Respondent, in the territories of France and Germany, to cease and desist from direct infringing claim 1 of the patent, in particular from direct infringing claim 8 of the patent at issue, which includes at least the following products:
 - Cookeo Infinity, 20 modes de cuisson, Ref: CE9828F0
 - Cookeo Infinity, 19 modes de cuisson, Ref: CE9821F0
 - Cookeo Infinity, 17 modes de cuisson, Ref: CE97GUF0
 - Cookeo Infinity, 16 modes de cuisson, Ref: CE9721F0;
 - to pay to SharkNinja an interim award in the amount of EUR 300,000 and to bear the costs of the appeal proceedings and of the first instance proceedings relating to the patent at issue.
10. In summary, SEB requests that the Court of Appeal reject the appeal, order that SharkNinja bears the costs of the appeal proceedings and provisionally reimburses SEB for costs in the amount of EUR 300,000.

PARTIES’ SUBMISSIONS

11. In summary, SharkNinja submits the following:
 - While the Paris Local Division correctly construed all the features of the claims, its understanding of “air frying” was overly broad and therefore incorrect. Claim 1 defines an “air frying mode” as cooking by high-speed hot air directed onto and around all surfaces of the food to achieve a crispy exterior layer.
 - During the CFI hearing, SharkNinja offered to provide written expert declarations in response to SEB’s expert declarations submitted with their Rejoinder. But this offer was not picked up by the Paris Local Division. Therefore, there was no earlier opportunity to file such evidence. The expert declarations and other exhibits lodged on appeal are a direct reaction to an error made by the Paris Local Division.
 - Claim 1 of the patent at issue does not require that the second lid is configured to couple directly to the housing or the food container.
 - The Paris Local Division incorrectly held that Tredy implicitly discloses an air frying mode even if Tredy discloses a fan (which is contested).
 - SEB did not submit any substantive arguments on lack of inventive step.
 - With regard to the invalidity arguments based on Liantek, SharkNinja refers to its Reply.

12. In summary, SEB defends the impugned order and submits the following:

- The new argument raised by SharkNinja at the oral hearing regarding the speed of the Tredy fan and the new exhibits introduced on appeal by SharkNinja are inadmissible because they are late filed, and are contradicting SharkNinja's first instance arguments that Tredy would contain no motor and no fan. SharkNinja raised the alleged "high speed" requirement for air fryers at the oral hearing of the first instance, with no details.
- Claim 1 of the patent at issue requires the coupling of the second lid by means of interaction specific to it and complementary to the housing and/or food container.
- The verb "to cover" means to seal the interior of the container. The second lid must be in contact with the hollow chamber and close it off.
- The second lid of the "Cookeo Infinity" products is not "configured to couple" to the housing or the container because it does not carry means of interaction with the housing or the container but is coupled to the first lid which carries those means of interaction with the housing. The second lid is not press-fitted onto the container.
- SharkNinja's further new arguments and exhibits are inadmissible. SEB responds to these arguments by providing new arguments and exhibits.
- The absence of necessity and the balance of interests involved require that the application for provisional measures be dismissed.

REASONS

13. SharkNinja's appeal is admissible and well-founded.

I. Subject matter of the patent at issue

1) Technical background of the patent

14. The patent at issue relates generally to a cooking device and components thereof, and more specifically, a multifunction device configured to perform the operation of a plurality of distinct cooking devices, the multifunctional cooking device optionally employing various components for cooking in the distinct cooking modes (para. 1).

15. According to the description of the patent at issue, conventional cooking devices, such as pressure cookers and air fryers, each perform a single cooking operation, and as such, these devices employ different components and methods for cooking food items. As such, multiple devices are required to perform various cooking operations. For consumers that wish to enjoy food cooked in different ways via different operations, an accumulation of these devices can occur. Such an accumulation of cooking devices is often prohibitive from a standpoint of cost and storage space. For at least these reasons, it would be desirable to integrate the functionality of several cooking devices into a single user-friendly cooking device (para. 2).

2) Objective of the invention

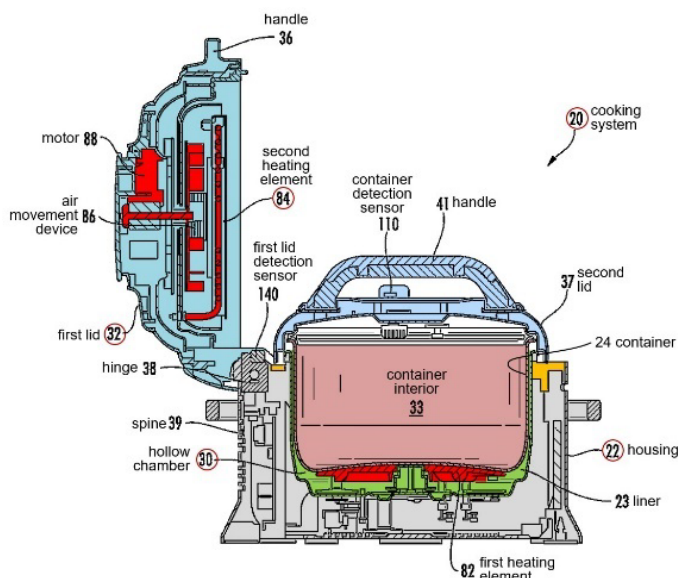
16. Against this background, the problem underlying the invention is to integrate the functionality of several cooking devices into a single user-friendly cooking device.

3) Feature breakdown

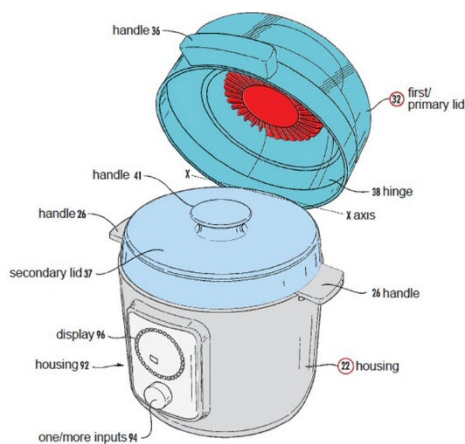
17.This objective is achieved by a cooking system with the following features (using the feature breakdown established by the Paris Local Division).

1.	A cooking system (20) for cooking food, the cooking system (20) being functional in a plurality of cooking modes, the cooking system (20) comprising:
1.1	a housing (22) defining a hollow chamber (30) configured to receive a food container (24), said housing (22) having an upper portion (34) defining an opening to said hollow chamber (30);
1.2	a first lid (32) adapted to cover said opening to said hollow chamber (30), the cooking system (20) configured to operate in an air frying mode when said first lid (32) covers said opening; and
1.3	a first heating element (82) associated with said housing (22) and a second heating element (84) associated with said first lid (32);
1.4	characterised by a second lid (37) configured to couple to at least one of said housing (22) and said food container (24) to cover said opening to said hollow chamber (30) when the cooking system (20) operates in a conductive cooking mode.

18.FIG. 3A of the patent at issue (depicted below and coloured and labeled by SEB) is a cross-sectional view of the cooking system having a second lid according to an embodiment of the invention.



19.FIG. 4 of the patent at issue is a perspective view (depicted below and coloured and labeled by SEB) of an embodiment according to claim 1.



20. The core of the invention can be described as follows: The system provides at least two cooking modes (air frying mode (see below para. 24) and at least one conductive cooking mode (see below para. 35). The air frying mode is characterized in that the first lid covers the opening to the hollow chamber (30), and the conductive cooking mode is characterized in that the second lid covers the opening to said hollow chamber (30). Since the lids are configured for different cooking operations, this makes it possible for the same hollow chamber (30) of the housing to contain the cooking conditions (heat, humidity, etc.) for each of the cooking operations.

4) *Person skilled in the art*

21. The person skilled in the art is an engineer with experience in developing and designing cooking systems, such as air fryers, pressure cookers, pressure cooking appliances or appliances using other cooking modes.

5) *Interpretation of patent claim 1*

22. The Court bases its decision on the following understanding of the features:

Feature 1.2

23. According to feature 1.2, a first lid (32) is adapted to cover the opening to the hollow chamber (30) and the cooking system (20) is configured to operate in an air frying mode when said first lid (32) covers said opening.

Air frying mode

24. According to the patent description, air frying is a convective heating operation. Convective heating operations may generally be referred to as “dry cooking operations” which include any cooking mode that creates a “dry cooking environment” in the container. Other convective heating operations are broiling, baking/roasting and dehydrating (para. 29 lines 48-53). These other convective heating operations are not subject of claim 1 of the patent at issue.

25. To create a dry cooking environment, air and moisture are actively exhausted or vented from the cooking enclosure to outside the cooking system (20), thereby maintaining a minimum level of moisture within the container (24). Parameters associated with the cooking modes of an embodiment are shown in FIG. 19 (see

para. 29, column 10, lines 53 – column 11, line 1).

FUNCTION	DEFAULT TIME (HH:MM)	TIME SETTINGS	PRESSURE SETTINGS	DEFAULT TEMPERATURE (F)	TEMPERATURE SETTINGS	FAN SPEED SETTING (RPM)
PRESSURE	0:10 HI (DEFAULT)/ 0:10 LO	0:00-4:00, 1 MIN INCREMENTS FROM 0:00-1:00, 5 MIN INCREMENTS FROM 1:00-4:00	LO: 50 ± 10KPA HI: 80 ± 10KPA	N/A	N/A	N/A
SLOW COOK	4:00 HI (DEFAULT)/ 8:00 LO	4:00-12:00, 15 MIN INCREMENT HIGH, 6:00-12:00, 15 MIN INCREMENT LOW	N/A	HI	LO/HI	N/A
SEAR/SAUTE	N/A	NO TIME FUNCTIONALITY FOR SEAR/SAUTE	N/A	HI	LO / LO:MD / MD / MD:HI / HI (INCLUDE : WHERE SHOWN)	N/A
STEAM	0:10	0:01-0:30, 1 MIN INCREMENT	N/A	N/A	N/A	N/A
AIR CRISP	0:20	0:01-1:00, 1 MIN INCREMENT	N/A	390	300, 315, 325, 330, 345, 350, 360, 375, 390, 400	100% MOTOR POWER (TARGET 2650RPM)
ROAST	0:15	0:01-4:00, 1 MIN INCREMENTS FROM 0:01-1:00, 5 MIN INCREMENTS FROM 1:00-4:00	N/A	375	250, 260, 275, 290, 300, 315, 325, 330, 345, 350, 360, 375, 390, 400	100% MOTOR POWER (TARGET 2650RPM)
DEHYDRATE	6:00	1:00-12:00, 15 MIN INCREMENTS	N/A	150	105, 120, 135, 150, 165, 180, 195	50% MOTOR POWER (TARGET 1200RPM)
BROIL	00:10	0:01-0:30, 1 MIN INCREMENTS	N/A	450	450	100% MOTOR POWER (TARGET 2650RPM)

FIG. 19

- 26.The Paris Local Division rightly found that the person skilled in the art would understand from the description that air frying involves circulating heated air. It would also understand that a heating element and a rotating fan, driven by a motor, are required to circulate this hot air in the device. This is rightly undisputed between the parties.
- 27.During the oral hearing before the Paris Local Division and on appeal SharkNinja argued that further requirements apply to air frying, namely that the air must be hot and high-speed and directed around the entire surface of the food. It is not necessary to determine whether this is true. This question is irrelevant for the issues of patent validity and infringement in this case.
- 28.The evidence and facts submitted by SharkNinja for the first time on appeal (CRA-1 to CRA-17, CRA-26 and declarations CRA-D.1 to CRA-D.7) which were intended to prove alleged common general knowledge in this respect, are disregarded according to R. 222.2 RoP. They are not decisive; SEB requested that these be disregarded and SharkNinja could have submitted them during the CFI proceedings.
- First lid is adapted to cover opening of hollow chamber*
- 29.The first lid must be adapted to cover the opening to the hollow chamber. In contrast to feature 1.4 (see below) the claim does not require the first lid to be adapted to couple to at least one of the housing or the food container.
- 30.The lack of disclosure of a specific embodiment, where the first lid only covers the opening to the hollow chamber but is not attached to the housing or the food container does not lead to a limited understanding of feature 1.2 that would only encompass embodiments, where the first lid would indeed be attached to the housing or the food container. The interplay of claim 1 (that leaves the attachment open) with claim 4, wherein the first lid (32) is moveably attached to the housing (22) already indicates to the person skilled in the art that feature 1.2 leaves the aspect of attachment of the first lid open.

31. Adapted to cover the opening requires means that enable the first lid to fully cover the opening to the hollow chamber. This implies that the surface of the first lid (32) is at least generally complementary to the upper portion of the housing defining the opening to said hollow chamber, such that the lid (32) at least extends over the opening to the hollow chamber, i.e. must have a surface greater than that of the opening to the hollow chamber. This understanding is confirmed by the description of an embodiment, where “a diameter of the lid (32) is generally complementary to a diameter of the housing (22) such that the lid (32) covers not only the container (24), but also an upper surface (34) of the housing (22)” (para. 19, lines 42-45).

32. The person skilled in the art understands that the first lid is adapted to be in contact with the food container or the housing during the air frying operations

33. Thus, it is sufficient when the first lid simply rests (loosely) on the housing as long as the opening to the hollow chamber is covered. An airtight closure is not required.

Feature 1.4

34. According to feature 1.4, the cooking system comprises a second lid (37) configured to couple to at least one of said housing (22) and said food container (24) to cover said opening to said hollow chamber (30) when the cooking system (20) operates in a conductive cooking mode.

Conductive cooking mode

35. Conductive cooking operations may generally be referred to as “wet cooking” operations, such as but not limited to pressure cooking, steam cooking, slow cooking, searing, and sauteing. To create a wet cooking environment, the majority of the moisture within the container, i.e. liquid added to the container (24) or moisture released from the food within the container (24), is retained within the container as the food is cooked. Although during conductive cooking operations a minimal amount of air having moisture entrained therein may be vented from the system, such air is passively removed from the cooking enclosure (para. 29, lines 38-46; para. 30, lines 37-39).

To cover

36. In feature 1.4, the term “to cover” has the same meaning as in feature 1.2. This requires that the second lid must have a surface greater than that of the opening to the hollow chamber.

37. Contrary to SEB’s view, feature 1.4 does not require an airtight coverage of the hollow chamber.

38. As a general rule, identical terms in a patent claim have the same meaning. A different understanding of an identical term in different features of a patent claim is possible if the interpretation of the claim, taking into account the description, leads to such an understanding. Such a different interpretation may arise from the function of the respective features of the claim (CoA, 27 May 2026, UPC-CoA-622/2025, UPC-CoA-623/2025, *Hefei v Grundfos*, para. 58).

39. The Paris Local Division rightly noted that the wording “to cover” is only used in the patent specification in conjunction with the first lid. There is nothing in the patent specification to suggest that the word has a different meaning in the context of feature 1.4.

40. SEB argues, unsuccessfully, that this understanding deprives this feature of any “technical effect”, in particular in the context of pressure cooking. It is true that pressure cooking requires that the secondary lid (37) is affixed to the container (24) or housing (22) to form a pressure-tight, sealed enclosure with the container (24) (para. 30 lines 2-6). However, feature 1.4 is not limited to pressure cooking. As stated above, there are many other conductive cooking modes (para. 35). When the cooking device (20) is operated in one of these non-pressure conductive cooking modes, there is no need for a pressure-tight sealing, on which SEB agreed in the oral hearing. In the description it is stated: “When the cooking device (20) is operated in one of these non-pressure modes, either the secondary lid (37) may be affixed to the container (24) or housing (22) or the primary lid (32) (sic) may simply be closed” (para. 30, lines 39-42). It is true, that this could be understood in the sense that the secondary lid is not necessary for these cooking modes, but it is sufficient if the primary lid may simply be closed. However, this is not reflected in feature 1.4 of the patent claim, which relates to a conductive cooking mode and requires a second lid to be configured to couple to the housing (22) or food container (24). The view that a conductive cooking mode does not necessarily include pressure cooking and that the second lid does not require a pressure-tight sealing is reinforced by dependent claim 7, which protects the cooking system of claim 2, wherein said housing bayonet is engageable to couple said second lid (37) to said housing (22) when said conductive cooking mode is a pressure cooking mode, and by dependent claim 8 which protects the cooking system of claim 1, where said second lid (37) is a pressure cooking lid, as well by paras. 153 and 154 which describe the pressure-cooking mode as optional.

Configured to couple

41. Both parties agree that the phrase “configured to couple” refers to an interaction between two components, in the sense that the components operate in close contact with one another. The Court of Appeal agrees with this interpretation. Accordingly, the second lid must be configured to interact with at least one of the housing (22) or the food container (24) to cover the opening to said hollow chamber (30), when the cooking system (20) operates in a conductive cooking mode.

42. Contrary to SEB’s opinion, claim 1 leaves open the question of how this is achieved. This feature can be realized by special means for interactions like a hinge or a bayonet. But the claim is not limited to these means. The person skilled in the art understands that it is sufficient for the second lid to be – for example – correctly shaped to press-fit the housing or the food container during the cooking operation, which means that the second lid and the housing or the food container have complementary shapes.

43. The fact that every type of interaction falls within the scope of claim 1, especially the correct shape to pressfit the housing or the food container is also confirmed by the following statements in the description. “In an embodiment, the secondary lid (37) is press-fit onto an upper surface (34) of the housing (22) or directly to the container (24). In another embodiment, the secondary lid (37) is configured to thread-ably couple to the upper surface (34) or the housing (22) or directly to the container (24). However, embodiments where the secondary lid (37) is configured to couple to at least one of the housing (22) and container (24) in another suitable manner, such as via a pressure tight mechanism for example, are also contemplated herein” (emphasis by the Court, para. 19, column 7, lines 14-24).

44. Such an interpretation is not precluded by patent claims 2, 3 and 7 either. According to claim 2, the cooking system includes a housing bayonet for coupling the second lid (37) to the housing (22). According to claim 7, this housing bayonet is engageable to couple said second lid (37) to said housing (22), when said conductive cooking mode is a pressure cooking mode. According to claim 3, the second lid (37) is configured to threadably couple to an upper surface (34) of the housing (22) of the container (24). These claims only describe suitable

types of fastening mechanisms with which the coupling may be established without limiting claim 1.

45. Contrary to the Court's preliminary opinion presented in the oral hearing, it is not required that the second lid is affixed or directly joined to the housing (22) or the food container (24). This preliminary view was based on the common meaning of "coupling" which refers to the action of directly joining or affixing two things. However, the patent specification deviates from this understanding, as illustrated by the description of an embodiment where the coupling is done by means of a press-fit shape of the secondary lid. It is also illustrated by the description of a condensation tray, which "may, but need not, be arranged in fluid communication with the condensation rim of the upper surface (34)" (para. 22 lines 33-35) and "is configured to removably couple to the housing (22) to allow the user to empty the contents of the tray (53)" (para. 22 lines 37-38; emphasis by the Court).
46. Feature 1.4 does not exclude that the second lid nests in the first lid when the second lid interacts with the housing or the food container. In the patent description, it is expressly stated that in some embodiments, "as shown in FIGS. 4 and 5, at least a portion of the secondary lid (37) may be nestable or receivable within the primary lid (32). In such embodiments, the outer diameter of the secondary lid (37) may be smaller than the inner diameter of the primary lid (32), such that the primary lid (32) substantially surrounds the secondary lid (37) when in the closed position" (para. 21 lines 13-20).
47. It is true that the second lid must have its own means of interaction with the housing or food container (e.g. press-fit shape, a thread, a bayonet) but that does not mean that it is excluded that a press-fit interaction is supported by external means like the first lid.
48. SEB argues, unsuccessfully, that this embodiment requires that the first lid must be in an open position when the second lid interacts with the housing or the food container to cover the opening, because otherwise it would not work for steam and pressure cooking. According to SEB, the second lid can only nest in the first lid for storing purposes. The Court of Appeal does not agree. In the case of steam and pressure cooking, it is true that steam must be vented. A person skilled in the art will also recognise that venting steam via the first lid alone can damage the fan and motor in the first lid. However, as the claim provides no indication that such a configuration is excluded, the person skilled in the art will consider that the scope of patent claim 1 also covers configurations in which the first lid is closed during the cooking process. Furthermore, the person skilled in the art would recognise that water vapor generated in the food container can be discharged via a steam valve through a steam pipe, without directly entering the first lid. Furthermore, feature 1.4 does not necessarily require that steam and pressure cooking be possible. As explained above (para. 35), other conductive cooking operations are also protected, in which the venting of steam is not essential.

History of the examination proceedings

49. SEB argues, unsuccessfully, that this contradicts with the understanding SharkNinja used in the examination proceedings before the EPO. According to SEB, it is a contradiction with the amendments made during the examination proceedings to now claim that feature 1.4 could cover a second lid which does not itself carry the means necessary to lock it on the housing.
50. Whether the history of its examination proceedings is a decisive factor in interpreting a patent can be left open. There is no contradiction between SharkNinja's statements and the Court's understanding of feature 1.4.

51. SharkNinja explained with its letter of 5 February 2021 (Exhibit SEB-11.2, p.1) to the examiner: “Claim 1 has been amended to essentially require a first lid for air frying and a second lid including a locking feature for locking the second lid to the housing during conductive cooking modes (such as pressure cooking) (...). In view of the Examiner’s comments at point 5 of the ESO, we trust that the new claims will be deemed allowable. It is noted that none of the prior art documents disclose a cooking system that includes a second lid, and hence fail to disclose a second lid lockable to the housing. Inclusion of a second lockable lid is an important feature, that can create a sealed environment that allows pressure build for pressure cooking” (emphasis by the Court).

52. As mentioned above, according to feature 1.4, the second lid must have its own internal means of interaction with the housing or food container, by any means. The statement before the examiner does not contradict this, because there it is also argued that the second lid must be lockable, i.e. configured to couple in the sense of the description, which as said does not require a direct joining or affixing, so that e.g. a press-fit shape of the second lid suffices. The mentioned possibility (‘can’) of creating a sealed environment that allows pressure build for pressure cooking, does not lead to a different conclusion. This possibility does not form part of the granted claim 1, but is included in the dependent claims 7 and 8 (see para. 40 above).

53. The same applies for the letter dated 4 August 2021. Therein, SharkNinja argued with regard to novelty over CN 1820685 A (cited as D1): “Claim 1 is novel at least in that neither D1 nor the rest of the cited art discloses a cooking system having the features set out in the preamble of claim 1, together with *a second lid attachable to said housing to cover said upper portion of said housing and said opening to said hollow chamber*. In D1 the hinged lid appears to be a single assembly which seals to the housing. The part (17) identified by the Examiner is an inner liner of the lid, and moreover, is not attachable to the housing to cover said upper portion of said housing. The hinged lid seals to the housing, whereas the inner liner (17) only seals to the inner food container. In D2 similarly, there is a single hinged lid which has an inner portion that seals to the food container. Only the outer part of the lid is attachable to the *housing to cover said upper portion of said housing and said opening to said hollow chamber*. In D3 also, the lid is raised and lowered as a single assembly, and there is no *second lid* distinct from the *first lid*. (...)” (underlining by the Court). The technical effect of the novel feature is that each of the first and second lids can be coupled to the housing (as distinct from the inner food container) to define a cooking compartment within the hollow interior (30) of the housing. Since the lids can be configured for different cooking operations, this makes it possible for the same hollow interior (30) of the housing to contain the cooking conditions (heat, humidity, etc.) for each of the cooking operations” (Exhibit SEB-10.4, p. 1-2). According to the above understanding of the patent also the second lid defines a cooking compartment within the hollow interior of the housing.

II. Validity

54. The patent at issue is more likely to be valid than invalid.

1. Novelty over Tredy

Subject matter of Tredy

55. According to the description of Tredy, an electric pressure cooker is an upgraded product formed by optimally combining a conventional pressure cooker and an electric rice cooker. It combines advantages of both the pressure cooker and the electric rice cooker and uses electrical energy for heating in a sealed state inside the pot, which is environmentally friendly, convenient and efficient, and can meet a variety of cooking needs. In

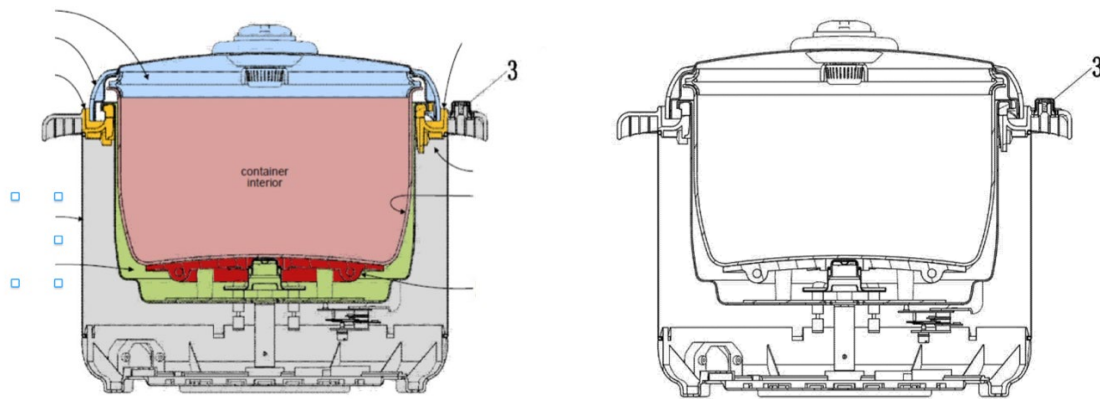
addition, multiple automatic cooking modes are realized by an intelligent control-circuit system. Existing mainstream electric pressure cookers can perform cooking operations such as streaming, boiling, stewing and braising but none of them has a grilling function (para. 2).

56. Against this background, Tredy provides an electric pressure cooker having a grilling function (para. 3).

57. The technical solution of Tredy is as follows: an electric pressure cooker having a grilling function comprising an electric pressure cooker and a burner of a lightwave oven, wherein the burner is provided with a coupler, and a pot body of the electric pressure cooker is provided with a coupler base mating therewith (para. 4).

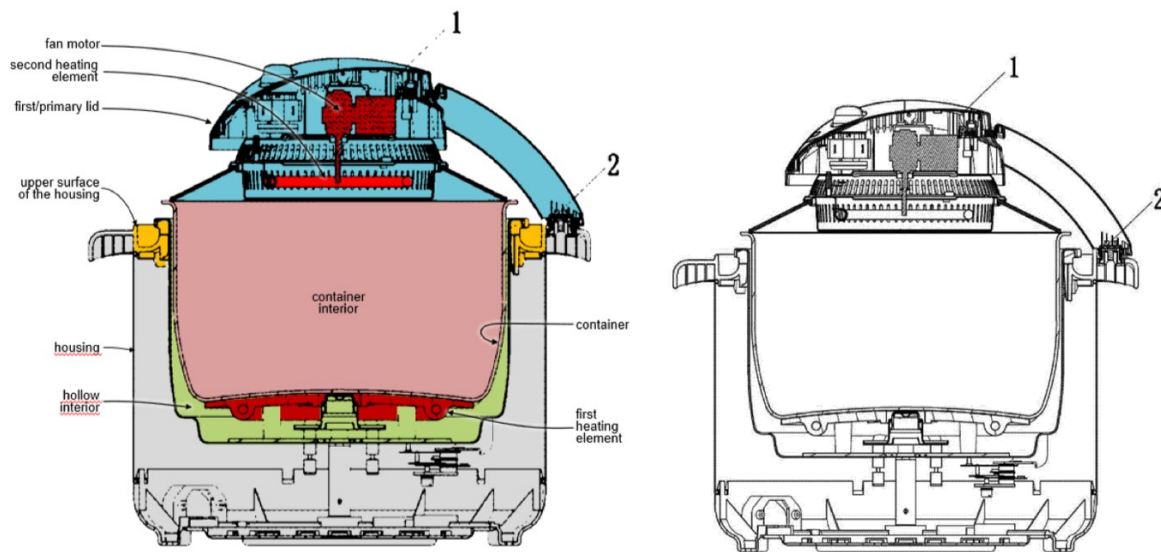
58. The utility model can be used as a conventional electric pressure cooker to perform cooking operations such as streaming, boiling, stewing, and braising and can also be used as a lightwave oven to perform cooking operations such as grilling. When used as a lightwave oven for grilling, it is only necessary to remove a pot cover of the electric pressure cooker and replace it with the burner, and connect the burner to the control circuit of the electric pressure cooker via the coupler, thereby controlling the burner and the electric pressure cooker to heat simultaneously so as to realize three-dimensional grilling or other cooking functions, with an effect far superior to grilling and the like functions of a lightwave oven used alone (para. 7).

59. FIG. 1 depicted below (colours left side inserted by SEB) is a schematic structural view of the utility model when used as an electric pressure cooker.



60. As shown in FIG. 1, the utility model when used as an electric pressure cooker has a basic structure that is the same as that of a conventional electric pressure cooker, except that a coupler base (3) is provided on an outer housing of the pot body, and the coupler base (3) does not function in this state.

61. FIG. 2 (depicted below right side, colors and labels left side inserted by SEB) is a schematic sectional structural view of the utility model when used for grilling.



62. As shown in FIG. 2, when a user needs to perform grilling, it is only necessary to remove the pot cover of the electric pressure cooker and replace it with burner (1), and cause a coupler (2) on the burner (1) to be docked and communicated with the coupler base (3) on the pot body, thereby controlling, via the control circuit on the electric pressure cooker, the burner (1) and the electric pressure cooker to heat simultaneously so as to realize three-dimensional grilling or other cooking functions (para. 11).

Disclosure of feature 1.2

63. The Paris Local Division held that the skilled person would understand that the “three dimensional grilling mode” function in Tredy is an air fryer function, even if not described with these words. According to the impugned order, Tredy discloses the essential elements required for the air-fryer mode, namely a motor and a fan besides the heater. The Court of Appeal does not agree.

64. Nothing in Tredy, neither in the description nor in the drawings, directly indicates to the skilled person that the two parts highlighted in red by SEB in the burner 1 are a fan or a fan motor. Tredy does not mention a motor, a fan or circulating air.

65. A motor, a fan or circulating air are also not implicitly disclosed in the sense that the skilled person would inevitably consider those features to be necessarily implied. It is not obvious, let alone necessarily implied, that for the three-dimensional grilling function, mentioned in Tredy, a fan would be necessary.

66. That the burner and the electric pressure cooker heat simultaneously so as to realize three-dimensional grilling (para. 11) only means that the heat comes from the top and the bottom. This does not directly and unambiguously lead to the conclusion that the top heater needs to have a fan.

67. This understanding is not changed by the expert opinion in Exhibit SEB-7-6 (translation Exhibit SEB-7.6 bis).

68. The assessment of novelty within the meaning of Art. 54(1) EPC requires that the disclosure of the prior publication must be considered as a whole (CoA, 25 September 2024, UPC_CoA_182/2024, *Mammut v Ortovox*, para. 123). Only that what the skilled person, using his common general knowledge at the relevant filing or priority date, would derive directly and unambiguously from a single piece of prior art is considered to be anticipated thereby (cf. CoA, 25 September 2024, UPC_CoA_182/2024, *Mammut v Ortovox*;

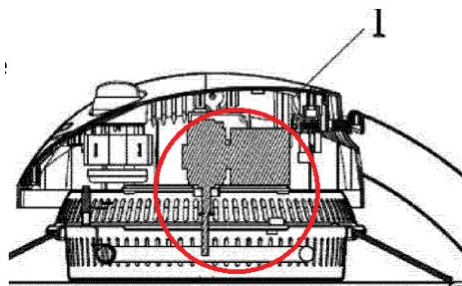
UPC_CoA_382/2024, 14 February 2025, *Abbott v Sibio*; UPC_CoA_312/2025, 2 June 2026; *Kodak v Fujifilm*). The skilled person is a notional entity that cannot be equated with any real person in the technical field of the invention. The decisive factor is not the individual knowledge and abilities of a person, but rather the general specialist knowledge that is customary in the relevant field of technology, as well as the average knowledge, experience, and abilities in this specialist field (CoA, 30 April 2025, UPC-CoA-768/2024, *Insulet v EOFLOW*, para. 37).

69. According to Exhibit SEB-7.6 the expert was asked to interpret the figures accompanying Tredy and more specifically FIG. 2 to determine whether, in view of this drawing, it is a hot air cooking device of the “air fryer” type or another cooking device of the “barbecue” type.

70. The expert was not asked to interpret the publication as a whole and from the perspective of the person skilled in the art at the priority date. For this reason alone, the expert statement is unsuitable.

71. Furthermore, already in the question the expert has been asked, he has been pointed to an “air fryer”, which is nowhere mentioned in Tredy. The question posed to the expert is also worded in contradiction to Tredy. Tredy calls the assembly shown in Figure 2 to be used for a “(three dimensional) grilling function” not a “barbecue”.

72. The second expert opinion relied upon by the Paris Local Division (Exhibit SEB-7.7; translation, Exhibit SEB-7.7 bis) cannot lead to a different conclusion either. From the outset, the expert has been asked to identify the shaded elements in the center of the lid in FIG. 2. The picture below is taken from Exhibit SEB-7.7.



73. The expert was not asked to interpret the publication as a whole and from the perspective of the person skilled in the art at the priority date. Furthermore, already from the starting point, the expert is pointed to something that Tredy evidently places no importance on, because it is not described at all.

74. SEB argues unsuccessfully that prior art documents (Exhibit SEB-14.1 to 14.9) show that the elements circled in red on FIG. 2 of Tredy constitute the typical representation of an air fryer motor and motor shaft, as commonly depicted in many earlier patent drawings. This does not show common general knowledge, because patent applications and patent specifications are not generally considered to present common general knowledge (see CoA, 13 July 2026, UPC-CoA-473/2025, *Fuji v Kodak*, para. 119). Furthermore, these documents relate expressly to air fryers. The use of identical drawings does not imply that, in the absence of a reference to the air fryer, the skilled person would have identified the relevant components in Tredy as the air fryer motor and shaft.

75. That CN 20813535 (Exhibit SEB-14.9, translation Exhibit-SEB 14.9 bis) of 2012 also refers to lightwave oven used to heat the air and to a fan transmitting the heat down, does not lead to another conclusion. A person

skilled in the art, using his common general knowledge, must be able to immediately identify the feature from the prior art document as such. The content of other documents is irrelevant.

76. Insofar as SEB argued in the oral hearing before the Court of Appeal that the expert opinions submitted by SharkNinja on appeal confirm that the person skilled in the art would recognize a fan and a motor, these expert opinions are disregarded (see para. 28) and cannot be taken into account in favour of SEB, given that SEB itself has objected to these opinions being admitted.

Conclusion

77. To conclude, it is not more likely than not that Tredy discloses a cooking system configured to operate in an air frying mode when a first lid, adapted to cover an opening of a hollow chamber, covers said opening (feature 1.2).

2. Novelty over WO 2015/062197 (translation Exhibit SEB-6.1bis, hereinafter Liantek)

Subject matter of Liantek

78. The invention of Liantek relates in particular to an electric stock pot in which an electric heating assembly is also provided to bake food in the pot, thereby enabling an ordinary electric stock pot to additionally have a baking function (p.1, para. 1).

79. According to the background description in Liantek, if one needs to boil/stew/steam food, an electric stock pot is required; if one needs to bake food, an “air fryer” is required in the prior art. From a usage perspective, this requires two more kitchen appliances, which is inconvenient; from a kitchen-space perspective, an additional appliance inevitably occupies additional space; and from an economic perspective, an additional cooking appliance must be purchased, increasing costs (p. 1, para. 2).

80. The technical problem to be solved by the invention is to avoid the disadvantages of the prior art described above and provide an electric stock pot additionally having the function of baking that is convenient to use and low in cost (p. 1, para. 3).

81. The technical solution adopted by the invention to solve this technical problem is as follows: an electric stock pot additionally having the function of baking, based on a traditional electric stock pot structure in which a first electric heating assembly and a temperature control device are installed at the bottom of a pot body, an inner pot is placed inside the pot body, and a pot cover assembly is provided on an upper portion, in particular: an air blower assembly and a second electric heating assembly are further mounted in the pot cover assembly of the electric stock pot, such that the electric stock pot additionally has the function of baking food; baking or steam boiling can be selected alternatively, and the first electric heating assembly may also be used to supply heat from the bottom while baking (p. 1 para. 4-5).

82. Further, the pot cover assembly comprises an outer cover and an inner cover. The outer cover is open at a lower side thereof, and an interior cavity thereof accommodates the air blower assembly and the second electric heating assembly. The inner cover is of a flat plate-shaped mesh-hole structure, adapted to the opening at the lower side of the outer cover, and is connected to the lower side of the outer cover to block the air blower assembly and the second electric heating assembly inside the outer cover (p. 1, para. 6).

83. The food-baking state is described as follows: after the inner cover is mounted to the lower side of the outer cover, the second electric heating assembly within the outer cover heats air within the cavity, and the heated air is driven by the air blower assembly and blown through mesh holes on the inner cover toward food in the inner pot for baking (p. 2 para. 1).
84. Further, a flat plate-shaped cleaning cover or cleaning cover assembly, adapted to the mesh-hole structure of the inner cover, is connected below the inner cover within the pot cover assembly, to cover the mesh holes on the inner cover when the steam boiling function is selectively enabled (p. 2, para. 2).
85. A steam valve is provided on a housing of the outer cover, and a steam pipe that is detachably in communication is arranged between the cleaning cover or cleaning cover assembly and the steam valve (p. 2, para. 3).
86. The steam-boiling state is described as follows: the inner cover and then the cleaning cover or cleaning cover assembly are sequentially mounted below the outer cover; the first electric heating assembly at the bottom of the pot body heats and steam-boils food in the inner pot; water vapor generated in the inner pot is discharged via the steam valve through the steam pipe, without entering the pot cover assembly (p. 2, para. 4).
87. According to Liantek, compared with the prior art, beneficial effects of the electric stock pot additionally having the function of baking include: 1. A single product has two different functions: it can achieve functions of boiling, stewing, steaming etc. of an electric stock pot, and can also achieve the baking function of a so-called air fryer in the prior art. Different functions can be selected according to different use requirements, which is highly convenient. 2. Switching between the boiling/stewing/steaming functions of the electric stock pot and the baking function of the so-called air fryer is convenient to operate, overcoming the limitation of single-function electric stock pot products and air fryer products. 3. When the baking function is used, the two groups of heating bodies at the upper and lower parts can work at the same time, thereby providing a better baking effect (p. 4, para. 3-6).
88. FIG. 4 (depicted below with annotations made by SharkNinja) is a schematic axonometric projection in view of the first embodiment with the pot cover assembly (20) opened, showing an inner cover (22) and a cleaning cover (50) on the pot cover (20) being removed in sequence. FIG. 5 (depicted below with annotations made by SharkNinja) is a schematic front sectional view illustrating the working principle of the first embodiment when the ordinary electric stock pot function is selectively used (p. 4).

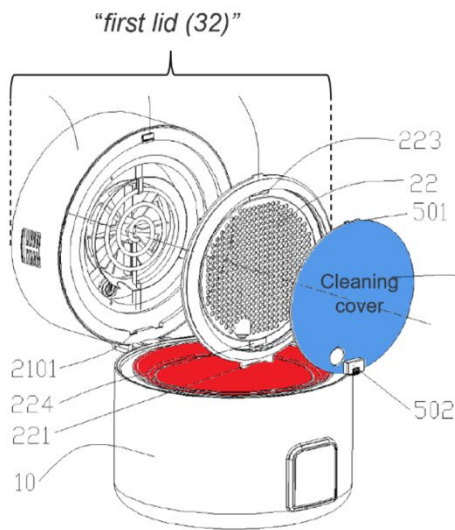


图4

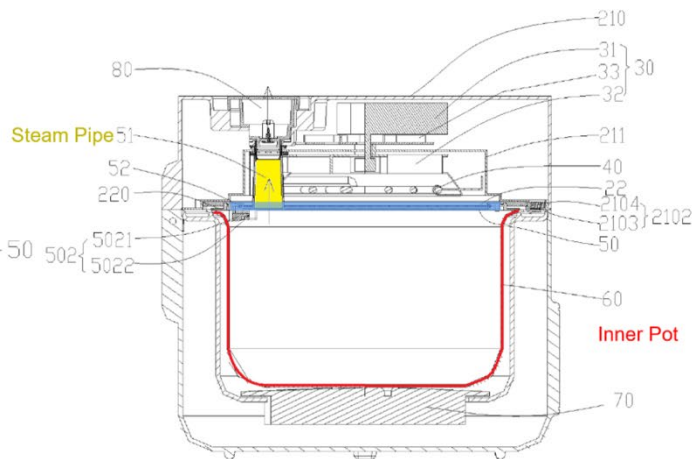


图5

89. A flat plate-shaped cleaning cover (50) adapted to the mesh-hole structure of the inner cover (22) is connected below the inner cover (22) of the pot cover assembly (20) to cover the mesh-holes on the inner cover (22) when the steam boiling function is selectively enabled. A steam valve (80) is provided on the outer shell (210) of the outer cover (21), and a steam pipe (51) that is detachably in communication is arranged between the cleaning cover (50) and the steam valve (80) (p. 7, para. 3).

Disclosure of feature 1.4

90. Feature 1.4 is not directly and unambiguously disclosed. The cleaning cover (50) is not configured to interact with the housing or the food container. It interacts only with the inner cover which forms part of the first lid.

91. Furthermore, as highlighted by SharkNinja, the cleaning cover (50) has a diameter that is too small to cover the opening of the hollow chamber.

Conclusion

92. To conclude, it is more likely than not that the patent is novel over Liantek.

3. Obviousness of claim 1

93. SEB does not claim that claim 1 is obvious. SEB did not argue in the proceedings in the Paris Local Division proceedings that claim 1 was obvious. SEB does not raise any argument in this regard in the appeal proceedings either. SEB declared that they wish to insist on the lack of novelty of claims 1 and 8 and the lack of inventive step of claim 8 in view of Liantek.

4. Claim 8

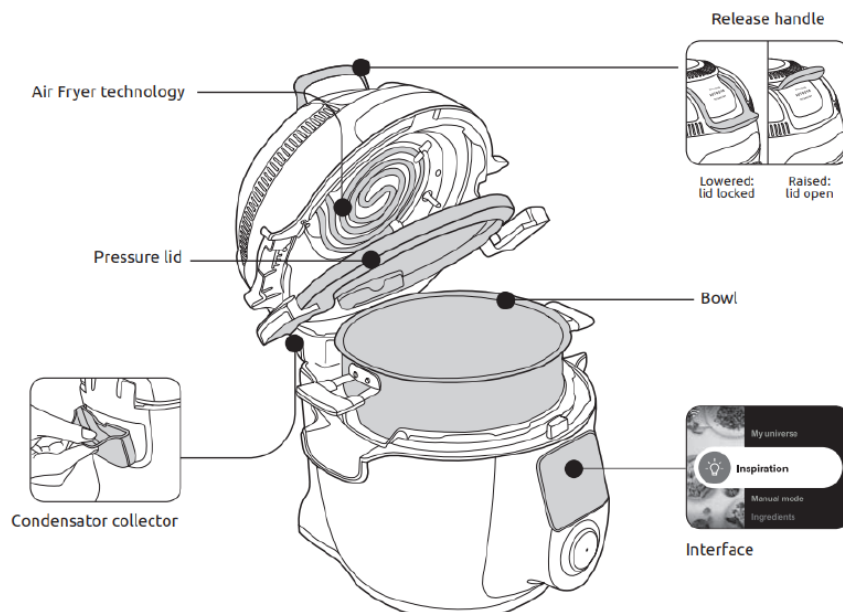
94. If claim 1 is, more likely than not, valid, then the same applies for dependent claim 8.

III. Infringement

95. It is more likely than not that the patent at issue is infringed by the attacked embodiments.

1) Description of the attacked embodiments

96. The main components of the attacked embodiments are explained in the user manual (Exhibit CR-6).



97. They include a bowl, which can be removed from the cooker and into which the food to be prepared is placed, a handle, an interface that shows the recipes and preparation steps, and a condensator collector for collecting moisture produced during preparation.

98. In addition, the attacked embodiments include a “Pressure lid” and the new “Air Fryer technology”. The “Pressure lid” is removable, as shown in the picture below.



Figure 13 : photographs of the “Cookoo Infinity” product with 20 cooking modes (SEB Exhibit № 4.6)

99. When the "Pressure lid" is clipped onto the lid attached to the housing (first lid), the attacked embodiments can be operated in cooking modes such as "Pressure", "Steam", "Medium Stew", "Low Temperature Cooking", "Browning" or "Sous Vide". After unclipping the pressure lid, the attacked embodiments can be used in the air-frying mode.

2) *Realization of features 1 to 1.3*

100. The attacked embodiments realize features 1, 1.1, 1.2 and 1.3. This has not been disputed by SEB.

3) *Realization of feature 1.4*

101. It is more likely than not that feature 1.4 is realized by the attacked embodiments.

Adapted to couple

102. The pressure lid (the second lid) is secured to the hinged lid. When both lids are closed, the pressure lid (second lid) is in direct contact with the top surface of the food container. This was shown in the oral hearing before the Court of Appeal and can be seen in the pictures below (where the first lid is not closed and the second lid is lying separately on the top surface of the food container, submitted and annotated by SharkNinja).



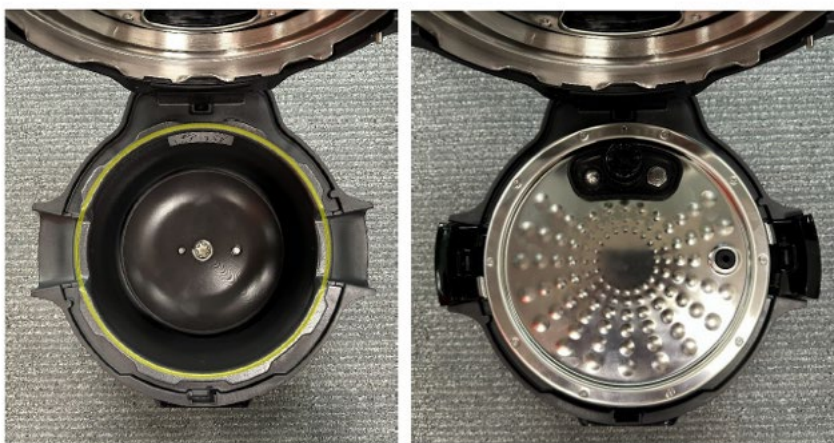
103. The pressure lid has a rim and an inner seal which is press-fit onto the top of the food container and specifically designed to seal it even if it is not integrated in the first lid but put separately on the food container. This means that the pressure lid (the second lid) is shaped correctly to couple press-fit onto the food container during the cooking operation. As mentioned above (para. 43), this is sufficient to fulfill the requirement "configured to couple to at least one of said housing and said food container". That during cooking operation the pressure lid is integrated in the hinged lid (first lid) and that both lids are locked by lowering the release handle does not change the result. As mentioned above (para. 47), the second lid must have own means of interactions with the housing or food container (e.g. press-fit shape, a thread, a bayonet)

but that does not mean that it is excluded that the press-fit is additionally supported by external means like the first lid.

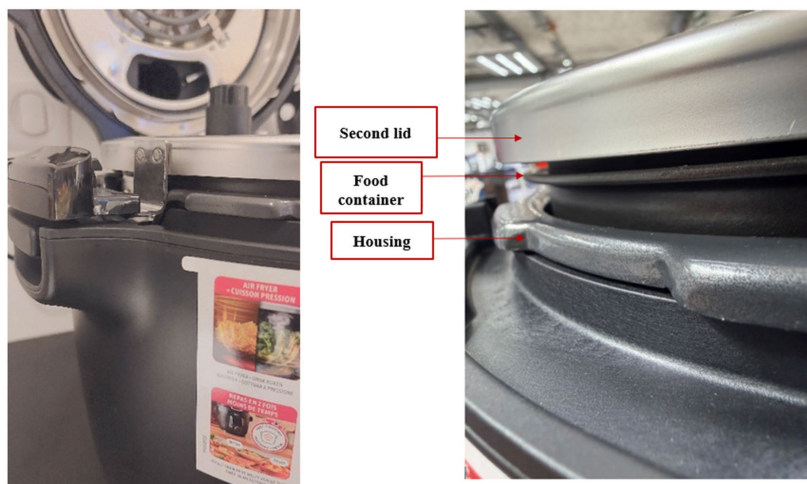
104. SEB argues, unsuccessfully, that the flexible gasket coming into contact with the top surface of the container does not create any friction and even a minimum vapor pressure in the container would open the second lid and higher pressure cooking, for which the inner lid is designed, would be out of the question. According to SEB, the high pressure cooking operates at 1,4 bars, which creates a force, considering the size of the lid, of approximately 400 kg and the second lid is not maintained on the container with such force as it is possible to simply lift the lid up. However, it is sufficient that the interaction between second lid and food container allows any conductive cooking mode. Feature 1.4 does not require that the second lid is configured to ensure a pressure-tight sealed enclosure (see para. 40). Furthermore, the possibility of pressure-tight sealing is ensured by means of the second lid and supported by the first lid, which is sufficient (see para. 47)

Cover

105. As shown in Figure 4 in the Reply to the Objection (depicted below) the “Pressure lid” has a surface greater than that of the opening of the hollow chamber. This is sufficient to realize the second part of feature 1.4 (see para. 36).



106. Contrary to SEB’s view, it is not relevant that there is a space between the container on the one hand and the housing and the opening of the hollow chamber on the other hand, so that the second lid does not cover the opening of the hollow chamber as shown by the pictures below (annotated by SEB).



IV. *Prerequisites of provisional measures and balance of interests*

107. The conclusion from the above is that the Court of Appeal considers on the balance of probabilities that it is not more likely than not that the patent at issue is invalid and that it is more likely than not that the patent is infringed. SEB's argument that an injunction should nevertheless not follow is rejected.

Urgency

108. When weighing up the interests of the parties, the Court must take into account any unreasonable delay in applying for provisional measures, as set out in R. 211.4 RoP in conjunction with R. 209.2(b) RoP. In case the patent holder's conduct shows that enforcing its rights is no longer urgent, there is no need to order provisional measures.
109. The urgency required for the order of provisional measures is only lacking if the injured party has pursued its claims so negligently and hesitantly that it can objectively be assumed that it has no interest in the rapid enforcement of its rights and it therefore does not appear appropriate to order provisional measures.
110. The time limit within the meaning of R. 211.4 RoP shall be calculated from the day on which the applicant became aware, or should have become aware, of the infringement that would enable him, in accordance with R. 206.2 RoP, to file an application for provisional measures with a reasonable prospect of success. Thus, the decisive point in time is when the applicant has, or should have had, after exercising due diligence, the necessary facts and evidence within the meaning of R. 206.2(d) RoP. Whether there has been an unreasonable delay within the meaning of R. 211.4 RoP depends on the circumstances of the individual case (CoA, 25 September 2024, UPC-CoA-182/2024, *Mammut v Ortovox*; 13 August 2025, UPC-CoA-446/2025, *Boehringer Ingelheim v Zentiva*; 30 March 2026, UPC-CoA-899/2025, *Sinocare v Abbott*, para. 229; 2 July 2026, UPC-CoA-19/2026, *Guardant v Sophia*, para. 110).
111. Based on these principles, SharkNinja did not wait unreasonably long before applying for provisional measures. SharkNinja first became aware of the availability of the infringing products in France and Germany on 15 October 2025 and filed the application for provisional measures on 14 November 2025, less than one month after its first knowledge of the attacked embodiments. SharkNinja acted immediately and instructed on the day of the first knowledge one of its employees to order one of the infringing products for analysis. Afterwards, they immediately begun the analysis.

Necessity

Legal framework

112. Pursuant to Art. 62(2) UPCA and R. 211.3 RoP, the Court has discretion to weigh up the interests of the parties and, in particular, to take into account the potential harm for either of the parties resulting from the granting or refusal of the injunction. The Court must in addition consider the time factor. More specifically, the Court must assess whether it is possible to await proceedings on the merits, or whether provisional measures are necessary (CoA, 24 February 2025, UPC-CoA-540/2024, *Biolitec v Light Guide*, para. 19; 30 April 2025, UPC-CoA-768/2024, *Insulet v EOFlow*, para. 102; 30 March 2026, UPC-CoA-899/2025, *Sinocare v Abbott*, para. 229).
113. Accordingly, R. 206.2(c) RoP requires that the applicant in its Application for provisional measures sets out

the reasons why provisional measures are necessary to prevent a threatened infringement, to prohibit the continuation of an alleged infringement or to make such continuation subject to the lodging of guarantees. This is not only a formal requirement. It concerns the merits of the application for provisional measures and must be considered by the Court when issuing an order under R. 211 RoP (CoA, 26 February 2024, UPC-CoA-335/2023, *Nanostring v Genomics*; 30 March 2026, UPC-CoA-899/2025, *Sinocare v Abbott*; para. 239).

114. Provisional measures will be necessary, for instance, where any delay would cause irreparable harm to the patent holder. Irreparable harm is, however, not a necessary condition for the ordering of provisional measures (CoA, 25 September 2024, CoA-UPC-182/2024, para. 237, *Mammut v Ortovox*; 24 February 2025, UPC-CoA-540/2024, *Biolitec v Light Guide*, para. 21; 30 April 2025, UPC-CoA-768/2024, *Insulet v EOFlow*, para. 103; 30 March 2026, UPC-CoA-899/2025, *Sinocare v Abbott*, para. 240).
115. The necessity of provisional measures may also follow from the fact that there is direct competition between the attacked embodiment and the product of the patent holder (CoA, 24 February 2025, UPC-CoA-540/2024, *Biolitec v Light Guide*, para. 26; 30 April 2025, UPC-CoA-768/2024, *Insulet v EOFlow*, para. 104). In those cases, granting provisional measures may be justified if they are necessary in order to maintain the status quo that existed immediately prior to the alleged infringement until the decision of the Court on the merits (CoA, *Mammut v Ortovox*, para. 238 et seq; *Biolitec v LightGuide*, para. 28). The necessity for provisional measures may arise in a move from a market situation where only one product is available to one where there are two such competing products. Such a move can be expected to lead not just to price pressure but to a permanent price erosion (CoA 3 March 2025, UPC_CoA_523/2024, *Sumi v Syngenta*, para. 93; 30 April 2025, UPC-CoA-768/2024, *Insulet v EOFlow*, para. 104).
116. In a case, where the patented product was already marketed by the infringer before the grant of the patent, necessity may be denied because the requested provisional measures would change the status quo of the market established years before the grant of the patent (CoA, 24 February 2025, UPC-CoA-540/2024, *Biolitec v Light Guide*, para. 27; 30 March 2026, UPC-CoA-899/2025, *Sinocare v Abbott*, para. 241).

Assessment

117. The Court of Appeal is convinced that SharkNinja has an (urgent) interest that SEB be enjoined from bringing the attacked embodiments on the market.
118. The parties are competitors in the multi-cooker market. SharkNinja sells among other products the multicookers Ninja Foodi Max multicooker OP500EU and the Ninja Foodi Mini 6-in-1 multicooker 4,7L OP100EU. These products are available on the European market, including in France and in Germany. Both implement the patented invention. Any loss of market share with regard to other SharkNinja products, which do not implement the features of patent claim 1, is irrelevant here.
119. The Court of Appeal is convinced that the distribution of the attacked embodiments has an impact on SharkNinja's market share with regard to the Ninja Foodi Max multicooker OP500EU and the Ninja Foodi Mini 6-in-1 multicooker 4,7L OP100EU.
120. Whether or not undertakings are competing undertakings depends, by definition, on the substitutable nature of the goods or services that they offer on the market (see by way of analogy CJEU, 18 November 2010, C-159/09, *Lidl v Vierzon*, para. 30). For direct competition, it is sufficient that the products in question display a sufficient degree of interchangeability for customers, by reason of their characteristics, their prices

and the intended use (see CJEU, 23 January 2018, C-179/16, *F. Hofmann La Roche v Autorità Garante della Concorrenza e del Mercato*, para. 50).

121. Applying these principles, the “Ninja Foodi multicooker OP500EU” and the “Ninja Foodi Mini 6-in-1 multicooker” compete with the attacked embodiments.
122. Contrary to SEB’s opinion, the interchangeability for customers is not excluded by the fact that the Ninja Foodi Max multicooker OP500EU has a price of EUR 299, uses two distinct lids that are not structurally integrated into a single lid assembly – requiring separate handling by the user –, has no simple locking mechanism allowing the second lid to be secured by actioning a mere button, does not contain any recipes integrated into its software that would ease its use by consumers, is not connected and offers only nine cooking modes compared to 16 to 20 cooking modes for the attacked embodiments.
123. The attacked embodiment, depending on the number of cooking modes, is priced between EUR 399 and EUR 449. From the view of the customers, this price difference of at least EUR 100 does not take away that the products are substitutable. Neither do the amount of cooking modes (9 and 16-20) and the content of recipes speak against a sufficient degree of interchangeability for customers. On the contrary, consumers will base their purchasing decisions on whether they consider the higher price to be justified in view of the greater number of cooking operations.
124. The same applies for the fact that the Ninja Foodi multicooker OP500EU has two lids whereas the attacked embodiments have a single lid assembly, and the advantages and disadvantages of these differences.
125. The “Ninja Foodi Mini 6-in-1 multicooker 4,7L OP100EU which offers only six cooking modes and is priced at EUR 199 also competes with the attacked embodiment. From the view of the customers, the price difference of at least EUR 200 does not detract from interchangeability. Both products serve the same purpose of combining several cooking modes and saving space; customers will not buy both but either of them.
126. SEB argues, unsuccessfully, the attacked embodiments are commercialized under the famous Cookeo® and Moulinex® trademarks, which is raising the market upwards and is beneficial to SharkNinja. To the contrary, it cannot be ruled out that consumers may choose the attacked embodiments precisely because of their well-known brand names. In a market with many competitors, as SEB itself argues, it is generally difficult to prove that the loss of market share was caused by infringing products. For this reason alone, SharkNinja’s damage caused by the attacked embodiments could not be easily remedied by the payment of damages.
127. SEB argues, unsuccessfully, that SharkNinja did not demonstrate a drop in sales. It is sufficient to establish that there is a risk of a drop in sales, which exists here for the aforementioned reasons. If quantification were generally required in the way suggested by SEB, the Court would always have to wait with provisional measures until infringing products have been placed on the market and sold to such extent and for such a period that actual effects could be observed and measured (CoA 3 March 2025, UPC_CoA_523/2024, *Sumi v Syngenta*, para. 96). Therefore, it is not necessary to decide whether the evidence that SharkNinja submitted for the first time during the appeal proceedings regarding market shares should be disregarded.
128. Contrary to SEB’s arguments, irreparable harm is not a necessary requirement for the ordering of provisional measures (see above para. 114).
129. The fact that the attacked embodiments have been on the market for several months is not relevant. This

would only be the case if the distribution of the attacked embodiment had started before the grant of the patent and the requested provisional measures would change the status quo of the market established years before the grant of the patent (see 24 February 2025, UPC-CoA-540/2024, *Biolitec v Light Guide*, para. 27; 30 April 2025, UPC-CoA-768/2024, *Insulet v EOFlow*, para. 111). This is not the case here.

130. When weighing up the interests, it must be taken into account that a decision in the proceedings on the merits is not to be expected before September 2027. SharkNinja did not file a main action so far. This is not objectionable. According to the Rules of Procedure, it is also possible for the applicant to start proceedings on the merits only after a provisional injunction has been issued (see R. 213 RoP; CoA, 30 April 2025, UPC-CoA-768/2024, *EOFlow v Insulet*, para. 109). The reason for this is that applications for interim measures are usually decided within a very short period of time. Conversely, this means that in cases where proceedings for interim measures take a relatively long time, the applicant may have grounds for initiating main proceedings. If he fails to do so, this must be taken into account to his disadvantage when weighing up the interests involved (CoA, 30 April 2025, UPC-CoA-768/2024, *EOFlow v Insulet*, para. 109). SharkNinja had no grounds to initiate main proceedings before the preliminary injunction was issued. The order of the Paris Local Division was issued on 10 April 2026, five months after SharkNinja filed the application. The hearing before the Court of Appeal took place on 23 July 2026. As the Paris Local Division held that it is more likely than not that Claim 1 was invalid, it was reasonable to wait and see whether the Court of Appeal would share this opinion.
131. The Court assumes in favour of SEB that it would be difficult to relaunch the attacked embodiments if the preliminary injunction were to be set aside, and that the preliminary injunction results in a deterioration of SEB's brand image among consumers, investors and distributors and the loss of credibility of the SEB companies among its distributors. However, given the likelihood that the patent is valid and infringed by the attacked embodiments is not remote, SharkNinja's interests prevail.
132. Although it cannot be ruled out that SEB may put forward further grounds for invalidity in the main proceedings that could be successful, this is merely hypothetical and does not carry decisive weight in the balancing of interests. If that were a reason to reject preliminary measures, it would be worthwhile only to lodge a limited defence and argue that you will perform better on the merits. This would frustrate the patentee's right to immediate redress under Art. 9(1) (a) of the Enforcement Directive (Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004, Official Journal of the European Union, L 157, 45)

Withdrawal with regard to EP'201

133. SharkNinja requested that the impugned order be set aside in its entirety. However, SharkNinja does not contest the cost decision regarding patent EP'201 and the Statement of Appeal and Grounds of Appeal is titled "Statement and Grounds of Appeal ... with regard to EP 3 689 198". Therefore, it is clear that SharkNinja does not want to challenge the part of the impugned order dealing with patent EP'201. This also applies to the interim costs award granted to SEB. The Paris Local Division made it clear that this only corresponds to the recoverable costs for EP'201 (para. 105 and last bullet point in the operative part of the impugned order).

V. *Value of the appeal*

134. As patent EP'201 is not subject of the appeal, the value in dispute is to be set at 50% of the value of the proceedings before the Paris Local Division (EUR 7,500,000), thus EUR 3,750,000.

VI. *Interim award of costs for SharkNinja*

135. SharkNinja's claim for an interim award of costs is based on R. 211.1(d) RoP.

136. As a general rule, the successful party is not entitled to an interim reimbursement of representation costs of more than 50% of the applicable ceiling set by the decision of the Administrative Committee under R. 152.2 RoP (see CoA, 25 November 2025, UPC_CoA_464/2024, *Meril v Edwards*, para. 203; 2 July 2026, UPC-CoA-19/2026, *Guardant v Sophia*, para. 166). It has to be taken into account that SharkNinja withdrew the application relating to EP'201 in the proceedings before the Paris Local Division. Like the Paris Local Division did with regard to EP'201, the Court of Appeal considers 50% of this amount to be attributable to the patent at issue. Consequently, the interim award of costs amount is 25% of the ceiling, applicable in the first instance proceedings. In this case the ceiling applicable in the first instance proceedings is up to EUR 600,000 (value of the case EUR 7,500,000). The decisive factor here is the total value in dispute at first instance, i.e. taking into account the value attributable to Patent EP'201. Article 1(3) of the 'Table of Ceilings for Recoverable Costs' states that the ceiling applies to each instance of the court proceedings, regardless of the number of parties, claims or patents involved. Therefore, a single ceiling applies to both patents, to be determined on the basis of the respective total value in dispute. Consequently SEB has to pay EUR 150,000 as an interim award of costs with regard to the patent at issue for the proceedings before the Paris Local Division.

137. On appeal the applicable ceiling based on a value of EUR 3,750,000 for the remaining patent is up to EUR 400,000. Consequently, SEB is obliged to pay EUR 200,000 (50% of 400,000).

138. SharkNinja only requested an interim costs award totaling EUR 300,000 for both instances. According to Art. 76(1) UPCA, the Court shall decide in accordance with the requests submitted by the parties and shall not award more than is requested. Consequently, the Court of Appeal shall grant an interim costs award of EUR 300,000 for both instances.

VII. *Interim award of costs for SEB*

139. On appeal SEB is requesting an interim award in the amount of EUR 300,000. As SEB is the unsuccessful party with regard to the patent at issue, there is no legal basis for this. Regarding EP'201, the Paris Local Division granted an interim award in the amount of EUR 120,000. This is not attacked by SharkNinja.

VIII. *Costs*

140. As SEB is the unsuccessful party with regard to the patent at issue, SEB must bear the costs and other expenses incurred by SharkNinja (Art. 69 (1) UPCA) in the appeal proceedings.

141. Regarding the first instance proceedings, SEB is only unsuccessful with regard to the patent at issue. Where a party succeeds only in part or in exceptional circumstances, the Court may order that costs be appointed

equitably or that the parties bear their own costs (Art. 69(2) UPCA).

142. In cases such as this, where two patents are the subject of the proceedings and the claim or application is successful in respect of only one patent, it is generally appropriate to apportion the costs in proportion to the values of the two patents. However, it may also be regarded as appropriate to order the unsuccessful party to bear the costs attributable to the respective patent. Since, in this case, the withdrawal in respect of patent EP'201 took place prior to the oral hearing before the Paris Local Division and it is to be expected that the patent in dispute incurred higher costs than patent EP'201, the Court of Appeal considers it appropriate in this instance to order the unsuccessful party to bear the costs specifically attributable to the respective patent.

ORDER

The Court of Appeal:

- I. disregards the exhibits CRA-1 to CRA-29 and CRA D.1 to CRA D.7 of SharkNinja as late filed;
- II. sets aside the order of the Paris Local Division of 10 April 2026 (UPC-CFI-1594/2025) insofar as it dismissed the application for provisional measures on the basis of EP 3 689 198 and the decision on costs with regard to EP 3 689 198;
- III. orders SEB in the territories of France and Germany,
to cease and desist from making, offering, placing on the market or using or importing or storing for those purposes,
 1. a cooking system (20) for cooking food, the cooking system (20) being functional in a plurality of cooking modes, the cooking system (20) comprising:
 - a housing (22) defining a hollow chamber (30) configured to receive a food container (24), said housing (22) having an upper portion (34) defining an opening to said hollow chamber (30);
 - a first lid (32) adapted to cover said opening to said hollow chamber (30), the cooking system (20) configured to operate in an air frying mode when said first lid (32) covers said opening;
 - and a first heating element (82) associated with said housing (22) and a second heating element (84) associated with said first lid (32);
 - characterized by a second lid (37) configured to couple to at least one of said housing (22) and said food container (24) to cover said opening to said hollow chamber (30) when the cooking system (20) operates in a conductive cooking mode.

2. In particular if said second lid (37) is a pressure cooking lid;

which includes at least the following products:

- Cookeo Infinity, 20 modes de cuisson, Ref: CE9828F0
- Cookeo Infinity, 19 modes de cuisson, Ref: CE9821F0
- Cookeo Infinity, 17 modes de cuisson, Ref: CE97GUF0
- Cookeo Infinity, 16 modes de cuisson, Ref: CE9721F0;

- IV. orders that for each individual infringement of the order under III, the respective SEB-company shall pay to the Court a (possibly repeated) penalty payment of up to EUR 1,000 per infringing product and/or, in the case of continuous infringement, of up to EUR 100,000 per day;
- V. orders SEB to provisionally reimburse SharkNinja's costs in the amount of EUR 300,000;
- VI. orders SEB to bear SharkNinja's legal costs and other expenses in the appeal proceedings;
- VII. orders SEB to bear SharkNinja's legal costs and other expenses of the first instance proceedings relating to EP 3 689 198;
- VIII. rejects SEB's request to provisionally reimburse SEB's costs exceeding the interim award granted in the impugned order;
- IX. sets the value of the Appeal proceeding to EUR 3,750,000;
- X. specifies the date as referred to in R. 213.1 RoP at 31 calendar days after service of this order;
- XI. declares this order immediately enforceable.

Issued on 21 August 2026

Rian Kalden, legally qualified judge and presiding judge

Patricia Rombach, legally qualified judge and judge-rapporteur

Ingeborg Simonsson, legally qualified judge, signed by the presiding judge on behalf on Ingeborg Simonsson

Max Tilmann, technically qualified judge

Marc van der Burg, technically qualified judge

For the Registry: