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Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Düsseldorf local division
UPC_CFI_52/2025
UPC_CFI_67/2025

Decision
of the Court of First Instance of the Unified Patent Court,
issued on 22 October 2026
concerning EP 3 610 762 B1

HEADNOTE:

Like Panel 1 of the Düsseldorf Local Division in its most recent decision (UPC_CFI_807/2024, decision of 27 May 2026, headnote 1 and para. 240 – Wonderland v Cybex), Panel 2 of the Düsseldorf Local Division also applies the assessment criteria for equivalence under patent law established by the Hague Local Division.

KEYWORDS:
Claim construction; scope of protection; equivalence

HEADNOTE:

Panel 2 of the Düsseldorf local division, like Panel 1 of the Düsseldorf local division in its most recent decision (UPC_CFI_807/2024, decision of 27 May 2026, headnote 1 and para. 240 – Wonderland v Cybex), applies the assessment criteria for equivalence under patent law established by the Hague local division.

KEYWORDS:
Interpretation; scope of protection; equivalence

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Claimant:

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represented by: Dr Martin Wirtz, Attorney-at-law; Dr Michael Rüberg, Attorney-at-law; Boehmert & Boehmert Anwaltspartnerschaft mBB, Jägerhofstraße 21, 40479 Düsseldorf, Germany

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DEFENDANT:

ALPINA Coffee Systems GmbH, Tiroler Straße 32, 6322 Kirchbichl, Austria

represented by: Markus Gangl, Patent Attorney and European Patent Litigator, Wilhelm-Greil-Straße 16, 6020 Innsbruck, Austria,

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PATENT AT ISSUE:

European Patent No. EP 3 610 762 B1

Panel/CHAMBER:

Panel 2 of the Düsseldorf local division
JUDGES SEATED:

The decision was delivered with the participation of the presiding judge, Dr Thom, as judge-rapporteur, the legally qualified judge Dr Rinken, the legally qualified judge Kupecz and the technically qualified judge Dr Parrini.

LANGUAGE OF THE PROCEEDINGS: German

SUBJECT MATTER: Action for infringement and counterclaim for annulment

ORAL HEARING: 18 July 2026

BRIEF SUMMARY OF THE FACTS:

1. The claimant is the proprietor of European patent EP 3 610 762 (Annex A15; hereinafter: the patent at issue), which was filed on 16 August 2018. The application was published on 19

Published in February 2020. The European Patent Office published the grant of the patent on 16 June 2021. The patent at issue is in force.

2. The patent in suit relates to a device for processing a liquid, in particular milk, with an integrated rinsing system and a method for rinsing.

3. Claim 1 reads as follows:

'Apparatus (1) for treating a liquid with an integrated rinsing system, comprising:

- at least one storage tank (12, 14) for storing the liquid; arranged within a cooling unit (10);
- a pump (18);
- a piping system; comprising a milk suction pipe (16), via which the at least one storage tank (12, 14) can be connected to the pump (18);

- an outlet pipe (22), via which the pump (18) can be connected to at least one outlet (24); and

- a flushing pipe (42), via which the milk suction pipe (16) can be supplied with a flushing fluid;

- an air flow regulator (28); by means of which air can be metered via an air supply line (26) to a point of introduction into the milk suction line (16); and

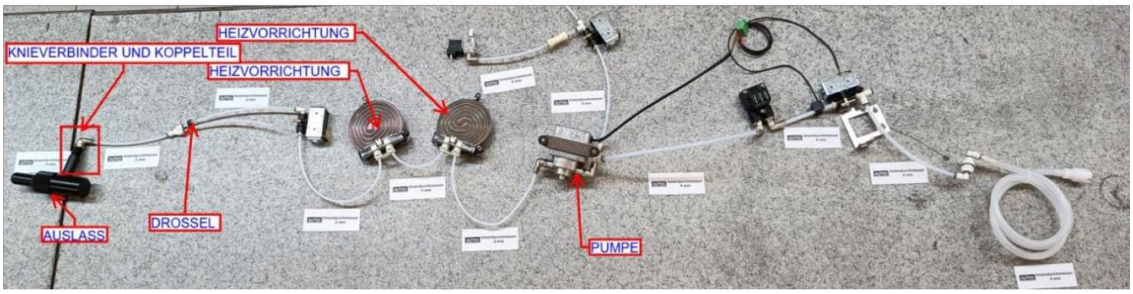
- a heating element designed as a flow-through heater, which is arranged in the outlet pipe
(22) and is designed as a thick-film heater, characterised in that

in an air supply line (26), a second non-return valve (32) and a first non-return valve (30) are arranged between the air flow regulator (28) and the point of entry into the milk suction line
(16), whereby the first non-return valve (30) and the second non-return valve (32) are ordered as direct-closing non-return valves, and the air supply pipe
(26) between the first non-return valve (30) and the second non-return valve (32) can be connected to the flushing line (42) via a valve (44).'

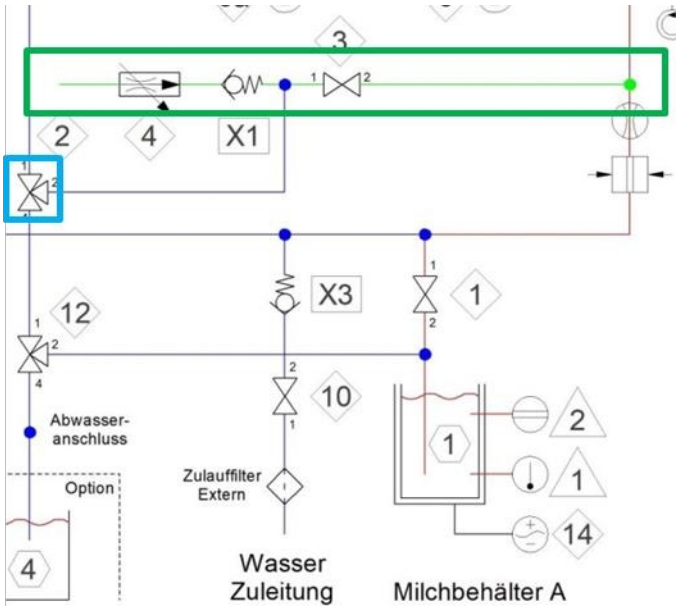
4. Reference is made to the patent at issue for the wording of claims 4, 5 and 6.

5. The defendant is a manufacturer of coffee and espresso machines based in Austria and markets these in numerous countries. Among other products, it markets a milk frother with the model designation ALPINA Latte Perfetto Duo (hereinafter: the contested embodiment) in Germany. The claimant acquired a specimen via a test purchase in Germany.

6.. Below is a slightly enlarged image of the components of the contested embodiment, taken from the statement of defence and labelled by the defendant.



7. The diagram below, taken from the statement of defence and slightly reduced in size, shows the fluid flow diagram of the contested embodiment.



8. The green rectangle encloses the air supply line, within which (from left to right within the rectangle) an air flow regulator, a spring-loaded non-return valve, a connection to a flushing line (blue dot) and a 2/2-way control valve are ordered. Air can be fed via the air supply line to a point of introduction (green dot) in the milk suction line shown in red. Flushing fluid can be introduced via the 3-way control valve, highlighted by the blue square, situated between the spring-loaded non-return valve and the 2/2-way control valve.

9. In addition, to avoid repetition, reference is made to the entire contents of the file.

APPLICATIONS OF THE PARTIES:

10. Action for infringement

The claimant requests that

1. a declaration that the defendant infringes claims 1, 4, 5 and/or 6 of EP 3 610 762 B1, in particular by manufacturing, offering for sale, placing on the market, importing and possessing products for these purposes;

2. that the defendant be prohibited from, in the territories of Austria, Germany, Denmark, France, Italy and the Netherlands

   i. devices as defined in claim 1 of EP 3 610 762 B1, namely a device
   (1) for processing a liquid, in particular milk, with an integrated flushing system, comprising at least one storage tank (12, 14) for storing the liquid, arranged within a cooling unit (10); a pump (18); a piping system comprising a milk suction pipe (16), via which the at least one storage tank (12, 14) can be connected to the pump (18), an outlet pipe (22), via which the pump (18) can be connected to at least one outlet
   (24), and a flushing pipe (42) via which the milk suction pipe (16) can be supplied with a flushing liquid; an air flow regulator (28), by means of which air can be metered via an air supply pipe (26) to an injection point in the milk suction pipe (16); and a heating element (34) designed as a flow-through heater, which is arranged in the outlet pipe (22) and is designed as a thick-film heater, characterised in that a second non-return valve (32) and a first non-return valve (30) are ordered in the air supply pipe (26) between the air flow regulator (28) and the point of connection to the milk suction pipe (16), wherein the first non-return valve (30) and the second non-return valve (32) are designed as direct-closing [*alternatively (in the event of equivalent patent infringement): spring-loaded*] non-return valves, and the air supply line (26) between the first non-return valve (30) and the second non-return valve (32) can be connected to the flushing line (42) via a valve (44); and/or

   ii. Devices according to claim 4 of EP 3 610 762 B1, namely devices (1) according to one of the preceding claims of EP 3 610 762 B1 [*alternatively (in the event of equivalent patent infringement): wherein the term 'direct-closing non-return valves' is to be replaced by the term 'spring-loaded non-return valves'*], characterised in that the flushing line (42) can be connected to the milk suction line (16) outside the cooling device (10) via a flushing valve (40); and/or

   iii. Devices according to claim 5 of EP 3 610 762 B1 [*alternatively (in the event of the maintenance of the patent in suit in the version of auxiliary claim 1): according to claim 1 of EP 3 610 762 B1 in the version of auxiliary claim 1*], and therefore
   devices (1) according to one of the preceding claims of EP 3 610 762 B1 [*in the alternative (in the event of equivalent patent infringement): wherein the term 'direct-closing non-return valves' is to be replaced by the term 'spring-loaded non-return valves'*], characterised in that a throttling device (36) is ordered in the outlet pipe (22) downstream of the pump (18); and/or

   iv. devices according to claim 6 of EP 3 610 762 B1, namely devices (1) according to one of the preceding claims of EP 3 610 762 B1 [*alternatively (in the event of equivalent patent infringement): whereby the term 'direct-closing non-return valves' is to be replaced by the term 'spring-loaded non-return valves'*

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], characterised in that a multi-way valve (23) in the outlet pipe (22) selectively connects to a spout (25) for discharging flushing fluid and to the outlet (24), from which treated fluid can be drawn;

in particular, milk frothers of the ALPINA Latte Perfetto Duo type

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

3. The defendant shall pay a penalty payment of up to EUR 3,000 for each individual instance and for each day of infringement of point 2.

4. The defendant is obliged, within a period of 3 months following service of the notice within the meaning of Rule 118(8), first sentence, of the RoP and, where applicable, the certified translation, to destroy at its own expense all infringing products in its direct or indirect possession and/or ownership, as referred to in paragraph 2 above, in particular all milk frothers of the type ALPINA Latte Perfetto Duo, at its own expense, and to provide the Claimant with evidence of such destruction or, at its discretion, to hand them over to a bailiff to be appointed by the Claimant for the purpose of destruction; this also applies to any such infringing products which, as a result of a recall, come back into the defendant's possession.

5. to declare that the defendant is, in substance, obliged to compensate the Claimant for any loss or damage it has suffered or will suffer in the future as a result of the acts referred to in paragraph 2 since 4 July 2018.

6. The defendant is to pay the claimant provisional damages in the amount of EUR 50,000, or, alternatively, at least an amount corresponding to the anticipated costs of the proceedings to determine the amount of damages.

7. The defendant must, within 30 days of service of the notice within the meaning of Rule 118 (8), first sentence, of the RoP and, where applicable, the certified translation, to provide information on the extent to which it has committed the acts described in paragraph 2 since 4 July 2018, in the form of a breakdown, structured for each month of a calendar year and by infringing product, of the following information:

   a) the origin and distribution channels of the infringing products,

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

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

   d) the number and dates of the products offered,

   e) the advertising carried out, broken down by advertising medium, its reach, the period of distribution and the distribution area; including evidence of these advertising activities,

f) the costs, broken down by cost components, and the profits made,

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

8. The defendant must, within 30 days of service of the notice within the meaning of Rule 118 (8), first sentence, of the RoP and, where applicable, the certified translation at its own expense, to recall in writing from commercial customers the products referred to in paragraph 2 and placed on the market since 4 July 2018, referring to the patent-infringing status of the products as judicially established by the Unified Patent Court and giving a binding undertaking to to reimburse any fees paid, to bear the necessary packaging and transport costs as well as any customs and storage costs associated with the return, and to take the products back, whereby the Claimant is to be provided with a specimen of the recall letters and a list of addressees containing their names and postal addresses or – at the defendant's discretion – a copy of all recall letters.

9. The defendant shall bear the costs of the infringement proceedings.

The defendant requests that

1. that the claim be dismissed in its entirety,

2. that the claimant shall reimburse the defendant for the costs of legal representation and the proceedings,

3. in the alternative: that the enforcement of the judgment, in the event of the Claimant being successful even in part, be made conditional upon the Claimant providing security in favour of the defendant in the form of a deposit in an amount the amount of which is left to the court's discretion, or to provide a written, irrevocable, unconditional and open-ended guarantee from a credit institution authorised to conduct business within the territory of a Member State of the European Union for the amount determined by the court.

11. Counterclaim

The defendant claims that

that European Patent EP 3 610 762 B1 be declared invalid in Austria, Germany, Denmark, France, Italy and the Netherlands to the extent of claims 1, 4, 5 and 6.

The claimant requests that

1. that the action for revocation be dismissed,

2. that the defendant be ordered to bear the costs of the counterclaim.

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12. Amendments

The claimant requests,

that, in the alternative, if the patent at issue is not valid as granted, it be upheld to the extent of auxiliary claims 1 to 5, reference being made to Annexes A 28-1 to A 28-5 for their content.

The defendant opposes the amendments.

13. On 28 April 2026, the judge-rapporteur issued a procedural order in the interim proceedings requiring a supplementary statement on the interpretation of individual challenges to the validity of the patent, a clear presentation of the alternative claims, and an amendment to the claim for an injunction based on equivalence.

14. In a document dated 15 May 2026, the Claimant, in addition to amending the application for an injunction on the basis of equivalence and providing a clearer presentation of the alternative claims, also made various amendments to the remaining applications. It clarified that alternative claim 1 is identical to the granted wording of sub-claim 5 and added a photograph from Annex A2 (p. 14) of a separate set of proceedings to the statement of infringement in the statement of claim relating to sub-claim 5.

FACTUAL AND LEGAL ISSUES IN DISPUTE:

Interpretation

Direct-closing non-return valves (feature 4)

15. The claimant takes the view that the patent at issue does not exclude spring-loaded or spring-assisted non-return valves. Even if disadvantages of this type of non-return valve are cited in the patent at issue, it does not follow that every spring-loaded valve falls outside the scope of the claim. The defendant's argument that spring-loaded non-return valves, by virtue of their design, have a spring force acting as a switching threshold and inevitably generate vibrations, switching thresholds and hysteresis effects is raised out of time.

16. The defendant contends that the claimed direct-closing non-return valves do not encompass spring-loaded non-return valves. The patent at issue identifies three specific disadvantages which it specifically seeks to avoid with the claimed non-return valves. According to the grant history, the claimant deliberately limited the scope of its claims. Functionally, a direct-closing non-return valve eliminates the pulsation and switching threshold hysteresis described as disadvantages, which occur in spring-loaded valves.

Infringement

17. The claimant is of the view that the contested embodiment makes use of the teaching of claim 1. The contested embodiment comprises two non-return valves, whereby the 2/2-way

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it is de-energised. The fact that both check valves are spring-loaded does not preclude infringement.

18. In any event, the contested embodiment infringes the patent at issue by equivalent means, as it also ensures a precisely metered air supply without fluctuations during actual operation. Furthermore, the other questions of equivalence must also be answered in the affirmative.

19. The defendant contends that the use of the two spring-loaded valves precludes both literal and equivalent infringement.

Legal consequences of the infringement claim:

Amended applications

20. The claimant is of the view that its amendments to the claims dated 15 May 2026 should be allowed under Rule 263(3) of the RoP, or at any rate under Rules 263(1) and 2 of the RoP.

Provisional damages

21. The defendant argues that provisional damages have already been awarded in parallel proceedings concerning the contested embodiment, and that there is therefore no justification for claiming a further EUR 50,000.00.

Issues in dispute regarding the counterclaim and the amendment

22. The claimant is of the view that the claims asserted under the patent at issue are valid.

23. The defendant contends that the patent at issue is invalid to the extent of claims 1, 4, 5 and 6 because it is not disclosed in a manner that enables its implementation. Even if one were to adopt the Claimant’s broad interpretation of the non-return valve, the patent at issue would still lack novelty and inventive step. Furthermore, none of the alternative claims would lead to the patent at issue being upheld.

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REASONS FOR THE DECISION:

24. The admissible action for infringement is unfounded. The admissible counterclaim for nullity is likewise unsuccessful.

A. Amendments to the application/clarification of applications

I. Claimant's supplemented statement of infringement

25. It can be left open whether the supplemented statement of infringement relating to sub-claim 5 (which is identical to auxiliary claim 1) in the claimant's document of 15 May 2026 in the context of the infringement proceedings constitutes an amendment to the claim under Rule 263.1, 2 of the RoP or a late submission under Rule 9.2 of the RoP. The photograph of the throttling device, taken from an annex to a separate parallel set of proceedings and included in a document for the first time, is to be admitted on an exceptional basis, as the existence of the throttling device downstream of the pump in the outlet pipe X2 has been undisputed since the claim was filed. In this respect, the claimant has not breached the duty of care, as she was not required to specify the submission further and the defendant suffers no disadvantage in the conduct of the proceedings, since she had already made the submission, which is undisputed (R. 263.1, 2 RoP). The same considerations apply to the discretionary decision under R.
9.2 of the RoP.

II. Other amendments/clarifications

26. The remaining restrictions and clarifications made by the Claimant in the interim proceedings, which were made in response to the judge-rapporteur's request, do not give rise to any concerns.

27. This also applies to the clarification, provided without being requested in this regard, that sub-claim 5 is identical to auxiliary claim 1. The Claimant has already defended the contested sub-claims – including sub-claim 5 – in its defence to the counterclaim. Together with the addition in the document of 27 March, p. 10 *'For all the reasons set out above, the patent at issue is legally valid in the version as granted. The alternative claims listed below are submitted merely in the order set out below […]'*, it is made sufficiently clear that granted sub-claim 5 is to be examined before granted sub-claim 6. The clarification in the document of 15 May 2026 merely makes it clear that auxiliary claim 1) is effectively redundant, as its scope of examination is already covered by sub-claim 5.

B. Jurisdiction of the Düsseldorf local division

28. The Düsseldorf local division has jurisdiction over the infringement action pursuant to Article 33(1)(a) of the UPC Agreement. Furthermore, pursuant to Article 32(1) of the UPC Agreement, the Unified Patent Court (EPG) has exclusive jurisdiction over actions relating to actual or threatened infringement of European patents, provided that no opt-out has been declared (Article 83(3) of the UPC Agreement). Apart from that, in the absence of any preliminary objection by the defendant, the jurisdiction of the local division chosen by the Claimant is deemed to have been accepted; see Rule 19.7 of the RoP.

29. There are likewise no concerns regarding the admissibility of the counterclaim. The UPC also has international jurisdiction over the counterclaim for revocation. Pursuant to Article 32(1) (e) of the UPC Agreement, the UPC has exclusive jurisdiction over counterclaims for the invalidity of (European) patents. As no opt-out (Article 83(3) of the UPC Agreement) from the

UPC Agreement Member States – has international jurisdiction over the present counterclaim pursuant to Article 24(4), 71a(2)(a) and 71b(1) of Regulation (EU) No 1215/2012.

C. Relevant person skilled in the art

30. The relevant person skilled in the art is a graduate of a mechanical engineering degree programme at a university or university of applied sciences with several years' experience in the design of beverage machines.

D. Interpretation of the patent at issue

31. In view of the dispute between the parties, the patent at issue requires interpretation with regard to the meaning of the check valve as defined in the claims.

I. State of the art and problem

32. The patent at issue relates to a device for processing a liquid, in particular milk, with an integrated rinsing system, as well as a method for rinsing and/or cleaning such a device.

33. As the patent at issue states in its introduction, so-called frothing devices are known for the preparation of liquids, in particular the liquid foodstuff milk, which are used in the preparation of hot milk-based drinks, such as cappuccino, latte macchiato, café latte, hot chocolate or chai. In principle, this involves mixing milk with air and/or steam (paragraph [0002] of the patent at issue; hereinafter, paragraphs without a source reference are those of the patent at issue).

34. It is known from EP 1 593 330 that milk is drawn from a container by means of a pump via a milk suction line and conveyed to an outlet. During suction, the milk is passed through a flow-through heater and heated, and air or gas is mixed in an adjustable quantity via an air supply line with either the cold or the heated milk. An adjustable air flow regulator is arranged in the air supply line to ensure a metered air supply. The pipework system comprises various non-return valves which prevent the milk and air from flowing back against the direction of flow. For flushing or cleaning, flushing or cleaning fluid is fed from a source via a flushing valve through a pipe into the milk suction pipe by means of the pump (para. [0003]).

35. EP 3 281 569 discloses a modular foaming unit, which, in addition to a pump, a piping system comprising a milk suction line and a single line connecting the pump to an outlet nozzle, an outlet line, and an air enrichment element, comprises a heating element designed as a flow-through heater, specifically a thick-film heater. The module is cleaned by means of a connected flushing system, which flushes the frothing unit from an outlet of a cooling device to a multi-way valve in the outlet pipe, via which the flushing water is discharged (para. [0004]).

36. JP 2018 1228464 discloses a beverage dispensing device which, in addition to producing cold milk or cold milk foam and warm milk or warm milk foam, provides for flushing the milk supply line by filling a predetermined length of the line with water for this purpose; this length can also be adjusted whilst the device is in a standby state. Furthermore, a system of air supply lines is provided, whereby air for frothing milk is supplied via one line and air for air flushing via another line by means of an air pump

(para. [0005]).

37. The patent at issue generally criticises the fact that the pipe sections through which milk flows can become clogged over time, which can lead to functional faults and sensory impairments. In particular, however, the patent at issue cites hygienic reasons that require regular flushing of the milk-carrying parts (para. [0006]). Conventional designs of flushing devices generally omit the section leading to the outlet nozzle, and sections of the milk suction line are also cleaned less frequently (see para. [0007]). Foam formation also depends significantly on a precisely metered air supply, for which it is essential that no milk residues or residues of cleaning fluid dry out within the air supply line, including the valves located there, and thus adversely affect the precise metering. In particular, a thoroughly cleaned air supply line is required for precise air metering.

38. As set out in paragraph [0010], the patent at issue formulates the objective of providing, for a device for processing liquid, in particular milk, a compact, robust and efficient device for preparing cold or hot milk, which is characterised by a reproducible and high quality of milk foam, and which is furthermore optimised in terms of its rinsing and cleaning performance.

39. To solve this problem, claim 1 provides for a device with the following features:

1. Apparatus (1) for preparing a liquid with an integrated rinsing system, comprising:

1.1 at least one storage tank (12, 14) for storing the liquid;

1.2 a pump (18);

1.3 a piping system;

1.4 an air flow regulator (28);

1.5 a heating element (34).

2. The storage tank (12, 14) is ordered within a cooling unit (10).

3. The pipework comprises:

3.1 a milk suction pipe (16),

3.1.1 via which the at least one storage tank (12, 14) can be connected to the pump (18);

3.2 an outlet pipe (22),

3.2.1 via which the pump (18) can be connected to at least one outlet (24);

3.3 a flushing line (42),

3.3.1 via which the milk suction line (16) can be flushed with a flushing fluid

3.4 an air supply line (26)

3.4.1 via which air can be metered into the milk suction pipe (16) at an injection point via the air flow regulator (28);

3.4.2 in which a second non-return valve (32) and a first non-return valve (30) are ordered between the air flow regulator (28) and the point of introduction into the milk suction line (16);

3.4.3 the air supply line (26) between the first non-return valve (30) and the second non-return valve (32) can be connected via a valve (44) to the flushing line
(42);

4. The first non-return valve (30) and the second non-return valve (32) are designed as direct-closing non-return valves.

5. The heating element (34):

5.1 is designed as a instantaneous water heater;

5.2 is ordered in the outlet pipe (22);

5.3 is designed as a thick-film heater.

II. Principles

40. Pursuant to Article 69 of the EPC, read in conjunction with the Protocol on its interpretation, the patent claim is not merely the starting point but the decisive basis for determining the scope of protection of a European patent. The interpretation of a patent claim does not depend solely on its exact wording in the linguistic sense. Rather, the description and the drawings must always be taken into account as aids to the interpretation of the patent claim and must not be used merely to remedy any ambiguities in the patent claim. However, this does not mean that the patent claim serves merely as a guideline and that its subject-matter also extends to what, following an examination of the description and the drawings, appears to be the patent proprietor's claim for protection (UPC_CoA_335/2023, Order of 26 February 2024 in conjunction with Order of 11 March 2024, GRUR-RS 2024, 2829, Headnote 2 and paras. 73–77 – 10x Genomics v NanoString; UPC_CoA_182/2024, order of 25 September 2024, para. 82 – Mammut v Ortovox; see also UPC_CFI_7/2024 (Düsseldorf Regional Court), decision of 3 July 2024, ORD_598324/2023 – Franz Kaldewei v. Bette).

III. Scope of protection

41. Feature 4 of the claim specifies that the first and second non-return valves are designed as direct-closing non-return valves.

42. Having read the specification of the contested patent, the person skilled in the art will understand that spring-loaded non-return valves do not constitute non-return valves as defined in the claims. It is undisputed that the person skilled in the art is aware that a non-

43. As evident from paragraphs [0015] and [0016], the patent at issue specifically distinguishes itself from spring-loaded non-return valves. Paragraph [0015] describes the structure and mode of operation of a spring-loaded non-return valve: in such valves, a closing element is pressed sealingly into a correspondingly shaped seat by the force of a return spring. In the context of feature 4.3.4 and paragraph [0013], a person skilled in the art will recognise how the two non-return valves are to be ordered in the device according to the invention. The air supply line (26) can be connected to the purge line (42) via a valve (44) between the first non-return valve (30) and the second non-return valve (32). The two non-return valves (30, 32) may be ordered in series (see Figure 1) and function such that the first non-return valve (30) opens or closes the section between the valve (44) and the air supply line (26) in the direction of the inlet point, whilst the second non-return valve (32) opens or closes the section between the valve (44) and the air supply line in the direction of the air flow regulator. Paragraph [0015] explains in detail why, with this order and when using spring-loaded non-return valves, it is not possible to achieve the desired precisely metered air supply. The patent at issue explains that, with spring-loaded non-return valves, either the valves fail to open at all or open insufficiently if the vacuum on the suction side of the pump is insufficient, or vibrations occur at the non-return valves if the vacuum is too high. Furthermore, the design of spring-loaded non-return valves is particularly susceptible to contamination caused by ingress of milk and/or milk foam.

44. In contrast to this, the person skilled in the art learns from paragraph [0016] that the device instead provides first and second non-return valves in the air supply line, which are designed as ‘direct-closing’ non-return valves. Paragraph [0016] then defines what the contested patent means by the term ‘direct-closing’, which is open to interpretation: The mechanism *of such* non-return valves comprises a closing element which is pressed into the seat by the force of gravity acting on the closing element and/or by a medium, thereby closing in a sealing manner. The cause of the opening pressure is therefore not a spring, but rather the force of gravity together with a medium (e.g. air, liquid) or a medium alone (air/liquid). The claimant rightly points out that the vertical orientation of the order is not claimed in claim 1 (which is then described in paragraph [0016]), but only in sub-claim 2. However, this is irrelevant. This vertical orientation in the air supply line is merely intended to relieve the valves, so that they open fully and an precisely metered air supply without fluctuations is possible. In any event, in such an arrangement, gravity and/or the medium result in full opening and a sealing closure. The person skilled in the art will not draw the conclusion put forward by the Claimant that not every spring-loaded valve falls outside the scope of the claim. The opposite is true: spring-loaded valves are excluded due to insufficient opening and vibrations; instead, gravity- and/or medium-loaded valves must be used, whereby the claim leaves it to the discretion of the person skilled in the art to determine the order of the arrangement in order to make optimum use of the opening pressure provided by gravity and/or the medium for a tight seal or full opening.

45. Insofar as the Claimant characterises the spring as a medium, this interpretation is precluded by consideration of paragraph [0015], which lists the numerous disadvantages of spring-operated mechanisms. Equally unconvincing is the Claimant’s argument regarding the wording, that ‘comprises’ and
‘and/or’ are not exhaustive. This is a passage of description that is unambiguous both grammatically and in context: one paragraph earlier, the disadvantages of the fe-

spring-based closing mechanism are set out. The closing mechanism of the direct-closing non-return valves according to the invention is then described. This alone comprises a closing element which is pressed into a seat either by gravity or by gravity and a medium, and which is leak-tight. The person skilled in the art recognises that the absence of spring force is compensated for by the influence of gravity and/or the pressure of a medium. Under spring pressure, the valve opens gradually in stages and is sensitive to pressure fluctuations. In contrast, under medium pressure, the valve remains closed until the pressure exerted by the medium equals the weight of the closing element, at which point it opens immediately.

46- Insofar as the claimant regards the defendant's submission—that two spring-loaded valves arranged in series inevitably produce pulsation and switching threshold hysteresis—as belated and disputes it on the grounds of lack of knowledge, these objections are unfounded for several reasons. Firstly, the Rules of Procedure do not, per se, provide for a defence based on lack of knowledge. Furthermore, the interpretation in question is a point of law which, as such, cannot be contested in the same way as facts. In so far as the claimant wishes to suggest that it ultimately disputes facts which form the basis of the general technical knowledge of a person skilled in the art, the existence of which leads to a specific technical understanding of the terms set out in the patent at issue, this argument also falls on deaf ears: first and foremost, it is part of a coherent submission by the claimant to comment on the interpretation and, in this respect, the necessary technical knowledge of a person skilled in the art. Since the statement of defence, the parties have been disputing how the person skilled in the art understands paragraphs [0015] and [0016]. The defendant has already pointed out there that spring-loaded check valves do not fall within the scope of protection because they do not allow for a precisely metered air supply. The pulsation and the switching threshold hysteresis merely serve to elaborate on the argument and are therefore not, as such, raised out of time. However, the claimant has not yet argued (let alone substantiated) that the process described in paragraph [0015] is physically incorrect, which is ultimately what its challenge would amount to.

47. In this context, it is no longer decisive that the Claimant elevated feature 4 to claim 1 during the grant proceedings, nor whether this constituted a self-limitation. The patent at issue must, in principle, be interpreted on its own terms. Provided there is no contradiction between the understanding of a person skilled in the art, as assessed by the Court, and the statements made by the patent proprietor during the grant proceedings, the question of the relevance of the grant history may be left open (see CoA_61/2026, Order of 21 August 2026, SharkNinja v Groupe SEB).

E. Legal position

48. The counterclaim for nullity is unsuccessful.

I. Principal claim: Claim 1

49. This applies, first of all, to claim 1.

1. Sufficient disclosure

50. The objection of insufficient disclosure is unfounded.

a) Standard

51. The invention is sufficiently disclosed if the description shows the person skilled in the art at least one method or technical concept by which they can carry out the claimed invention (see CoA, decision of 25 November 2025, CoA_528/2024, Amgen v Sanofi, para. 105 et seq.; LD Mannheim, decision of 18 December 2025, CFI_716/2024, Po-lidoro v Bekaert, para. 72).

b) The present case

52. The invention is sufficiently disclosed.

53. The defendant takes the view that the person skilled in the art cannot derive from the patent at issue any teaching as to how a gravity-operated, direct-closing non-return valve is intended to function without a vertical orientation, or how a direct-closing non-return valve is generally intended to function without being operated by gravity. This argument is not convincing.

54. The claimant rightly points out, for example, that it is known to those skilled in the art that disc-type non-return valves operate not exclusively in a vertical order but, depending on the design, also in a horizontal order or with only a slight deviation from the horizontal (see Annex A22). The vertical order, i.e. perpendicular to the horizontal, is to be understood here merely as a preferable order. In this context, it is also crucial that the disclosure need not address every conceivable embodiment. The absence of certain embodiments is irrelevant as long as a person skilled in the art can identify suitable embodiments within the scope of the claims (see Munich Regional Court, decision of 24 February 2026, para. 82 – TCL v Corning). The patent at issue fulfils this requirement because it demonstrates one way in which a direct-closing non-return valve can be constructed: in paragraph [0016] and Figure 1, it defines the non-return valve and illustrates the vertical arrangement as a possible design. Furthermore, direct-closing non-return valves, in which the closing element is pressed into the seat solely by a medium and thus closes in a sealing manner, are commercially available (see Annex A23). The patent at issue excludes neither the use of a ball check valve nor that of a disc check valve. This is because it describes only the force for the opening pressure (fluid and/or gravity) and not the closing element itself, which may also be a ball or a disc. Finally, the person skilled in the art is also capable of selecting the correct operating parameters.

2. Inventive step

55. The challenges to inventive step are based solely on the claimant’s interpretation, which the court does not endorse. In this respect, there is no doubt as to the inventive step. None of the combinations leads the person skilled in the art to direct-closing non-return valves.

II. Sub-claims 4, 5 and 6

56. Furthermore, sub-claims 4, 5 and 6 are also legally valid.

F. Action for infringement

57. The action for infringement is unfounded. Claims 1, 4, 5 and 6 are not realised by the contested embodiment, either literally or equivalently.

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I. Literal infringement of claim 1

58. Claim 1 of the patent at issue has not been infringed to the letter.

59. It is undisputed that the contested embodiment uses a spring-loaded non-return valve and, in foaming mode, an actively actuated 2/2-way control valve, which also has a return spring. The latter was undisputed at the conclusion of the interim proceedings between the parties. According to the above interpretation, neither of these valves constitutes a check valve of the invention which is designed to close directly. In so far as the claimant argued for the first time at the oral hearing that the return spring of the 2/2-way control valve has only a slight return force and merely performs a guiding function for the cover, this cannot be established to the satisfaction of the court. The claimant based its arguments on a component of its own design and not, in fact, on the contested embodiment. Moreover, it is irrelevant whether the spring significantly contributes to the closing action, provided that it plays a part at all. Furthermore, the alleged minimal contribution cannot be established on the basis of the claimant's submissions.

60. In this respect, a literal infringement of features 3.4.3 and 4 is ruled out.

II. Equivalent infringement of claim 1

1. Principles of equivalence

61. The UPC Court of Appeal has not yet ruled on the criteria for assessing equivalence. The Hague local division has comprehensively examined equivalence on two occasions and, in doing so, established the following principles (UPC_CFI_239/2023, decision of 22 November 2024, para. 88 – Plant-e v Arkyne; UPC_CFI_479/2025, order of 11 September 2025 – Washtower v BEGA, p. 23): A modification is equivalent to a feature specified in the claim if the following four questions are answered in the affirmative:

1) Technical equivalence: Does the modification (essentially) solve the same problem as the patented invention and, in this context, does it perform (essentially) the same function?

2) Is the extension of the scope of protection of the claim to the equivalent proportionate to the appropriate protection for the patent proprietor?

   This must be assessed taking into account the patent holder's contribution to the state of the art, whilst examining whether it is obvious to a person skilled in the art from the patent publication (at the time of infringement) how the equivalent element is to be applied.

3) Reasonable legal certainty for third parties: Can the person skilled in the art deduce from the patent that the scope of the invention extends beyond the scope claimed verbatim?

4) Is the allegedly infringing product novel and inventive in relation to the state of the art?

, as did Panel 1 of the Düsseldorf local division most recently (UPC_CFI_807/2024, decision of 27 May 2026, Headnote 1 and para. 240 – Wonderland v Cybex), the assessment criteria established by the Hague local division. These criteria form a coherent whole and, as such, are suitable for assessing equivalence. At least in the present case, and taking into account the parties' submissions, there is also no indication that the application of a different standard would lead to a different outcome.

2. The present case

63. An equivalent infringement is ruled out in the present case.

a) Question 1)

64. The first question to be clarified, namely whether the modification solves (essentially) the same problem as the patented invention and, in this context, fulfils (essentially) the same function, must be answered in the negative in the present case.

65. The objective problem/task of the invention lies in providing a device capable of reproducibly producing high-quality milk foam whilst utilising optimised rinsing/cleaning performance.

66. The patent at issue solves this with a design in which the air supply line can be connected to the rinsing line via direct-closing non-return valves, which prevent any hindrance to the precise metering of air as well as the ingress of milk or milk foam, thereby avoiding associated contamination.

67. The claimant, who bears the burden of proof in this regard, has not specifically argued what the optimisation is supposed to consist of in the contested embodiment, nor has it specifically claimed—in particular—that the contested embodiment guarantees a precisely metered air supply without fluctuations during operation. In this respect, it has neither been argued nor is it apparent that the contested embodiment fulfils the same function.

2. Question 3)

68. With regard to Question 3), legal certainty for third parties must also be ruled out.

69. The patent at issue specifically excludes spring-loaded valves from its scope of protection due to possible fluctuations in negative pressure and vibrations, as they do not act to close directly. The person skilled in the art therefore by no means infers from the patent at issue that the scope of protection is intended to be broader than the literal meaning of the claim.

III. Infringement of the sub-claims under the main claim

70. Since all the sub-claims asserted always require the non-return valves as defined in claim 1, a literal and equivalent infringement is also ruled out here for the reasons already set out.

G. Decision on costs

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71. Pursuant to Article 69(2) of the UPC Agreement in conjunction with Rule 118(5) of the RoP and Rule 265(2)(c) of the RoP, a decision on costs must be made.

72. As the action for infringement has been unsuccessful, the claimant must bear the costs of the action for infringement. In the context of the counterclaim, the patent at issue has been upheld, so that the defendant must bear the costs.

H. Recoverable legal representation costs

73. At the oral hearing, the parties agreed that the recoverable costs for both the infringement action and the action for nullity would be mutually recognised up to an amount of EUR 75,000.00, subject to the order for costs. The parties have thus waived their right to challenge the recoverability of individual cost items up to this amount.

74. As the upper limit for recoverable costs has not been reached in this case, the question of the defendant's status as a small enterprise is no longer relevant. In any event, such status would not be granted to the defendant, as no corresponding application to reduce the upper limit has been made.

DECISION:

A. The action for infringement is dismissed.

B. The counterclaim for annulment is dismissed.

C. The claimant shall bear the costs of the infringement action.

D. The defendant shall bear the costs of the counterclaim for declaration of invalidity.

E. The value in dispute for both the infringement claim and the counterclaim for nullity is set at EUR 500,000.00 in each case.

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Düsseldorf, 22 October 2026 NAMES

AND SIGNATURES

Presiding Judge Dr Thom	
Legally qualified judge Dr Rinken	
Legally qualified judge Kupecz	
Technically qualified judge Dr Parrini	
On behalf of the Deputy-Registrar	

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INFORMATION ON APPEALS:

Any party whose applications have been rejected in whole or in part may lodge an appeal against this decision with the Court of Appeal within two months of the decision being served (Article 73(1) UPC Agreement, Rule 220(1)(a), 224(1)(a) RoP).

Information on enforcement (Article 82 UPC Agreement, Article 37(2) UPC SGS, Rule 118(8), 158(2),
354, 355(4) of the RoP):

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

This decision was announced at a public hearing on 22 October 2026.

Presiding Judge Dr Thom