Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

UPC – Court of Appeal

UPC-CoA-138/2026
UPC-CoA-139/2026

Decision

of the Court of Appeal of the Unified Patent Court concerning an application for withdrawal pursuant to Rule 265.1 of the RoP and an application for

reimbursement of court fees pursuant to Rule 370.G of the RoP
issued on 5 November 2026

APPELLANT (DEFENDANT AND COUNTER-CLAIMANT IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

VEMAG Maschinenbau GmbH, Weserstr. 32, 27283 Verden, Germany

hereinafter 'VEMAG'

represented by Dr Michael Plagge, Attorney-at-law, Hogan Lovells Cadwalader International LLP

RESPONDENT ON APPEAL (CLAIMANT AND COUNTER-DEFENDANT IN THE MAIN PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

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

hereinafter referred to as **'Albert** Handtmann'

represented by Dr Bernd Allekotte, Attorney-at-law, Grünecker Patent- und Rechtsanwälte PartG mbB

patent at issue

EP 3 106 035

LANGUAGE OF THE PROCEEDINGS

German

PANEL AND DECIDING JUDGES

Panel 1a

Klaus Grabinski, President of the Court of Appeal
Emmanuel Gougé, judge-rapporteur and legally qualified judge
Peter Blok, legally qualified judge

CONTESTED DECISION OF THE COURT OF FIRST INSTANCE

- Decision of the Court of First Instance of the Unified Patent Court, Munich local division, dated 16 June 2026
- action number:
  - UPC_CFI_184/2025 (infringement proceedings)
  - UPC_CFI_549/2025 (counterclaim for revocation)

BRIEF STATEMENT OF THE FACTS AND THE PARTIES' APPLICATIONS

1. By the contested decision of 16 June 2026, the Munich local division declared the patent at issue, of which Albert Handtmann is the registered proprietor, to be invalid with effect for the Federal Republic of Germany, Austria, the Netherlands, France and Italy, in so far as it goes beyond 'previous auxiliary claim 2', and partially upheld Albert Handtmann's action for infringement.

2. By a document dated 17 August 2026, VEMAG lodged an appeal against the contested decision in respect of both the infringement claim and the counterclaim for revocation.

3. By a document dated 16 October 2026, VEMAG filed an application to withdraw the appeals and stated that there appeared to be no legitimate interest on the part of the respondent in a decision by the Court of Appeal. VEMAG requests that the withdrawal of its appeals be permitted and that the excess court fees paid be refunded to it in accordance with Rule 370.9 of the RoP. VEMAG has not requested a decision on costs.

4. In a document dated 23 October 2026, Albert Handtmann consented to the withdrawal of VEMAG's appeals and stated that she had no objections to the withdrawal of the appeals.

5. Albert Handtmann also requests that VEMAG be ordered to pay the costs of the appeal proceedings, and states that she would apply for the recoverable costs to be determined in accordance with the relevant rules on costs.

REASONS FOR THE DECISION

Withdrawal

6. Pursuant to Rule 265.1 of the RoP, an applicant may apply to withdraw its application provided that no final decision has yet been given on the application. This provision applies *mutatis mutandis* to an appellant who applies to withdraw their appeal (UPC_CoA_234/2024 APL_27805/2024 App_38102/2024, 10x – Curio). The application to withdraw the appeal will not be granted if the other party has a legitimate interest in the court ruling on the appeal.

7. Albert Handtmann has consented to the withdrawal of the appeals and has stated that she would raise no objections to their withdrawal.

8. The Court of Appeal therefore grants the withdrawal of the appeals on the application of VEMAG and with the consent of Albert Handtmann.

Costs

9. As VEMAG has filed an application to withdraw the appeal against the contested decision, and in view of the fact that Albert Handtmann has filed an application for costs, VEMAG is ordered to pay the costs of the appeal proceedings pursuant to Rule 265.2(c) of the RoP.

Refund of court fees

10. In the event of the withdrawal of the action (Rule 265 of the RoP), pursuant to Rule 370.9(b) of the RoP, the party liable to pay the court fees shall receive a 50 per cent refund if the action is withdrawn before the conclusion of the written procedure.

11. The application for a refund of 50 per cent of the court fees must therefore be granted, as the application to withdraw the appeals was withdrawn before the conclusion of the written procedure (in accordance with Rule 370.9(b) of the RoP). In accordance with this provision, a refund amounting to 50 per cent of the total fees of €14,600 (in respect of the appeal in the infringement action) and €16,060 (in respect of the appeal against the counterclaim for a declaration of invalidity) is to be ordered, i.e. €7,300 and €8,030.

DECISION

The Court of Appeal

I. allows the withdrawal of the appeals UPC-CoA-138/2026 and UPC-CoA-139/2026;

II. declares the proceedings to be terminated;

III. orders that the decision be entered in the register;

IV. orders that VEMAG shall bear the costs of the appeal proceedings.

V. orders that 50 per cent of the court fees for the appeals UPC-CoA-138/2026 and UPC-CoA-139/2026 be refunded to VEMAG;

VI. instructs the Registry to reimburse VEMAG the sums of €7,300 and €8,030.

This decision was issued on 5 November 2026.

Klaus Grabinski, President of the Court of Appeal

Peter Blok, legally qualified judge

Emmanuel Gougé, judge-rapporteur and legally qualified judge