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Munich local division
UPC_CFI_571/2025
UPC_CFI_1926/2025

Decision

of the Court of First Instance of the Unified Patent Court,
Munich local division
issued on 11 November 2026

CLAIMANT AND COUNTER-DEFENDANT (HEREINAFTER ALSO 'EPSILON')

EPSILON Kran GmbH, Franz-Wolfram-Scherer-Str. 24, 5020, Salzburg, Austria,

represented by: Dr Markus Gangl, Torggler & Hofmann Patentanwälte GmbH & Co KG, Wilhelm-Greil-Straße 16, 6020, Innsbruck, Austria.

DEFENDANT AND COUNTER-CLAIMANT (HEREINAFTER ALSO 'PIŠEK')

PIŠEK - VITLI KRPAN proizvodnja kmetijskih in gozdarskih strojev, d.o.o., Jazbina 9A, 3240, Šmarje pri Jelšah, Slovenia,

represented by: Kevin Rihtar, Ketler & Partners, Dunajska cesta 163, 1000, Ljubljana, Slovenia.

PATENT AT ISSUE

EP 2 947 037

PANEL/CHAMBER

Second panel of the Munich local division

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JUDGES INVOLVED

This decision was issued by the presiding judge Dr Daniel Voß, the legally qualified judge Dr Georg Werner (judge-rapporteur), the legally qualified judge Dr Tatyana Zhilova and the technically qualified judge Dr Marc van der Burg.

LANGUAGE OF THE PROCEEDINGS

German

SUBJECT MATTER OF THE PROCEEDINGS

Action for infringement and counterclaim for revocation

ORAL HEARING

27 October 2026

FACTS

1 The claimant is bringing proceedings against the defendant for infringement of European Patent 2 947 037 (submitted as Annex C; hereinafter: the patent at issue). The defendant has brought a counterclaim seeking a declaration of invalidity of the patent at issue.

2 The patent at issue, which is written in German, is entitled ‘Crane’. Claim 1 is the sole independent claim of the patent at issue. It reads as follows:

> “Crane (1) comprising a crane column (3) arranged on a base frame (2) so as to be rotatable about a vertical axis, and a first crane boom (4) mounted on the crane column (3) so as to be pivotable via a first joint (8), wherein at least one hose line (12) extends from a first connection point (13) on the crane column (3) or the base frame (2) to a second connection point (14) in or on the first crane arm (4), whereby a swivelling movement of the crane arm (4) relative to the crane column (3) results in an increase or decrease in the distance between the first and second connection points (13, 14), and wherein the sections of the at least one hose line (12) that become surplus when the distance between the first and second connection points (13, 14) decreases are ordered inside the first crane arm (4), **characterised in that** the at least one hose line (12) enters the first crane arm (4) through an opening (18) arranged on the underside of the first crane arm (4) near the first joint (8).”

3 Reference is made to the specification of the contested patent for the sub-claims.

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4 The claimant essentially alleges a direct infringement of claim 1 of the patent at issue.

5 At the ‘Interforst’ trade fair in Munich in 2022 and at the 18th KWF Conference in Schwarzenborn (Germany) in 2024, the defendant exhibited, amongst other things, the lorry-mounted crane with the type designation D120Z, which is the subject of this proceedings. This type of crane was also marketed under the designation T120Z. The defendant manufactured such cranes in Slovenia. In its claim, the claimant challenges this and the designs that are essentially identical to the patent (the contested embodiment).

6 The contested embodiment is configured as follows in respect of the points relevant here, with the schematic drawings shown originating from the defendant. They were provided to the Claimant as part of the pre-trial correspondence:

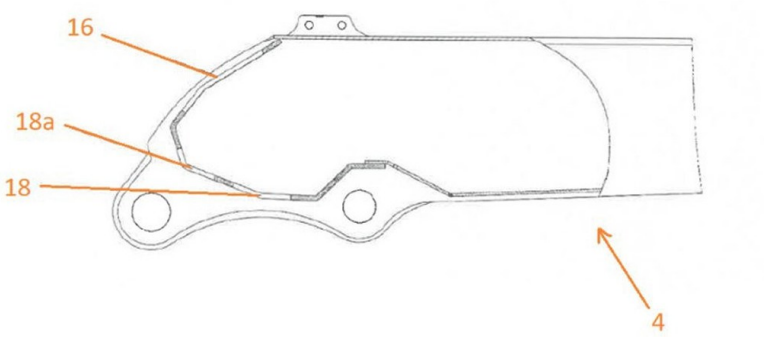


Abb.1

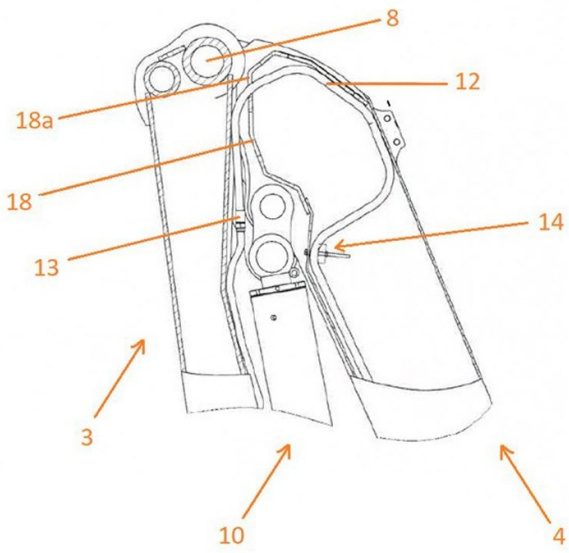


Abb.2

7 The following photographs provided by the Claimant show the contested embodiment. The reference marks shown in them have been added subsequently.



Abb.3



Abb.4

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Abb.5 (KWF-Tagung)

8 For further details of the facts of the case, reference is also made to the parties' exchanged pleadings, including annexes, and to the parties' submissions at the oral hearing on 27 October 2026.

APPLICATIONS

9 At the oral hearing, the claimant applied for leave to withdraw the application for publication of the judgment (originally paragraph 5). The defendant consented to the withdrawal.

10 The claimant (with the amendments resulting from the oral hearing) makes the following applications (as yet) in the infringement proceedings:

1. It is requested that the Court declare that the manufacture, offering for sale, placing on the market, use or importation of the defendant's crane in accordance with the contested embodiments, or the possession of such cranes for these purposes, constitutes an infringement of the patent at issue.

2. It is requested that the defendant be ordered to refrain, in one or more of the territories of Austria, Germany, Finland, France, Italy, Sweden and Slovenia, from

   cranes comprising a crane column mounted on a base frame so as to be rotatable about a vertical axis, and a first crane arm mounted on the crane column so as to be pivotable via a first joint, wherein at least one hose line extends from a first connection point on the crane column or the base frame to a

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second connection point within or on the first crane arm, whereby a swivelling movement of the crane arm relative to the crane column results in an increase or decrease in the distance between the first and second connection points, and wherein the sections of the at least one hose line that become surplus when the distance between the first and second connection points is reduced are ordered inside the first crane arm, wherein the at least one hose line enters the first crane arm through an opening arranged on the underside of the first crane arm near the first joint,

(Claim 1),

in particular, where

the second connection point is ordered to be located within the first crane arm,

(Claim 2),

and/or where

the first crane arm has a service opening – preferably closable by a cover – which allows access to the second connection point,

(Claim 5),

in particular, the cranes designated by the defendant as D120Z and T120Z at the time the action was brought

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

3. It is requested that the defendant be ordered, at its own expense, to recall the infringing cranes referred to in point 2 from the distribution channels, to remove them permanently from the distribution channels and to remedy the infringing features.

4. It is requested that the defendant be ordered to provide the claimant, for the period from 2 May 2018, with information regarding

   - the origin and distribution channels of the infringing cranes referred to in point 2
   - the quantities produced, manufactured, delivered, received and ordered, and the prices paid for the infringing cranes referred to in point 2, and

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- the identity of all third parties involved in the manufacture or distribution of the infringing cranes referred to in point 2.

5. *Withdrawn*

6. It is requested that the defendant be ordered to pay, for each individual instance of non-compliance with the order under point 2 and for each day of failure to comply with or incorrect compliance with the orders under point 3 or point 4 following the expiry of a two-week period, a penalty payment, the amount of which is left to the discretion of the court, but which shall not be less than EUR 15,000.

7. It is requested that the judgment be declared immediately enforceable.

8. It is requested that the defendant be ordered to compensate the claimant for all damages which it has suffered or will suffer from 2 May 2018 onwards as a result of the manufacture, offering for sale, placing on the market, use, or importation or possession for the aforementioned purposes of cranes as referred to in point 2.

9. It is requested that the defendant be ordered to reimburse the claimant for the costs of the proceedings and legal representation.

11 The defendant, in conjunction with its counterclaim for a declaration of invalidity, **requests** that the court

1. declare the patent at issue invalid and revoke it in its entirety for all designated Member States;

2. dismiss the Claimant’s statement of claim in its entirety; and

3. order the claimant to bear all the costs of these proceedings.

12 The claimant **requests** that

I. that the counterclaim seeking the revocation of European Patent EP 2 947 037 be dismissed and that the patent at issue be upheld in the form in which it was granted;

II. in the alternative, to uphold the patent at issue in the version set out in one of the alternative claims 1 to 7, in the order set out in the application for amendment of the patent dated 12 February 2026 (Annexes I1/I2 to O1/O2), and, in the alternative, the infringement claims are based on the wording of claim 1 in the restricted, maintained version of the patent at issue;

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III. to order the defendant to pay the costs of the proceedings and legal representation.

13 Furthermore, the defendant has proposed that the Court should make the following orders pursuant to Rule 104 of the RoP:

(i) The claimant should be ordered to disclose all relevant technical documentation, drawings and product samples necessary to enable a full comparison between the defendant's product and the allegedly infringing embodiment described in the patent at issue.

(ii) An independent technical expert should be appointed by the UPC to prepare an expert report on whether the defendant's product falls within the scope of the patent claims.

(iii) The claimant should be ordered to submit a detailed table of claims, setting out for each allegedly infringed claim the corresponding features of the defendant's product, in order to ensure procedural clarity and efficiency.

(iv) A timetable for the submission of further documents and evidence should be set, taking into account the need for expert examination and, where necessary, the translation of technical documents.

14 The claimant objects to these requests by the defendant.

POINTS AT ISSUE BETWEEN THE PARTIES

Claimant

15 The claimant considers the patent at issue to be valid and regards it as having been infringed.

Interpretation

16 The claimant defines the person skilled in the art as a graduate of a mechanical engineering degree programme at a university or university of applied sciences with several years' experience in the design of cranes.

17 The claimant argues that a 'connection point' as defined in the patent is a point at which the at least one hose line is connected to the crane (the crane column or base frame on the one hand, and the first crane arm on the other). According to the wording of claim 1, the hose line runs from the first connection point to a second connection point 'in or on the first crane arm (4)', and the swivelling movement results 'in an increase or

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reduction in the distance" between the connection points. It follows from this function – the connection points defining the endpoints of the route, the reduction of which gives rise to the excess section – that the connection point fixes the hose line in a fixed position.

18 In the claimant's view, the 'underside' of the first crane arm is the boundary wall of the crane arm profile, which faces the floor when the crane is in its working position (Figure 1). This same wall remains the same in every swivelling position. This interpretation follows from general linguistic usage and from all the sectional views of the patent at issue (Figures 2a to 7), which consistently show this opening (18) as the lower boundary wall. A person skilled in the art would recognise this as the structural implementation of the described kinematics: in all sectional views, the opening is situated where the change in length caused by the swivelling movement occurs and where the hose line coming from the first connection point (13) on the crane column enters the crane arm via the shortest route, free from any kinking.

19 The claimant takes the view that the opening is ordered 'near the first joint (8)' if it lies within that part of the first crane arm where the change in length of the hose line caused by the swivelling movement occurs, so that the excess length can enter the interior of the arm at the point where it arises. An opening situated directly at the joint is, a fortiori, 'near' the joint.

Validity of the Patent

20 The claimant considers the patent at issue to be valid. The subject-matter of patent claim 1 is novel and inventive, does not rely on an impermissible extension and is disclosed in a manner enabling its implementation. The objections raised by the defendant regarding an alleged lack of clarity do not, in any event, constitute grounds for invalidity.

21 In any event, the patent at issue will be found to be valid on the basis of the alternative claims.

Infringement

22 The claimant is of the view that, if interpreted correctly, the contested embodiments – the actual design of which is not in dispute – directly infringe claim 1 of the patent at issue, strictly according to its wording.

23 The exhibition of the contested embodiment at the German trade fairs (in Munich and Schwarzenborn) concerns acts reserved to the patent proprietor, in particular those of exhibiting, offering for sale, importing and possessing.

Legal consequences

24 The claimant is of the view that the order for an injunction, like the other measures, is proportionate. The

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defendant does not, in substance, go beyond the defendant's view that the patent at issue is invalid, that exhibiting at trade fairs does not constitute infringement, and that the contested embodiment does not fulfil all the features of claim 1. In any event, this is not sufficient to substantiate the alleged disproportion.

defendant

Interpretation

25 The defendant considers that the claimant has interpreted the definition of a 'qualified person' too narrowly. The requirement for several years' specialised experience in crane design would raise the standard above that of the 'average qualified person' and effectively make them a specialist or senior engineer. Rather, the relevant person skilled in the art is an engineer with general skills and knowledge in the design and construction of cranes and comparable lifting devices. The person skilled in the art possesses general technical knowledge in the field of mechanical engineering, including hydraulic systems.

26 The defendant argues that, as the term 'connection point' is not defined in the patent specification, it must be interpreted in accordance with its ordinary technical meaning. A connection point refers to a location where two elements are joined together, namely two different pipes by means of suitable fittings. There is no reason to interpret this term as a fixing point at which a pipe or hose is merely attached to a surface without forming a functional connection. The patent distinguishes between two different types of conduits: a flexible one (hose) and a rigid or metallic one (pipe). According to the patent at issue, the hose is ordered between the connection points, whilst the pipe extends up to the first connection point and continues from the second connection point. Irrespective of the exact position of the second connection point, the type of line changes at this point. A hose cannot be connected to the crane at any arbitrary point, as it would otherwise be unable to fulfil or perform its function. It must be connected to a specific feature, in this case to the lines and subsequently to the hydraulic consumer. In this respect, the patent constitutes its own lexicon.

27 In the defendant's view, the term 'underside' is neither defined nor described. The term is ambiguous. The definite article used before 'underside' in the claim presupposes a clearly identifiable underside of the first crane arm. However, there is no coordinate system, no defined top or underside, no operational orientation or structural asymmetry from which an underside could be derived. Insofar as the figures in the patent specification showed the position of the opening, they depicted it on the lower surface of the first crane arm, i.e. on a specific flat surface on the underside of the arm profile. This is narrower than the broad term 'underside', which, as

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The Claimant, could encompass the entire lower half of the arm cross-section. The patent at issue does not equate ‘lower surface’ with ‘underside’.

28 In any event, the opening must be ordered entirely on the underside. There is no clear and objectively recognised definition of ‘in the vicinity’. There is no measurable or objective boundary. The patent discloses no range of distances, no relative ratio, no functional criterion and no instruction that would enable a person skilled in the art to assess proximity. Consequently, the person skilled in the art cannot reliably determine either the intended orientation or the spatial proximity across the entire scope of the claim. It can, however, be inferred from the patent specification that the claimed opening is ordered approximately halfway between the first joint and the connection of the hydraulic cylinder.

Legal position

29 The defendant considers the patent at issue to be invalid.

30 It takes the view that the claimed subject-matter is not novel. The concept of routing hydraulic hoses within a boom or arm, including insertion from the underside, as well as the use of protective devices or rounded edges to prevent abrasion, had been disclosed on multiple occasions prior to the priority date of the patent.

31 In support of its challenge to novelty, the defendant refers to the following publications:

- US 4 156 487,
- US 5 806 313,
- WO 2008 134 820 A1 and
- US 2012 0 107 079.

32 According to the defendant, each of these documents, when read by a person skilled in the art, discloses all the essential elements of the claimed invention. It is irrelevant that none of the documents cited discloses a crane. For the purposes of the novelty assessment, the distinction between a crane and an excavator is irrelevant.

33 The defendant further contends that the solution of the patent at issue was suggested by the prior art. Whilst the subject-matter of FR 2 499 051 (D1) lacks the feature whereby the at least one hose line enters the first crane arm through an opening arranged on the underside of the first crane arm near the first joint, However, D1 discloses that the other branch of the hydraulic line loop runs through the rear end of the lifting jib. The concept of a rear entry point is thus introduced, and the solution of the patent at issue merely concerns a variation in the entry point.

34 The defendant contends that a combination of D1 with one of the following documents:

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- D2 (DE 2 721 636 A1),
- D3 (US 2005 0 047 899),
- D4 (DE 2 352 761 A1),
- D5 (DE 1 287 779 B),
- D6 (US 2003 0 210 972),
- D7 (US 3 777 629 A),
- D8 (US 8 408 862 B1),
- D9 (US 5 806 313),
- D10 (WO 9 314 016 A1),
- D11 (US 2012 0 107 079) or
- D12 (WO 2008 134 820 A1)

each suggest the subject-matter of claim 1 of the patent at issue.

35 The defendant further takes the view that claim 1 of the patent at issue is insufficient, in the absence of a clear definition of the terms ‘connection point’, ‘underside’ and ‘near the first joint’, and is therefore not disclosed in a complete and thus workable manner, contrary to Article 83 EPC. This insufficiency arises from the fact that the patent at issue does not enable the person skilled in the art to determine the scope of the claimed invention with sufficient certainty. The claimant itself is unable to provide a consistent interpretation of the term ‘underside’, as evidenced by its differing interpretations in the letters of formal notice (based on the centre-line approach). This inconsistency demonstrates that the patent does not provide a clear and reproducible technical teaching enabling the person skilled in the art to identify the relevant part of the crane arm without unduly extensive experimentation or speculation. Consequently, the person skilled in the art cannot reliably determine whether a particular embodiment falls within the scope of the claim. A sufficient disclosure requires that the person skilled in the art be able to carry out the invention across the entire scope of the claim. If the scope of a claim is indeterminate, the person skilled in the art cannot know whether an embodiment meets the claim, which constitutes an insufficient disclosure.

36 The defendant contends that there are inadmissible extensions (Article 123(2) EPC). The claimant, it argues, derived features from a schematic representation and generalised them beyond the scope of the disclosure. A drawing illustrates a specific geometry; however, it does not define the limits of a term.

37 The original application contained no textual disclosure regarding the position, orientation, technical purpose or intended effect of this opening, nor did it disclose a specific spatial relationship between the opening and the first joint. The drawings relied upon were schematic and served merely to illustrate the general principle of the invention. They did not indicate that the depicted positioning of the opening was based on a deliberate technical consideration or that a specific spatial configuration was intended. The term ‘underside’

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does not appear in the original application, at least not in connection with opening 18. There is no information regarding the spatial position of the opening in relation to the crane arm. The drawings merely show an opening on a surface that appears to be the underside of the arm, but without any technical explanation or indication that this positioning is intended or relevant to the invention.

38 Similarly, it cannot be inferred from the original application that such a specific positioning of the opening relative to the joint was intended as a deliberate technical measure. Nothing in the application as originally filed indicates that the position of the opening contributes to solving the stated technical problem of reducing the risk of hose damage. The patent specification contains no feature that would establish an explicit or implicit link between the position of the opening and the claimed effect of a ‘reduced risk of damage’.

39 According to the defendant, the patent at issue cannot be upheld on the basis of the auxiliary claims either. The proposed amendments are already inadmissible. Contrary to Rule 30(1)(b) of the RoP, the claimant has failed to demonstrate why the proposed amendments comply with Articles 84 and 123 of the EPC.

Infringement

40 The defendant contends that, in the contested embodiment, the hose lines run the entire length of the first crane arm and emerge again without any internal connection points. The hose lines are connected exclusively externally. This constitutes a technically significantly different configuration which differs substantially from the Claimant’s patented order. The defendant’s products do not feature a second connection point within the first crane arm within the meaning of the patent at issue. There is no transition from a flexible hose to a rigid pipe within the arm. The flexible hose runs through the arm without such a transition.

41 The defendant contends that the opening in its product is situated at the rear of the crane arm, adjacent to the joint. As the opening in the defendant’s product is also not ordered entirely on the underside, no infringement has taken place. Furthermore, the defendant’s product features several openings, one of which corresponds to the claimant’s opening but is not used to insert the hose into the interior of the arm. The opening through which the hose enters the arm in the defendant’s product is marked with a different number. Nor is it apparent that the tubing exits the arm through the same opening through which it enters the arm. Similarly, the opening in the defendant’s product is situated directly at the joint or immediately adjacent to it. As the opening extends in part to the rear of the arm, it is not an opening on the underside.

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Legal consequences

42 The defendant takes the view that the sought injunction is disproportionate. The claimant has not provided any evidence of the defendant's current or planned activities in the areas in question that could justify a preventive measure. Rather, the claimant's application is an attempt to obtain preventive measures in advance, without any factual or legal basis. There is no evidence of the defendant's ongoing or planned activities in any of the alleged areas. In the absence of a continuing infringement or a real and substantiated risk of such an infringement, the order for an injunction would be unnecessary, unjustified and contrary to the principle of proportionality under Article 63(1) of the UPC Agreement. Speculative allegations without concrete evidence of an actual or imminent infringement should not constitute a lawful basis for measures.

43 The defendant contends that recall and destruction measures under Article 64(2)(b) and (e) of the UPC Agreement require that infringing goods be in circulation, which is not the case. Recall and permanent removal from distribution channels constitute separate, independent measures. Permanent removal accompanies the recall, although removal can only be considered if the infringer is factually and legally in a position to carry it out. Since the defendant has not sold or distributed any infringing products within the contracting member states, nor are they present in any distribution channels, there is neither a factual basis nor a legal necessity for issuing such orders. The implementation of a recall and destruction order would impose significant and unjustified financial and operational burdens on the defendant, including the costs of identifying and contacting all distribution partners, the transport and dismantling of heavy machinery, and environmentally sound disposal procedures. These costs would be grossly disproportionate to any hypothetical benefit, particularly as neither an infringement nor commercial exploitation had taken place. Furthermore, an order would cause the defendant unjustified reputational damage by publicly suggesting misconduct that did not in fact exist, and would interfere with lawful business activities in other markets where the patent at issue has no effect. The principle of proportionality under the Convention requires that remedial measures be limited to what is strictly necessary to remedy an actual infringement.

44 The defendant takes the view that the disclosure of information sought under Article 67 of the UPC Agreement is permissible only for the purpose of determining the origin and distribution channels of infringing goods or services. As there were no infringing goods and no third-party distributors, there was no legitimate basis for disclosure. Such an order would be pointless if there were no alleged completed infringement, if there were no indications whatsoever that the sought-after information was even available, and if there were no justification as to why this information

should reasonably be required to advance the party's case. Such an order would amount to impermissible prying.

45 Prior to the claimant's withdrawal of the relevant application (see above), the defendant further contended that publishing the UPC decision on the defendant's website, on its social media accounts and in specialist journals was manifestly premature and disproportionate.

46 The defendant further contends that the proposed penalty of at least EUR 15,000 per infringement or per day of non-compliance is arbitrary and wholly disproportionate. As there is no act of infringement from which to depart, there is no legal basis whatsoever for the imposition of penalty payments. The court must exercise its discretion to set the amount of the penalty payment in such a way that it is both tailored to the specific circumstances and proportionate to the nature of the infringement. When assessing proportionality, account must be taken, amongst other things, of the severity and duration of the infringement as well as the defendant's financial capacity. Furthermore, Article 82 of the UPC Agreement provides for such measures solely to ensure compliance with a valid and enforceable order. Such an order cannot be issued without a breach having occurred, and consequently, no penalty payment can be imposed.

47 Furthermore, the defendant objects to the claimant's application for immediate enforceability. Article 82(3) of the UPC Agreement permits such a measure only if it is justified by urgency or the risk of irreparable harm. The claimant has not demonstrated either an ongoing infringement or an imminent threat that could justify expedited enforcement. On the contrary, the defendant's conduct has been transparent, isolated and consistently cooperative.

48 Finally, the defendant takes the view that the claim for damages is unfounded both as to its merits and as to the amount claimed. The claimant has neither substantiated any actual loss nor demonstrated a causal link between the defendant's alleged actions and any financial loss. In the absence of an infringement, wilful misconduct or negligence, no liability for damages can arise under Article 68 of the UPC Agreement. The defendant acted in good faith, without knowledge of any alleged infringement, and did not derive any unlawful profit or market advantage.

REASONS FOR THE DECISION

49 The admissible action for infringement is well founded. The admissible counterclaim is unfounded.

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A The technical teaching of the patent at issue

I. State of the art, problem, solution

50 The invention according to the patent at issue relates to a crane (para. [0001]; paragraph references without specific citation refer to those in the specification of the patent at issue).

51 The specification of the contested patent explains that, in the prior art, many different solutions are known for the routing of at least one hose line (hereinafter also referred to as ‘hose routing’) in the area of the transition from the crane column to the first crane arm. One solution is disclosed in FR 8 201 499. In a first solution, the hose routing between the crane column and the first crane arm runs from a connection point mounted on the outside of the crane column to a connection point arranged on the outside of the first crane arm, [0002].

52 The specification of the contested patent further states that, in a second solution, the connection point on the crane column is situated on the side of the crane column facing away from the first crane arm. The hose runs along the outside of the crane column via the first joint to a connection point situated on the upper side of the first crane arm, and/or at least one hose line passes the first joint laterally in its lower region and then runs upwards to a connection point situated on the underside of the first crane arm, [0003].

53 With regard to this state of the art, the specification of the contested patent criticises the fact that such hose routing arrangements are problematic in practice due to the risk of damage to the at least one hose line, particularly during operation of the crane, [0004].

54 Accordingly, the specification of the contested patent goes on to state that the task is to reduce the risk of damage to the at least one hose line in a crane of the general type, [0005].

55 This problem is to be solved by a crane having the features of claim 1 of the patent at issue, which, in accordance with the Claimant’s proposal—which the defendant has adopted—can be structured as follows:

1. A crane comprising:
    - 1.1 a base frame;
    - 1.2 a crane column;
    - 1.3 a first crane arm;
    - 1.4 a first joint;
    - 1.5 at least one hose line;
    - 1.6 a first connection point;

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1.7 a second connection point.

2. The crane column is mounted on the base frame so as to be rotatable about a vertical axis.

3. The first jib is mounted on the crane column so as to be pivotable via the first joint.

4. The at least one hose line:

4.1 runs from a first connection point on the crane column or the base frame to a second connection point in or on the first crane arm;

4.2 enters the first crane arm through an opening located on the underside of the first crane arm near the first joint.

5. A swivelling movement of the crane arm relative to the crane column results in an increase or decrease in the distance between the first and second connection points.

6. The sections of the at least one hose line that become surplus when the distance between the first and second connection points is reduced are ordered inside the first crane arm.

II. Description

56 In view of the dispute between the parties, certain features require further explanation.

1. Person skilled in the art

57 The person skilled in the art referred to has completed a degree in mechanical engineering at a university or university of applied sciences. The parties rightly agree on this point. Furthermore, this person has several years' experience in the development and design of cranes. Contrary to the defendant's assumption, it is a fact of professional life that, within the technical community, the development and design of cranes are typically undertaken by persons with several years' professional experience.

58 In accordance with the guidelines of the Appeal Court, the interpretation must be made from the perspective of an expert with knowledge of the relevant specialist expertise as well as professional and technical experience in the technical field to which the (relevant) technical teaching relates (see CoA, decision of 25 November 2025, CoA_464/2024 – Meril v Edwards; Decision of 25 November 2025, CoA_527/2024 – Amgen v Sanofi). The general assumption that the expert in question possesses several years' professional experience is also established in the settled case-law of the court and this local division.

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59 Since the dispute between the parties also centres on the knowledge possessed by the expert, the definition of the expert essentially determines the specialist knowledge of the person in question here. In this regard, it is rightly undisputed between the parties that the expert possesses a basic understanding of hydraulic systems.

2. Connection point

60 From the perspective of the skilled person, ‘connection point’ as defined in features 1.6 and 1.7 of claim 1 of the patent at issue refers in each case to the point at which the at least one hose line according to the patent is connected to the crane. The connection point is therefore the point at which the hose line occupies a fixed, defined position in technical and functional terms with respect to the crane. The first connection point, as defined by feature 1.6, is located on the crane column (or on the base frame), feature 4.1. From there, the at least one hose line leads to the second connection point in or on the first crane arm, feature 4.1. There, the hose line – which is, in principle, freely movable – is (once again) connected to the crane arm.

61 The interpretation of the patent claim concerns a legal question which must be answered objectively from the perspective of a person skilled in the art on the basis of the claim, the description and the drawings, Article 69(1) EPC. It is not the wording of the claim as understood philologically or semantically that is relevant, but rather the technical meaning of each individual feature as understood by those skilled in the art, i.e. the ‘literal meaning’ (technical meaning). In this regard, the context within the patent claim and the description is decisive. A term in a patent may therefore be understood differently from how it is normally used in the language of the skilled person. The patent can, as it were, be its own lexicon. A function-oriented interpretation, according to which the features of a patent claim are to be interpreted in accordance with the function they serve in the context of the invention, is generally appropriate.

62 A person skilled in the art will recognise that, from a technical and functional perspective, the aim is to define the route of the (at least one) hose line between the first and second connection points. This hose route is intended to achieve a compact and taut routing of the hose between the crane column and the first crane arm, [0008]. When the first crane arm pivots relative to the crane column, the distance between the first and second connection points increases or decreases, feature 5. This is illustrated in Figures 2a to 2c of the specification of the contested patent. It also follows from feature 6 that the excess lengths of the (freely movable but non-elastic) hose line, which are necessary to allow such swivelling movements, are ordered inside the first crane arm. In order to achieve the desired configuration of at least one such hose line, it is therefore technically necessary to secure the hose line at (at least) two points on the crane, namely at the two connection points. Only in this way can it be ensured that, when the distance between the two connection points is reduced, the excess hose line is ordered inside the first crane arm.

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63 Contrary to the defendant's assumption, the term 'fixing point', developed as the antonym of 'connection point', is inappropriate. This is because the specification of the contested patent makes no mention of a fixing point. Nor is it reflected in the claims. Nor is a 'fastening point' part of the description. Insofar as the defendant contends that, in the technical solution according to the contested patent, the absence of a fastening point necessarily results in the hose being wound up inside the crane arm, this interpretation contradicts the description and, in particular, Figures 4 and 5, which show examples of the invention as described in the patent but do not show any winding up. Instead, the excess length of the at least one hose line is guided along a surface of a cavity inside the crane arm. Where several embodiments are presented as falling within the scope of the invention, all such embodiments may be taken into account in interpreting the claim. The claim is then, in principle, to be understood as covering all embodiments as falling within the scope of the patent.

64 The claim leaves open the specific manner in which the hose is secured at the connection points. This may be achieved by fastening it to the crane column and the crane arm, or by connecting the at least one hose to a rigid pipe, as shown in Figures 2a to 2c for the second connection point 14.

65 Equally incorrect is the defendant's approach of insisting here on a pipe and its connection to a hose. This is because, in the context of the claim, the technical teaching clearly does not depend on pipes. There is no disclosure that the connection point as defined in the claim necessarily involves the connection of the hose to the pipe (or vice versa). Such pipes are not even the subject matter of the claim. They would have to be read into the claim as a component of a crane, even though they are not mentioned there. This would also contradict the technical teaching of the patent at issue, as pipes are mentioned in the description in only one place, in [0019]. There, it is stated that pipes lead away from the connection points. In this respect, connection points may well be technically suitable for connecting a hose line and a pipe line. However, the claim does not refer to this. The fact that, apart from Figure 1, pipe lines are shown in all the figures of the specification of the contested patent with the reference number 15 does not alter this understanding. A disclosure which is presented only in the description and/or in the figures, but is not sufficiently clearly incorporated into the patent claims, is not covered by the claim as a secondary invention.

3. Underside

66 Feature 4.2 concerns the defining part of claim 1. This feature provides that the at least one hose line enters the first crane arm through an opening on the underside of the first crane arm near the first joint.

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67 The person skilled in the art will understand that ‘underside’ refers to the side of the first crane arm facing towards the crane column or the frame (i.e. generally downwards towards the floor).

68 This interpretation makes technical sense.

69 This is supported by the description, which must be taken into account in the interpretation, even if – as the defendant argues – the term ‘underside’ is not expressly defined in the patent specification. In particular, the description’s discussion of the prior art demonstrates this understanding. In the solutions described there, the pairs of terms ‘underside’ and ‘top side’, as well as ‘below’ and ‘above’ – which are also relevant here – are used with the same meaning. It is explained that the hose runs from the crane column via the first joint along to the second connection point on the top of the first crane arm, or that the hose runs from the crane column along the first joint, passing laterally through its lower region, and then runs upwards to a connection point situated on the underside of the first crane arm, [0003]. There, too, a specific orientation of the sides of the crane column and crane arm is described using the term ‘away from’, [0003], so that it is clear to a person skilled in the art which side is the ‘towards’ side.

70 Likewise, all the figures in the specification of the contested patent support this interpretation. In all sectional views, the opening is situated where the change in length of the hose described above occurs and where the hose coming from the first connection point on the crane column enters the first crane arm via the shortest route, free of any wrapping. This contributes technically to the intended compact and taut routing of the at least one hose between the crane column and the first crane arm.

4. Entirely on the underside

71 Contrary to the defendant’s view, the opening need not be situated entirely on the underside. It must simply be ordered on the underside. This does not preclude the possibility that it may also overlap (at least slightly) onto another side.

72 The claim makes no provision regarding complete order on the underside. The word ‘completely’ is not contained therein.

73 Nor can any such restriction be inferred from the figures, because the subject-matter of the claim is not limited to the figures, which are to be understood as examples of the protected technical teaching.

5. Near the first joint

74 The opening is ordered in the first crane arm near the first joint if it lies within that region of the crane arm in which the

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change in length of the hose line, so that the excess section can enter the interior of the arm at the point where it arises.

75 An opening ordered directly at the joint is therefore also ‘near’ the joint.

B Counterclaim for revocation

76 The counterclaim for revocation is unfounded.

I. Inadmissible extension

77 The patent at issue is not to be declared invalid pursuant to Article 65(2) of the UPC Agreement in conjunction with Article 138(1)(c) of the EPC: its subject-matter does not extend beyond the content of the application as originally filed.

1. Legal principles

78 Under Article 123(2) of the EPC, a European patent application or a European patent may not be amended in such a way that its subject-matter extends beyond the content of the application as originally filed. This means that an amendment must not go beyond what a person skilled in the art would, on the filing date or priority date, objectively derive directly and unambiguously – whether explicitly or implicitly – from the application as a whole in the version originally filed, using general technical knowledge. (The Hague local division, Order of 19 June 2024, UPC_CFI_131/2024 – Abbott v Sibio; Paris Central Chamber, Decision of 5 November 2024, UPC_CFI_309/2023 – NJOY v Juul Labs; Court of Appeal, Order of 14 February 2025, UPC_CoA_382/2024 – Abbott v Sibio).

79 An inadmissible extension therefore exists where the subject-matter of the granted claim goes beyond the content of the application as originally filed. To determine this, the court must first ascertain what information a person skilled in the art, viewed objectively and with reference to the filing date, would immediately and unambiguously derive from the application as a whole, as filed, using their general technical knowledge. In addition to the claims, the description and the drawings must also be taken into account (Court of Appeal, Order of 14 February 2025, UPC_CoA_382/2024 – Abbott v Sibio; Decision of 2 October 2025, CoA_764/2024 – Expert e-Commerce v Seoul Viosys; Decision of 25 November 2025, UPC_CoA_528/2024 – Amgen v Sanofi). Implicitly disclosed subject-matter is also to be regarded as part of the content, i.e. that which clearly and unambiguously follows from what is expressly stated (Court of Appeal, decision of 2 October 2025, CoA_764/2024 – Expert e-Commerce v Seoul Viosys). It is not necessary for the granted claim to reproduce the wording of the disclosure in the patent application if, and to the extent that, the person skilled in the art can derive the claimed combination of features

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of the application in their entirety (Court of Appeal, decision of 14 February 2025, UPC_CoA_382/2024 – Abbott v Sibio).

2. Application to the present case

80 The subject-matter of claim 1 of the patent at issue does not go beyond the content of the application file (A1 document). This is because all the features of claim 1 are already originally disclosed in the application file.

81 This is evident, in particular with regard to the disclosure of feature 4.2 – which is the sole point of dispute – from the figures in the application document, which are identical to those in the specification of the contested patent. These figures, together with the rest of the content of the application document, form part of the overall disclosure of that document to be taken into account. In particular, paragraph [0022] of the application document already expressly states that the hose enters the first crane arm via an opening. The position of the opening is then immediately and unambiguously apparent to the person skilled in the art from the figures. This opening is ordered identically in all figures without exception and is recognisable to the person skilled in the art as part of the disclosed technical solution.

82 Contrary to the defendant's view, the term 'underside' does not merely derive features from a schematic representation and generalise them beyond the scope of the disclosure. This is because, for the person skilled in the art, the overall context of the application documents provides a sufficient disclosure of the solution claimed in the contested patent. Although the term 'underside' is not used in the description of the application documents with regard to the order of the opening, this does not alter the original disclosure of this underside. This is because the term is already introduced in the explanation of the prior art in the application; see [0004] of the application documents. It is therefore clear to a person skilled in the art, on the basis of an objective understanding of the disclosure as a whole, what constitutes an underside as defined in the claims. The defendant's objections regarding the need to interpret the term do not, in essence, concern the question of whether there is a sufficient original disclosure, but rather the objection that the term lacks clarity; however, this does not constitute grounds for invalidity.

83 Nor is there any generalisation. The defendant does not specify the alleged generalisation in concrete terms. In so far as it vaguely argues that the term 'underside' could extend beyond the lower surface and is ambiguous overall, it is not addressing the issue of a sufficient disclosure of origin, but rather the issue of the correct interpretation of the term 'underside' and/or that of the clarity of the claim. However, this is not sufficient to demonstrate generalisation.

II. Feasibility

84 The same essentially applies to the issue of feasibility, which the defendant alleges is lacking. The patent at issue is not to be declared invalid pursuant to Article 65(2) of the UPC Agreement in conjunction with Article 138(1)(b) of the EPC on the grounds of

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lack of enforceability. Here, too, the defendant is in fact raising an objection on the grounds of lack of clarity.

85 The defendant argues that, whilst the inadequacy of the disclosure does not stem from the fact that a person skilled in the art is unable to design a crane, it does stem from the fact that the patent at issue does not enable the person skilled in the art to determine the scope of the claimed invention with sufficient certainty. The defendant further explains this ground of objection by pointing out that even the claimant interprets the disclosure differently (cf. various letters of reminder). This demonstrates that the patent does not provide a clear and reproducible technical teaching enabling the person skilled in the art to identify the relevant part of the crane jib without resorting to unreasonable experimentation or speculation. Consequently, the person skilled in the art cannot reliably determine whether a particular embodiment falls within the scope of the claim. In particular, the person skilled in the art cannot carry out the invention across the entire scope of the claim.

86 The alleged lack of clarity does not in itself constitute grounds for invalidity. What is relevant is the interpretation, and this concerns a point of law (see above). The reference made by the defendant to the Claimant's various interpretations does not preclude this. This is because these do not constitute a basis for interpretation. Even if they were to be taken into account, they would not indicate a lack of disclosure in the patent, but merely that, by way of interpretation, one and the same wall of the crane arm could be described in several ways. However, the objective understanding of the person skilled in the art remains decisive.

87 Irrespective of this, the invention as claimed is disclosed in a manner that enables its implementation.

88 A sufficient disclosure requires that the patent at issue contains at least enough information to enable a person skilled in the art to assess the probability with sufficient reliability and, on that basis, to consider it sufficiently likely that the device possesses the claimed characteristic(s).

89 In this case, the person skilled in the art is able to provide a corresponding opening for the entry of at least one hose line at the first crane arm. There is no decisive obstacle to its implementation. By referring to the figures, the person skilled in the art can identify feasible ways of constructing the article according to claim 1 of the patent at issue without having to engage in an inventive step. The patent at issue shows the person skilled in the art six embodiments (Figures 2a to 7 with accompanying description), in which the opening in the lower boundary wall is situated in the region close to the joint.

90 Contrary to the defendant's assumption, the claim is therefore workable across its entire scope (as derived by interpretation).

III. Novelty

91 The patent at issue is not to be declared invalid within the scope of its claim 1 pursuant to Article 65(2) of the UPC Agreement in conjunction with Article 138(1)(a) of the EPC on the grounds of lack of novelty.

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92 The technical teaching of claim 1 of the patent at issue and its dependent claims is novel in relation to the four prior art documents cited by the defendant in its pleadings.

1. Legal principles

93 The assessment of novelty within the meaning of Article 54(1) of the EPC requires an examination of the entire content of the prior publication. The decisive factor is whether the subject-matter of the patent in suit, with all its features, is directly and unambiguously disclosed in the prior art (see Court of Appeal, Order of 26 February 2024, UPC_CoA_335/2023 – NanoString Technologies v 10x Genomics; Order of 25 September 2024, CoA_182/2024 – Mammut Sports v Ortovox).

94 The burden of proof and the onus of presentation lie with the claimant in the nullity proceedings.

2. Subject matter of the documents

95 The defendant has cited and asserted, in general terms, four documents (US 4 156 487, US 5 806 313, WO 2008 134 820 A1 and US 2012 0 107 079) and asserted, in general terms, that the concept of routing hydraulic hoses within a boom or arm, including insertion from the underside, as well as the use of protective devices or rounded edges to prevent abrasion, had been disclosed prior to the filing date of the patent.

96 However, as the disclosure in none of these documents relates to a crane or is even mentioned in the description, these documents do not anticipate the subject-matter of the claimed technical teaching in a manner that would render it lacking in novelty. The distinction between a crane, an excavator, a tractor and a front loader, which the defendant denies, is incorrect. This is because the relevant criterion is the direct and unambiguous disclosure. An excavator, tractor or front loader is not a crane. Even if there may be various similarities, there are nevertheless significant differences. These are all known to a person skilled in the art. The Claimant correctly highlights the difference in load conditions.

IV. Inventive step

97 The patent at issue is not to be declared invalid within the scope of its claim 1 pursuant to Article 65(2) of the UPC Agreement in conjunction with Article 138(1)(a) of the EPC on the grounds of a lack of inventive step within the meaning of Article 56 of the EPC. The technical teaching claimed by the patent at issue is based on an inventive step.

1. Legal principles

98 Under Article 56 EPC, an invention is deemed to involve an inventive step if it does not follow in an obvious manner from the state of the art for a person skilled in the art. This is always a matter to be assessed on a case-by-case basis and requires an examination taking into account all relevant facts and circumstances.

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99 The approach of the Unified Patent Court in determining the level of inventive step is as follows (Court of Appeal, decision of 25 November 2025, UPC_CoA_528/2024 and UPC_CFI_529/2024 – Sanofi v Amgen; UPC_CoA_21/25 – Merill v Edwards; Central Chamber, Munich, decision of 16 July 2024, UPC_CFI_1/2023; decision of 17 October 2024, UPC_CFI_252/2023; Central Chamber, Paris, decision of 5 November 2024, UPC_CFI_315/2024; decision of 26 December 2024, UPC_CFI_338/2023 and UPC_CFI_410/2023; Düsseldorf local division, decision of 10 October 2024, UPC_CFI_363/2023; decision of 10 April 2025, UPC_CFI_50/2024; Mannheim local division, decision of 31 January 2025, UPC_CFI_340/2023; Munich local division (Panel 2), 22 August 2025, UPC_CFI_248/2024 – Brita v Aquashield).

100 First, it must be determined what the subject-matter of the invention is, that is to say, the objective problem. To avoid a retrospective assessment, the objective problem should contain no references to the claimed solution. This must be assessed from the perspective of a person skilled in the art, with their general technical knowledge, at the time of filing or the priority date of the patent. It must be determined what the invention contributes to the state of the art, not by considering the individual features of the claims, but by considering the claim as a whole, taking into account the description and the drawings. In doing so, the inventive concept of the invention (the technical teaching) must also be taken into account; this must be based on the technical effect(s) which, in the mind of a person skilled in the art, are achieved by the claimed invention on the basis of the patent specification.

101 The claimed solution is obvious if the person skilled in the art, who would have sought to solve the objective problem, would have arrived at the claimed solution (and not merely could have arrived at it) at the relevant time, starting from a realistic starting point in the state of the art in the relevant technical field. The relevant technical field is the field that is relevant to the objective problem to be solved, as well as any field in which the same or a similar problem arises and of which the person skilled in the art in that specific field must be expected to be aware.

102 A starting point is realistic if its teaching would have been of interest to a person skilled in the art who, at the relevant time, would have sought to solve the objective problem. This may be the case, for example, where the relevant prior art already discloses several features similar to those of the claimed invention and/or relates to the same or a similar underlying problem as the claimed invention. There may be more than one realistic starting point, and the claimed invention must be inventive in relation to each of these starting points.

103 The person skilled in the art possesses neither inventive ability nor imagination and requires a trigger, cue or motivation which, starting from a

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realistic starting point to take the next step towards the claimed invention. As a general rule, a claimed solution is to be regarded as non-inventive/obvious if the person skilled in the art would take the next step on the basis of the hint or as a matter of routine and arrive at the claimed invention.

104 The burden of proof lies with the claimant in the action for nullity.

2. Document D1

105 This document relates to a crane as a loading device with swivelling booms. The main focus here is on the order of hydraulic lines in such a device where elements of the loading device are pivotable in relative motion to one another. This document formed part of the examination and grant procedure for the patent at issue, and the patent at issue expressly refers to it in [0002].

106 The parties agree that D1 does not, in any event, disclose feature 4.2 (the entry of at least one hose line at the underside of the first crane arm).

107 Contrary to the defendant's assumption, this constitutes a technical contribution which must not be disregarded when assessing inventive step. It consists of keeping that section of the hose line which is located outside the first crane arm and runs from the crane column as short as possible by providing an opening for the hose line on the underside of the first crane arm, i.e. on the side facing the crane column.

108 Contrary to the defendant's further assumption, the teaching of the patent at issue does not concern a (simple) variation in the point at which the lines enter the first crane arm. Even if D1 discloses that the other branch of the hydraulic line loop runs through the rear end of the lifting jib, thereby providing a rear entry point, there is no reason for a person skilled in the art to further develop this functional teaching of D1 in the direction of the patent at issue and to provide an opening on the underside of the first crane arm near the joint. In any event, no such reason has been demonstrated, nor is it apparent.

3. D1 as a realistic starting point

109 Since the objective problem of the invention, based on the teaching of the patent at issue, is to provide a conventional crane in which the risk of damage to the hose lines between the crane column and the crane jib is reduced, D1 constitutes a realistic starting point for solving this problem.

110 The Claimant rightly does not dispute this.

111 The claim solves this problem by means of a hose routing that differs from that of the prior art as assessed, namely from a first connection point on the crane column

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through an opening near the joint on the underside of the crane boom to a second connection point on the crane boom, in such a way that the hose is ordered inside the crane boom when the two connection points move closer together.

4. Lack of reason for combining D1 with other documents

112 In any event, the defendant has not demonstrated any reason (i.e. no cause, no indication and no motivation) as to why it should have been obvious that the person skilled in the art, starting from D1, would have developed the solution according to the contested patent by combining the further eleven publications, and not merely could have developed it.

113 According to the case law of the Court of Appeal (judgment of 13 July 2026, UPC_CoA_573/2025 – Fujifilm v Kodak), where there is no indication that it would make sense to combine a document with another, no reason can be inferred from the content of such a combined document alone to take the next step towards the invention. If the person skilled in the art lacks the incentive to consult a document, they will not take note of its contents, and it cannot be concluded that the person skilled in the art would implement the missing feature disclosed therein.

114 D1 contains no motivation to solve the objective technical problem by the means set out in claim 1 of the patent at issue. There is no motivation as to why the person skilled in the art, on the basis of the teaching of D1, should relocate the opening for the hose lines to a different position.

115 Contrary to the defendant's assumption, the distinction between 'could' and 'would' does not work to the detriment of the claimant. It is the responsibility of the defendant, who bears the burden of proof, to provide specific evidence in this regard.

116 Furthermore, the defendant's assumption does not hold true: if the prior art were to disclose a solution for hose routing, the person skilled in the art would not only 'be able' to apply it, but 'would' also apply it, because they would take the next step 'in the expectation of finding an intended solution' to the technical problem. For this very reason, a motive is required. The defendant has not demonstrated or explained such a motive in this specific case. It is not apparent in the present case, nor is it necessarily indispensable. Contrary to the defendant's assumption, this is by no means a simple variation in the entry point of the hoses, which the person skilled in the art could choose at will. Rather, it depends on the specific crane geometry and the possible protection of the hose lines.

5. Combination of D1 with D2

117 Insofar as the defendant argued at the oral hearing on 27 October 2026 that the invention was obvious on the basis of a combination of documents D1 and D2, this line of attack is also unsuccessful.

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118 Firstly, the defendant has not demonstrated that a combination of the subject-matter of D1 with D2 leads to the subject-matter of claim 1 of the contested patent. Even if D2 were to disclose an outlet for the hydraulic line on the underside of the arm, this is not located near the first joint; rather, the opening is situated some distance from the joint.

119 Secondly, contrary to the defendant's assumption, there is no motivation. Even though D2 is cited as prior art on page 1 of the description of D1, the teaching of D1 on page 8 of its description rejects this approach. In any event, this does not provide the person skilled in the art with any reason to combine this document with D1. On the contrary: the overall disclosure of D1 leads the person skilled in the art away from the teaching of D2.

6. Combination of D1 with other documents

120 A combination of D1 with the other documents cited by the defendant is even less likely.

V. Other granted claims

121 The sub-claims of the granted version are likewise unobjectionable and are therefore legally valid.

VI. Alternative claims

122 As the patent at issue is upheld as granted, there is no need to rule on the application for amendment of the patent, which relates solely to auxiliary claims.

C Action for infringement

123 The action for infringement is well founded.

124 The defendant directly infringes claim 1 of the patent at issue to the letter, in accordance with Article 25(a) of the UPC Agreement.

I. Fulfilment of the claim features

125 The contested embodiment comprises the defendant's cranes designated D120Z and T120Z. However, the Claimant's claim is not limited to these.

126 When assessing infringement, the subject-matter of the patent and the contested embodiment must be compared with one another. If the contested embodiment makes use of the meaning of a patent claim – that is, of its features in their entirety – then the invention covered by the patent is being used. In the assessment, it is not the differences that matter, but the similarities between the teaching of the claim and the contested embodiment.

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127 The sole point of dispute between the parties is, quite rightly, whether the contested embodiment embodies features 1.6 and 1.7 of claim 1, as well as feature 4.2. With regard to the remaining features of claim 1, it is, quite rightly, not disputed between the parties that the contested embodiment embodies them.

1. Features 1.6 and 1.7 (and feature 4.1)

128 Based on the above interpretation of the term ‘connection point’, the contested embodiment has such connection points on the crane column (feature 1.6) and on the crane arm (feature 1.7).

129 The point marked with reference number 13 in Fig. 5 is designed both as a connection between two hydraulic lines and as a connection to the crane column, and thus constitutes a first connection point in accordance with feature 1.6. Otherwise, due to its greater weight, the metal connection point would hang away from the crane column and, during a swivelling movement of the crane column, would be set into uncontrolled oscillation, creating a risk that the crane column or the connection point would be damaged by metal parts striking one another.

130 The second connection point, as per feature 1.7, is the point marked with reference number 14 in Fig. 2. This connects the hose line to the crane arm as required. It secures the hose line to the first crane arm.

131 Furthermore, there is a (further) second connection point, marked with reference number 14 in Figs. 3 and 4. This connection point protrudes through a side wall of the crane arm, ensures that the hose assembly occupies a fixed, defined position on the crane, and connects the internal hose assemblies to the external hose assemblies.

132 This also fulfils feature 4.1.

2. Feature 4.2

133 Based on the above description, the contested embodiment also fulfils feature 4.2.

134 The opening 18a, as shown in Figs. 1, 2 and 5, is ordered on the underside of the crane arm. It is penetrated by the at least one hose line entering the first crane arm. This opening is ordered near the first joint.

135 Contrary to the defendant’s assumption, the opening 18a is ordered on the underside as defined by the patent, as this is the side of the first crane arm that faces towards the crane column or the frame (i.e. generally towards the floor, and downwards when in use).

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136 Since, contrary to the defendant's view, it is not a requirement that the opening must be situated entirely on the underside, this objection raised by the defendant against the implementation of the patent is likewise unfounded.

137 Similarly, the fact that the first crane arm of the contested embodiment has several openings does not preclude the use of the patent, because the infringement assessment focuses on the common features between the claim and the contested embodiment, rather than on any differences not addressed by the claim.

138 In particular, in the position where the angle between the crane column and the first crane arm is at its minimum, as shown in Fig. 2, the technical effect intended by the invention—namely, the reduction of the risk of damage to the hose line—becomes clear. In this position, the opening arranged on the underside of the first crane arm is spatially (in the direction of the first crane arm), and the hose route is also protected from the elements due to its positioning below the joint, thereby preventing both a collision with the crane components interacting with the joint and with any raised section of the crane. Furthermore, the hose is routed in a particularly compact and taut manner within the interior of the first crane boom.

II. Injury-causing acts

a) Manufacture

139 The defendant manufactures the contested embodiment in Slovenia. It confirmed this during the oral hearing in response to a question from the court

b) Offering for sale

140 The display of the contested embodiment at the two trade fairs in Germany constitutes an offer within the meaning of the patent.

141 'Offering' is to be understood in an economic sense. The decisive factor is whether, based on its objective meaning, the contested act makes an object that infringes a property right available to the market. An offer that is effective under civil law is not required (Court of Appeal, decision of 3 October 2025, UPC_CoA_534/2024 – Belkin v Philips, para. 205). The offer must relate to the protected product. Whether this is the case must be assessed on the basis of objective criteria.

142 By exhibiting the products at trade fairs, the defendant, from an economic perspective, offered the contested embodiment in order to generate demand for it. It did not merely display them. The fact that these were merely isolated exhibitions does not preclude the fulfilment of the elements of the offence. The defendant itself admits that the display of the devices was of a demonstrative and promotional nature.

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c) Import and Possession

143 In connection with this exhibition, the defendant has in any event also imported the contested embodiment into Germany and possessed it.

III. Further requirements

144 The remaining conditions for an unlawful patent infringement are met.

IV. Legal consequences and wording of the operative part

145 The established patent infringement justifies the legal consequences set out below.

1. Declaration

146 The present patent infringement justifies the declaration sought. The rewording in the operative part is purely editorial, serves to ensure clarity and corresponds to the claim sought.

2. Injunction

147 Taking into account the circumstances of the case, the defendant is to be prohibited, pursuant to Article 25 of the UPC Agreement in conjunction with Article 63(1) of the UPC Agreement, from continuing to infringe claim 1 of the patent at issue.

148 The claim for an injunction is well founded in respect of all acts of use falling within Article 25(a) of the UPC Agreement.

149 The requirement to limit a claim for an injunction to the specific acts of infringement committed by the infringer cannot be derived from Article 62(1) and Article 25(a) of the UPC Agreement. In principle, the fact that a party has infringed the patent is sufficient to establish the risk of further infringement through other acts of use, including those which it has not yet committed (Court of Appeal, Order of 6 March 2026, UPC_CoA_789/2025 – Dyson v Dreame).

150 From a territorial perspective, the injunction (as sought) covers the territories of Austria, Germany, Finland, France, Italy, Sweden and Slovenia.

151 It follows from Article 34 of the UPC Agreement that injunctions issued by the Unified Patent Court generally apply to all Contracting Member States (Court of Appeal, Order of 3 March 2025, UPC_CoA_523/2024 – Sumi v Syngenta, para. 103).

3. Recall and Removal

152 The defendant is obliged to recall the contested product or to remove it from the distribution channels and to eliminate the patent-infringing features.

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The established risk justifies these remedial measures. The rewording in the operative part is purely editorial.

153 According to the case law of the Court of Appeal, the order for remedial measures comprising recall, removal from distribution channels and destruction pursuant to Article 64(2)(b), (d) and (e) of the UPC Agreement constitutes the standard procedure (Court of Appeal, decision of 3 October 2025, UPC_CoA_534/2024 – Belkin v Philips, para. 233).

4. Information

154 The defendant is furthermore obliged to provide the claimant with information and to render an account.

155 The obligation to provide information arises from Article 67(1) of the UPC Agreement. The information is necessary to clarify the origin and distribution channels of the cranes in question, as well as to calculate and assess the appropriate method by which compensation for damages may be reasonably claimed. In this context, the claimant may also demand the production of supporting documents, namely invoices or, if these are not available, alternatively delivery notes. The claimant has a legitimate interest in being able to verify the accuracy of the information on a random basis (Düsseldorf local division, decision of 3 July 2024, UPC_CFI_7/2023; Decision of 14 January 2025, UPC_CFI_16/2024; Mannheim local division, Decision of 22 November 2024, UPC_CFI_210/2023; Munich local division, Decision of 22 August 2025, UPC_CFI_248/2024).

156 Article 67(1) of the UPC Agreement provides a sufficient legal basis for all the information sought.

5. Penalty payments

157 The imposition of periodic penalty payments for breaches of the injunction and the obligations to provide information and account are based on Article 63(2) and Article 82(4) of the UPC Agreement
in conjunction with Rule 354.4 of the RoP.

158 Pursuant to Rule 354.3 of the Rules of Procedure (RoP), an order or decision may provide for repeated penalty payments payable to the court in the event that a party fails to comply with the provisions of the order or a previous order, whereby the amount of such payments is to be determined by the court in light of the significance of the order in question. According to the case law of the Court of Appeal, the amount payable must be sufficiently deterrent to have a coercive effect, whilst also remaining within reasonable limits so that it constitutes an appropriate (proportionate) sanction. The threat of a penalty payment must also specify the conditions under which a particular amount of penalty payment is forfeited. This may, for example, be a lump sum or (preferably) a penalty for breaches per specified period, per item, for each infringement or the like. Where appropriate, the penalty notice may also specify a maximum amount of penalties that may be forfeited per

Order or in total. However, this does not prevent the court from increasing this maximum amount in a subsequent order, for example in enforcement proceedings, for future further breaches, if the circumstances of the case so require (see Rule 354.3 of the RoP). For reasons of legal certainty for the defendant, the order or decision on the merits should generally also – provided that compliance with the order or decision is not required immediately upon service – specify the time limit for compliance with the relevant order, upon the expiry of which a penalty payment becomes due. The penalty payment for breaching the order in question, as well as the time limits from which compliance is required, must be set out in the claimant's application in the statement of claim, in the application for provisional measures or, where applicable, in a separate application (Court of Appeal, Order of 14 October 2025, UPC_CoA_699/2025 – Fuji v Kodak).

159 In accordance with these principles, the proposed penalty payment does not, in principle, give rise to any objections. In particular, it is permissible to set minimum amounts for penalty payments to be paid in the event of a breach. This is because a maximum amount for penalty payments may, but need not, be specified. Furthermore, such a maximum amount may be exceeded in the event of further infringements. Accordingly, other local divisions have also, in individual decisions, merely specified minimum amounts for potential penalty payments (see Düsseldorf local division, decision of 3 July 2024, UPC_CFI_7/2023 – Kaldewei v Bette; Hamburg local division, decision of 5 November 2025, UPC_CFI_461/2024 – Dolle v Fakro).

160 However, the minimum amount of EUR 15,000 claimed by the Claimant is set too high.

161 A minimum amount of EUR 500 is both appropriate and sufficient in each case. As these are minimum amounts, they may be set higher. In particular, where penalties are imposed at a later date, it may be necessary to differentiate between the various claims. Claims for product recalls and removal from distribution channels can be effectively enforced by means of daily penalty payments. The continued accumulation of higher penalty payment claims day by day is intended to make compliance with the order increasingly 'urgent' for the defendant. In the case of an injunction, however, there is a risk that a daily penalty payment will not act as a deterrent if the turnover generated is sufficiently high. In this respect, it may be necessary here to impose a penalty payment significantly higher than EUR 500 for each instance of infringement. Depending on the circumstances of the individual case, this is likely to amount to at least EUR 15,000, as requested by the Claimant, should the defendant sell and/or place on the market cranes that infringe the patent.

162 The panel has no concerns regarding proportionality. The threat of a penalty provides the necessary flexibility to take into account, in the event of any infringement, the specific circumstances of the individual case – including the conduct of the infringer – and, on that basis, to set an appropriate penalty payment.

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163 Insofar as the order imposing penalty payments contains further amendments in relation to the Claimant's application, these are purely editorial in nature.

164 As, according to the case law of the Court of Appeal, the maximum expected penalty payment must be specified in the final decision (see Court of Appeal, Order of 30 May 2025, CoA_845/2025 – Belkin v Philips, para. 58; Order of 14 October 2025, CoA_699/2025 – Kodak v Fujifilm, para. 34), the panel bases the total amount to be specified on the value in dispute in the infringement proceedings.

6. Damages

165 The determination that the claim for damages is well-founded is made on the basis of Article 25 in conjunction with Article 68(1) of the UPC Agreement. Had the defendant exercised due care, it would have realised that its actions constituted a direct patent infringement.

7. Permission to withdraw part of the claim

166 The withdrawal of the partial claim relating to the application for publication of the judgment is permitted. The conditions set out in Rule 265 of the RoP are fulfilled. The defendant consents to the withdrawal.

D Incidental decisions

I. Decision on costs

167 The decision on costs is based on Article 69(1) of the UPC Agreement in conjunction with Rule 118.5 of the RoP.

168 The parties reached a settlement regarding costs at the oral hearing on 27 October 2026.

II. Provisional enforceability

169 Pursuant to Article 82(1) of the UPC Agreement, this decision is enforceable without any further orders from the court.

III. Value of the claim

170 The value of the claim in the infringement proceedings amounts to EUR 700,000.

171 The claimant has demonstrated its interest in this amount. To this end, it has, for the time being, submitted a calculation that is, in principle, reasonable.

172 Insofar as the defendant objects to this, it has not substantiated its objections in concrete terms. It contends that the value in dispute is significantly overestimated and does not correspond to the actual economic significance. In this regard, it argues that the

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are incorrect and that the licence fee set is arbitrary. The court should set the value in dispute at a substantially lower level, taking into account the actual sales figures, the market significance and the technical and economic relevance of the patent at issue.

173 However, the defendant's arguments as a whole are not sufficient to rebut the Claimant's submission. Above all, it remains unclear what value the defendant considers to be accurate. In so far as the defendant provided specific figures for expected sales for the first time during the oral hearing, this submission is out of time; however, it does not fundamentally call into question the Claimant's forecast of potential sales for the remaining term of protection of approximately ten years.

174 In accordance with the established case law of the local division, a 50 per cent surcharge is to be applied to the value of the counterclaim for nullity.

IV. Requests for orders in the interim proceedings

175 The defendant has applied for orders pursuant to Rule 104 of the RoP. As no interim hearing took place with the consent of the parties, the defendant's applications are now moot and are therefore obsolete.

176 Irrespective of this, they are unfounded on the merits. It is the responsibility of the parties to present the necessary facts to the court regarding the contested embodiment, whereby there is a primary and secondary burden of proof. As a general rule, a technical expert report is not required. On the one hand, the correct interpretation of the patent at issue, as well as the classification of the facts presented under it, concerns questions of law. On the other hand, the panel comprises a technically qualified judge and legally qualified judges who are experienced in patent law, and in this respect possesses the necessary expertise itself.

DECISION

A.

1. It is held that the manufacture, offering for sale, placing on the market, use or importation of the defendant's crane in accordance with the contested embodiments, or the possession of such cranes (see paragraph 2) for these purposes, constitutes an infringement of the patent at issue.

2. The defendant is ordered to refrain, in one or more of the territories of Austria, Germany, Finland, France, Italy, Sweden and Slovenia, from

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cranes comprising a crane column mounted on a base frame so as to be rotatable about a vertical axis, and a first crane arm mounted on the crane column so as to be pivotable via a first joint, wherein at least one hose line extends from a first connection point on the crane mast or the base frame to a second connection point in or on the first crane arm, wherein a swivelling movement of the crane arm relative to the crane mast results in an increase or decrease in the distance between the first and second connection points, and wherein the sections of the at least one hose line that become surplus when the distance between the first and second connection points is reduced are arranged inside the first crane arm, wherein the at least one hose line enters the first crane arm through an opening ordered on the underside of the first crane arm near the first joint,

(Claim 1),

in particular, the cranes designated by the defendant as D120Z and T120Z at the time of the action

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

3. The defendant is ordered to recall the cranes referred to in paragraph 2 from the distribution channels at its own expense, to remove them permanently from the distribution channels and to eliminate the infringing features.

4. The defendant is ordered to provide the claimant, for the period from 2 May 2018, with information regarding

   - the origin and distribution channels of the infringing cranes referred to in paragraph 2,
   - the quantities produced, manufactured, delivered, received and ordered, and the prices paid for the infringing cranes referred to in paragraph 2, and
   - the identity of all third parties involved in the manufacture or distribution of the infringing cranes referred to in paragraph 2.

5. The defendant is ordered to pay, for each individual instance of non-compliance with the order set out in paragraph A.2 and for each day of failure to comply with or incorrect compliance with the orders set out in paragraphs 3 and/or 4 following the expiry of a two-week period, a penalty payment, the amount of which is at the discretion of the court, but which shall not be less than 500, with the maximum expected penalty not exceeding 700,000 EUR.

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6. The withdrawal of the claim regarding the right to publication of the judgment is permitted.

7. It is hereby declared that the defendant is obliged to compensate the claimant for all damages which she has suffered or will suffer for the period from 2 May 2018 as a result of the manufacture, offering for sale, placing on the market, use, or importation or possession for the aforementioned purposes of cranes as referred to in paragraph 2.

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

B.
The counterclaim for revocation is dismissed.

C.
The defendant shall bear the costs of the infringement action and the counterclaim for revocation.

D.
The judgment is immediately enforceable.

E.
The value in dispute for the infringement claim is set at EUR 700,000 and the value in dispute for the counterclaim for a declaration of invalidity is set at EUR 1,050,000.

Daniel Voß (presiding judge)	
Georg Werner (Legally qualified judge)	
Tatyana Zhilova (Legally qualified judge)	
Marc van der Burg (Technically qualified judge)	

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On behalf of the Deputy-Registrar	

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) of the UPC Agreement, Rules 220.1(a) and 224.1(a) of the RoP).

INFORMATION ON ENFORCEMENT (ART. 82 UPC Agreement, ART. 37(2) EPGS, R. 118.8, 158.2, 354, 355.4 RoP):

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

This decision was pronounced in open court on 11 November 2026.