Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Düsseldorf Local Division
UPC_CFI_2862/2026

Order
of the Court of First Instance of the Unified Patent Court
issued on 20 November 2026
concerning EP 4 588 355 B1

HEADNOTES:

1. If, in support of its assertion that there is a lack of inventive step due to the absence of a pointer, the defendant argues that a particular measure is a 'matter of routine', it is for him to clearly define what he considers to be a 'matter of routine' (see UPC_CoA_687/2025, Decision of 28 August 2026, para. 73 – Hurom v NUC).

2. Common general knowledge does not automatically create a 'matter of routine'.

3. If a skilled person has to select one option from several that are seriously considered, this selection is already a step towards the invention and is therefore not a 'matter of routine', making a pointer unnecessary.

KEYWORDS:

application for provisional measures; validity of patent; inventive step; matter of routine

APPLICANT:

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Electronic address for service:	miriam.gundt@hlc.com

DEFENDANTS:

1. **Groupe SEB WMF Consumer GmbH**, WMF Platz 1, 73312 Geislingen an der Steige, Germany

2. **Groupe SEB WMF Retail GmbH**, WMF Platz 1, 73312 Geislingen an der Steige, Germany

3. **SEB International Service -SIS- S.A.S.**, 10 Rue des Chars BP 01, 70310 Faucogney-Et-La Mer, France

4. **Groupe SEB France S.A.S.**, 112 Chemin du Moulin Carron, 69130 Écully, France

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Represented by:	European Patent Attorney Grégoire Desrousseaux, Winston Taylor, 106 boulevard Haussmann, 75008, Paris, France Attorney-at-law Cordula Schumacher, Arnold Ruess, Königsallee 59A, 40215 Düsseldorf, Germany
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PATENT IN SUIT:

EUROPEAN PATENT NO. EP 4 588 355 B1

PANEL/DIVISION:

Panel 1 of the Düsseldorf Local Division

DECIDING JUDGES:

This order was issued by Presiding Judge Thomas, legally qualified judge Dr Thom acting on

behalf of legally qualified judge and judge-rapporteur Dr Schumacher, legally qualified judge Rinkinen and technically qualified judge Tilmann.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT OF THE PROCEEDINGS: R. 209.1 RoP – Application for provisional measures

DATE OF THE ORAL HEARING: 10 November 2026

SUMMARY OF THE FACTS:

1. By way of an application for provisional measures, the Applicant seeks a preliminary injunction and further provisional measures against the Defendants in respect of an alleged infringement of EP 4 588 355 B1 (Exhibit HLC 10, hereinafter: the patent in suit).

2. The Applicant is the sole and registered proprietor of the patent in suit. The patent in suit was filed on 20 September 2024, claiming priorities from two US patent applications respectively dated 18 January 2024 and 26 January 2024.

3. The decision to grant the patent in suit was issued on 9 July 2026. Mention of the grant of the patent was published on 5 August 2026.

4. The application for the patent in suit had been opted-out from the exclusive competence of the Court. The opt-out was withdrawn on 2 July 2026.

5. A request for unitary effect of the patent in suit was filed on 9 July 2026. The unitary effect was registered on 11 August 2026, after the application for provisional measures had already been filed. It takes effect on the date of the publication of the grant of the patent in suit, i.e. on 5 August 2026.

6. No opposition has yet been lodged against the patent in suit.

7. The patent in suit is titled 'Drink maker with detachably connectable mixing vessel'. Claim 1 of the patent in suit reads as follows:

> 'A frozen drink maker (100) comprising:
>
> > a housing (102) comprising an upper housing section (122) and a lever (110) moveable relative to the upper housing section between a coupled position and an uncoupled position;
> >
> > a mixing vessel (104) to mix a drink product; and
> >
> > a flexible seal (121) between the upper housing section and the mixing vessel,
> >
> > wherein the lever couples the mixing vessel to the upper housing section when in the coupled position and uncouples the mixing vessel from the upper housing section when in the uncoupled position, wherein, when the lever is in the coupled position, the mixing vessel is sealed against the upper housing section by the flexible seal, and wherein the lever is rotatably coupled to the upper housing section.'

8. For the wording of all other claims, reference is made to the patent in suit.

9. The following scaled-down figures, taken from the patent in suit, illustrate an embodiment of the invention. According to the description of the patent in suit, Figure 1 shows a perspective frozen drink maker to an implementation of the disclosure.

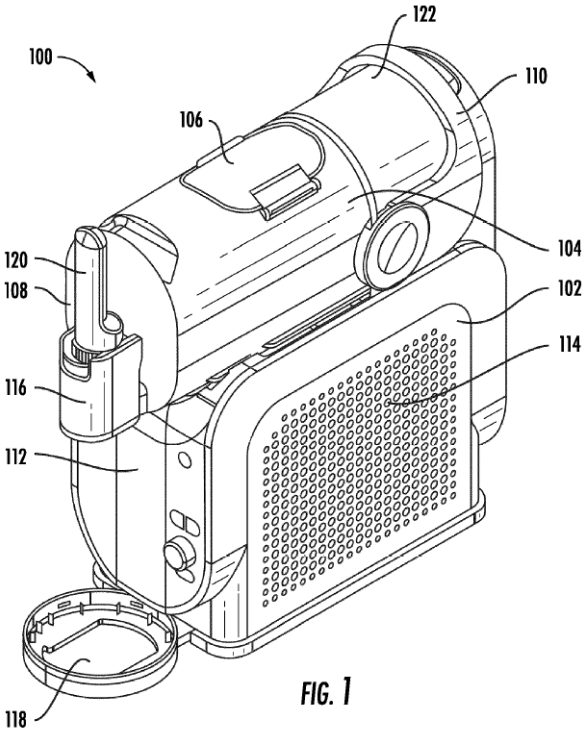


FIG. 1

10. Furthermore, Figure 6 shows a detailed view of a lever with cams for coupling a mixing vessel to the housing of a frozen drink maker, according to some implementations of the disclosure.

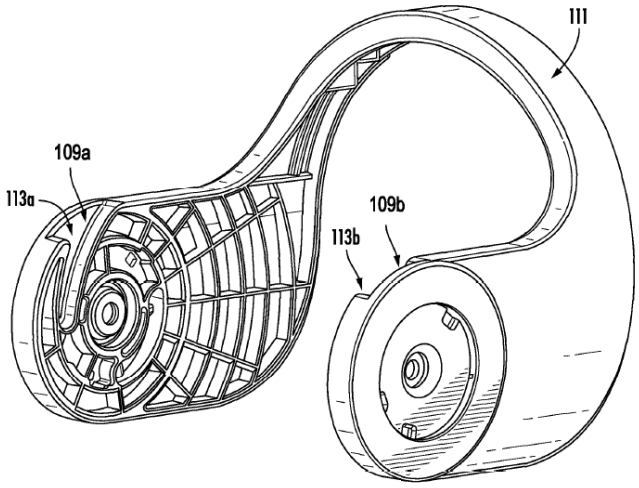


FIG. 6

The Applicant and its own product SLUSHi

11. The Applicant (hereinafter also: SharkNinja) offers products under the 'Shark' and 'Ninja' brands. While the 'Shark' brand focuses on cleaning and beauty and home environment appliances, the 'Ninja' brand offers a wide range of kitchen appliances, with products in air fryers, multi-cookers, grills, coffee machines, ice cream makers, etc.

12. Under the name ‘SLUSHi’, the Applicant has developed and brought to market a frozen drink maker. SLUSHi transforms liquids into frozen or semi-frozen products such as slush or ice cream, yoghurt, cocktails or desserts:



13. SLUSHi was initially launched in 2024 in the United States. In the spring of 2025, SLUSHi was launched in Europe.

The Defendants

14. Defendants 1. to 5. (hereinafter together: Defendants or SEB) are all companies within Groupe SEB, a French group of companies offering small household appliances. Their products include, among others, ice machines, deep fryers, rice cookers and coffee makers. SEB offers its products under a variety of different brands, which include ‘Moulinex’ and ‘Tefal’.

15. Defendants 1. and 2. are German entities that are 100% owned and controlled by Defendant 5. Defendant 1. operates the website www.tefal.de. Defendant 2. operates retail stores for SEB’s Tefal brand in Germany.

16. Defendant 3. is a French entity owned at 46.8% by Defendant 5. Defendant 3. is identified as the seller in the terms and conditions of sale on various SEB websites, including Moulinex’s French website and Tefal’s German website.

17. Defendant 4. is a French entity that is 98% owned and 100% controlled by Defendant 5. Defendant 4. operates the website www.moulinex.fr.

18. Defendant 5. is the mother company of Groupe SEB.

The Freezi

19. In the spring of 2026, SEB launched a frozen drink maker in Europe under the brand Freezi (hereinafter: challenged embodiment or Freezi):



20. Freezi is sold under the Moulinex and Tefal brands. It is advertised and offered, inter alia, on Moulinex's French website and on Tefal's German website, both operated by SEB. It is now also available in other European countries beyond France and Germany, including, but not limited to, Austria, Belgium, The Netherlands and Italy.

21. Among other preparations and desserts, the Freezi device can be used to make soft ice cream, frozen yoghurt, milkshakes, cocktails and slushies.

INDICATION OF THE PARTIES REQUESTS:

22. In the application for provisional measures, the Applicant requested an injunction based on claims 1, 2, 3, 4, 6 and 10 of the patent in suit. The motions based on the dependent claims 2, 3, 4, 6 and 10 were formulated as independent motions, not as 'in particular if' motions.

23. On 22 September 2026, the judge-rapporteur requested the Applicant to limit its motions to one main request in its response to the objection.

24. The Applicant filed its response to the objection on 2 October 2026. It formulated new motions, in particular naming the motion for an injunction based on claim 1 as the main request. In the alternative, the Applicant now requests injunctions based on claims 1, 2 and 4 (auxiliary request 1), in the further alternative, an injunction based on claims 1, 2,

4 and 6 (auxiliary request 2) and in the even further alternative, an injunction based on claims 1, 2, 4, 6 and 10 (auxiliary request 3).

25. Finally, the Applicant requests the following:

I. The Defendants are ordered, individually and jointly, to cease and desist from offering, placing on the market, using, importing, or storing for those purposes, in all countries where patent EP 4 588 355 produces a unitary effect,

a frozen drink maker comprising: a housing comprising an upper housing section and a lever moveable relative to the upper housing section between a coupled position and an uncoupled position; a mixing vessel to mix a drink product; and a flexible seal between the upper housing section and the mixing vessel; wherein the lever couples the mixing vessel to the upper housing section when in the coupled position and uncouples the mixing vessel from the upper housing section when in the uncoupled position; wherein, when the lever is in the coupled position, the mixing vessel is sealed against the upper housing section by the flexible seal; and wherein the lever is rotatably coupled to the upper housing section;

which includes at least the frozen drink maker inter alia offered under the tradename "Freezi";

(claim 1 of EP 4 588 355)

in the alternative to I.:

Ia. The Defendants are ordered, individually and jointly, to cease and desist from offering, placing on the market, using, importing, or storing for those purposes, in all countries where patent EP 4 588 355 produces a unitary effect,

a frozen drink maker comprising: a housing comprising an upper housing section and a lever moveable relative to the upper housing section between a coupled position and an uncoupled position; a mixing vessel to mix a drink product; and a flexible seal between the upper housing section and the mixing vessel; wherein the lever couples the mixing vessel to the upper housing section when in the coupled position and uncouples the mixing vessel from the upper housing section when in the uncoupled position; wherein, when the lever is in the coupled position, the mixing vessel is sealed against the upper housing section by the flexible seal; wherein the lever is rotatably coupled to the upper housing section;

wherein the mixing vessel has a substantially cylindrical shape with a base having an opening formed therein, and the opening is sealed by the flexible seal when the lever is in the coupled position;

and wherein the opening is positioned to face horizontally when the lever is in the coupled position; which includes at least the frozen drink maker inter alia offered under the tradename "Freezi";

(claims 1, 2, and 4 of EP 4 588 355)

in the further alternative to I.:

Ib. The Defendants are ordered, individually and jointly, to cease and desist from offering, placing on the market, using, importing, or storing for those purposes, in all

countries where patent EP 4 588 355 produces a unitary effect,

a frozen drink maker comprising: a housing comprising an upper housing section and a lever moveable relative to the upper housing section between a coupled position and an uncoupled position; a mixing vessel to mix a drink product; and a flexible seal between the upper housing section and the mixing vessel; wherein the lever couples the mixing vessel to the upper housing section when in the coupled position and uncouples the mixing vessel from the upper housing section when in the uncoupled position; wherein, when the lever is in the coupled position, the mixing vessel is sealed against the upper housing section by the flexible seal; wherein the lever is rotatably coupled to the upper housing section;

wherein the mixing vessel has a substantially cylindrical shape with a base having an opening formed therein, and the opening is sealed by the flexible seal when the lever is in the coupled position;

wherein the opening is positioned to face horizontally when the lever is in the coupled position;

and wherein the flexible seal comprises a vessel seal portion configured to create a watertight seal between the mixing vessel and the upper housing section, and an evaporator seal portion configured to seal an evaporator within the mixing vessel;

which includes at least the frozen drink maker inter alia offered under the tradename "Freezi";

(claims 1, 2, 4, and 6 of EP 4 588 355)

<u>In the even further alternative to I.:</u>

Ic. The Defendants are ordered, individually and jointly, to cease and desist from offering, placing on the market, using, importing, or storing for those purposes, in all countries where patent EP 4 588 355 produces a unitary effect,

a frozen drink maker comprising: a housing comprising an upper housing section and a lever moveable relative to the upper housing section between a coupled position and an uncoupled position; a mixing vessel to mix a drink product; and a flexible seal between the upper housing section and the mixing vessel; wherein the lever couples the mixing vessel to the upper housing section when in the coupled position and uncouples the mixing vessel from the upper housing section when in the uncoupled position; wherein, when the lever is in the coupled position, the mixing vessel is sealed against the upper housing section by the flexible seal; wherein the lever is rotatably coupled to the upper housing section;

wherein the mixing vessel has a substantially cylindrical shape with a base having an opening formed therein, and the opening is sealed by the flexible seal when the lever is in the coupled position;

wherein the opening is positioned to face horizontally when the lever is in the coupled position;

wherein the flexible seal comprises a vessel seal portion configured to create a watertight seal between the mixing vessel and the upper housing section, and an evaporator seal portion configured to seal an evaporator within the mixing vessel;

and wherein the frozen drink maker further comprises a drive motor and an interlock switch, wherein the interlock switch is positioned within the upper housing section and configured to be activated and permit action of the drive motor when the mixing vessel is coupled onto the housing;

which includes at least the frozen drink maker inter alia offered under the tradename "Freezi";

(claims 1, 2, 4, 6, and 10 of EP 4 588 355)

II. The Defendants are ordered to deliver up to a bailiff, appointed by the Applicant, at their own expense, any product referred to in paragraph I. in stock and/or otherwise held, owned, or in the direct or indirect possession of the Defendants in all countries where patent EP 4 588 355 produces a unitary effect, within one week after service of the order to be rendered, and to provide the Applicant's counsel with proper evidence of the full and timely compliance with the order within 10 days after the delivery up to the bailiff, for the purpose of safekeeping, which shall continue until a final decision has been made on the existence of a claim for destruction between the parties or an amicable settlement has been reached (Art. 62(3) UPCA; R. 211.1 (b) UPC RoP);

III. The Defendants are ordered to provide the Applicant, within 4 weeks after service of the order, with a written statement as to the extent to which they – the Defendants – have committed the acts specified in request No. I, in the form of an orderly and electronically evaluable (searchable and sortable) list, specifying

i. the origin and distribution channels of the products referred to in paragraph I. (including the full names and addresses of the legal entities that are involved),

ii. the quantities delivered, received or ordered in all countries where patent EP 4 588 355 produces a unitary effect, as well as

iii. the identity of any third party involved in the production or distribution of the products referred to in paragraph I. in all countries where patent EP 4 588 355 produces a unitary effect (Art. 67~~.1~~ (1) UPCA);

whereby the Defendants are further ordered to produce copies of the supporting documents in electronical form to substantiate the information rendered in accordance with request No. III. being allowed to redact confidential information outside the scope of request No. III.;

IV. The Defendants are ordered to send, within 14 (fourteen) working days after service of this order, a registered letter to all its professional customers, resellers and stockists in all UPC Contracting Member States to whom they have supplied the Freezi frozen drink maker, in the language of the relevant party or in English, containing only the following text and no caption:

> “The UPC, Local Division Düsseldorf has ruled in an order on provisional measures dated [insert date] that it is more likely than not that by marketing the Freezi frozen drink maker, we are infringing the patent rights of SharkNinja Operating LLC. These products may not be offered, sold, delivered, used, or kept in stock by [insert name of relevant Defendant(s)] for the time for which the provisional measures are in place. The order of the UPC,

Local Division Düsseldorf is not final and can be appealed by [insert name of relevant Defendant(s)].

We hereby request that you return all Freezi frozen drink maker in your possession to us within fourteen days of the date of this letter. We will reimburse you for the purchase price and all costs associated with returning the products to us."

or a letter with such content or form as the court in good justice will determine, all this under the obligation to provide simultaneous digital copies of all letters sent to Applicant's legal representatives;

V. The Defendants are ordered, subject to the final decision on the burden of costs, to pay an amount of EUR 75,900 as interim award of costs pending the Decision on the costs of the proceedings (R. 211.1 (d) UPC RoP);

VI. The Defendants are ordered

1. in the event of non-compliance with the order under I., to pay to the Court a penalty payment of up to EUR 1,000.00 per infringing product and/or, in the case of continuous infringement, such as offers on the internet, of up to EUR 200,000.00 per day for each act of noncompliance; and

2. in the event of non-compliance with the orders under II., III., and/or IV~~., the~~ to pay to the Court a penalty payment of up to EUR 100,000.00 for each act of non-compliance (Art. 62(1) UPCA; R. 354.3 UPC RoP).

VII. The above orders are effective and enforceable immediately.

26. The Defendants request:

I. The application for provisional measures filed by SharkNinja (the 'Application') be rejected,

II. The Applicant pays an interim award of EUR 56,000 pursuant to R. 211.1(d) RoP.

27. As an auxiliary request (should the Local Division contemplate granting provisional measures):

III. The provisional measures be granted to the extent discussed in Section 10 of the objection and section 8 of the rejoinder to the application for provisional measures, in relation to the amended wording outlined in Exhibit AD n°9.

28. By brief dated 9 November 2026, the Defendants filed the following additional auxiliary request according to Rule 262A RoP:

In the event that the Court should order Defendants to provide information and/or evidence for compliance with delivery up (or sealing) and/or recall as requested under motions II., III. and IV, the Defendants request that the following restriction is included:

V. the order to provide evidence on compliance with the order to seal or deliver up under II., provide information under III. and any evidence as to compliance with the recall order under IV. is made conditional upon a confidentiality order against the Applicant to the effect that

1. the access to the information is restricted to Applicant's outside counsel and two representatives of Applicant who are named to the Defendants in advance and

2. the information may be used only for identifying other parties involved in the supply or distribution of the accused products for the purpose of asserting claims for alleged patent infringement against them.

POINTS AT ISSUE:

29. The parties essentially argue as follows:

Claim construction

Frozen drink maker

30. According to the Applicant, a frozen drink maker relates to a device which includes a component to cool the liquid (typically an evaporator). This follows from the prior art references mentioned by the patent specification as well as from the word 'frozen drink *maker*'. The skilled person understands that this refers to a device which makes a frozen drink, including cooling the liquid, as opposed to a device which simply stores, processes and/or dispenses a frozen drink.

31. The Applicant points out that it has never alleged that the claims of the patent in suit would be limited to frozen drink makers intended for domestic use. Rather, it has only explained that the claimed invention made it possible to obtain a frozen drink maker suitable for domestic uses. Domestic use is therefore not a claimed feature, but a result achieved by the invention.

32. The Defendants submit that claim 1 contains no cooling feature whatsoever. It does not require the device to include its own built-in cooling means. The description treats the refrigeration system as optional, and the evaporator appears only in dependent claim 6.

33. They point out that neither claim 1 nor any other claim contains any limitation as to domestic or commercial use. In particular, neither the problem as presented by the Applicant (significant seating force over a radial seal) nor the solution (a lever) has anything to do with the domestic or commercial character of the machine.

Lever

34. According to the Applicant, the skilled person is aware that levers constitute a broad class of mechanical components engineered to amplify physical force. Fundamentally, a lever is defined as a rigid body supported at a fixed pivot or axis (called the fulcrum) and capable of angular displacement about said pivot. An input force applied at a radial distance from the fulcrum is transmitted through the rigid body to an output point. This distance establishes a moment arm that multiplies the input force, yielding a mechanical advantage. Therefore, in the Applicant's view, the skilled person understands the term 'lever' in claim 1 as referring to any element matching this general definition of a lever

as described above and thereby providing a mechanical advantage to couple and uncouple the mixing vessel relative to the upper housing section.

35. The Applicant argues that a lever requires the relevant structural elements and a mechanical advantage, but no particular shape, handle, single input point, or minimum amplification ratio.

36. In the Applicant's view, the advantages are provided in two distinct respects:

    - Firstly, by using a lever to couple and decouple the mixing vessel, it is no longer necessary for the user to directly push on the mixing vessel at an undefined location to press it into position over a radial seal (as was the case in the prior art). The user only needs to move a lever, which securely and efficiently transmits the force to the mixing vessel for coupling and decoupling. This saves the user some effort compared to the architectures of the prior art, irrespective of the mechanical advantage provided by the lever.

    - Secondly, a lever can amplify the input force applied by the user. Such mechanical advantage allows the user to couple and decouple the mixing vessel with reduced effort compared to an architecture which does not involve any mechanical advantage (including the architectures of the prior art).

37. The Applicant points out that whilst the patent in suit teaches that the lever provides some mechanical advantage, it does not specify a particular threshold in this respect. Furthermore, claim 1 does not require a particular distance between the point of application of force and the fulcrum.

38. Moreover, the Applicant considers the Defendants' view that lever are components in which a single force is applied at one end of a rigid body to be incorrect. If a rotary knob involves several potential input points along its circumference, it includes at least one input point. If the force applied at this input point exerts (amplified) force at an output point through a rotation about a fulcrum, a lever is present. The possibility to apply another input force at another point on the knob is irrelevant.

39. In this regard, the Applicant submitted a declaration of Mr [redacted] dated 1 October 2026 (Exhibit HLC 22).

40. The Defendants state that the lever must retain its structural meaning: a rigid element with an input point, a pivot and a distinct outpoint point, arranged so that force is transmitted through a meaningful moment arm.

41. According to the Defendants, the reasonable interpretation of claim 1 requires that the lever comprises:

    - a rigid body of *sufficient length* to create meaningful distances,

    - *a point of force application at a radial distance from the fulcrum*, i.e. the pivot, where 'radial distance' necessarily implies *a substantial separation*, since a negligible distance creates no moment arm and therefore no mechanical advantage; and

- *an output point, distinct from an input point*, at which the transmitted force is exerted on the load. The term ‘sufficient’, ‘meaningful’ and ‘substantial’ are relative. What matters is not the dimension of any single element in isolation, but the ratio between the distance from the fulcrum to the point of force application (the effort arm) and the distance from the fulcrum to the output point (the load arm). A lever produces significant force amplification when, and only when, the effort arm is materially longer than the load arm, creating a force ratio at least equal to 3 or 4.

42. Defendants argue that Applicant’s claim construction wrongly reduces the lever to a mere ‘mechanical advantage’ test, which would impermissibly extend the scope of the claim beyond its structural content.

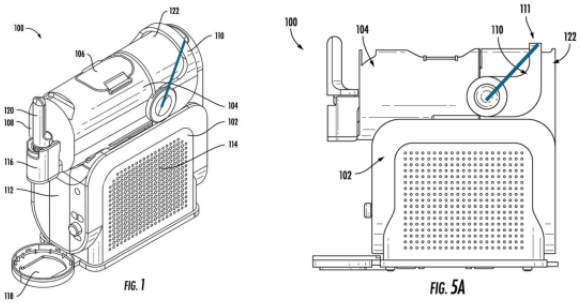
43. They state that the patent in suit, Applicant’s own Exhibit HLC 12 and the prosecution history, in which the EPO twice reduced to grant protection for a generic ‘coupling mechanism’ on the ground that only a lever was disclosed, all confirm that the claimed lever is a very specific structural feature.

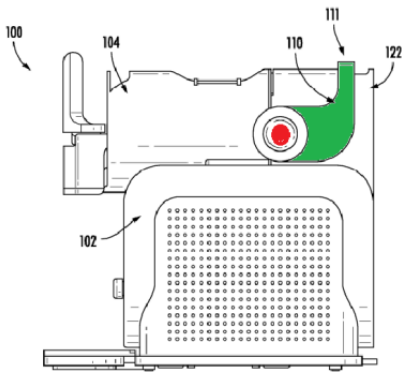
44. To support their position, Defendants point to the embodiment of the patent in suit (Figs. 1, 5A–5B, paras. [0039] – [0041] and argue that they disclose a lever 110 comprising:

- a handle (111): the effort arm, manipulated by the user (green in the figure below)

- a pivot: the rotation axis on the upper housing section (122) (red); and

- a cam (113): the load arm, which engages protrusions on the mixing vessel and pulls it against the seal:





45. According to the Defendants, this is the textbook structure of a lever: a rigid arm with the user's effort applied at one end (the handle), a pivot in between, and the output force transmitted at the other end (the cam). Importantly, the handle (111) is at a substantial distance from the pivot as illustrated by the added blue line.

46. Furthermore, the Defendants refer to paras. [0018], [0044] and [0048] and argue that the sole embodiment confirms that the lever must significantly amplify forces. Every reference to the lever mechanism in the patent in suit is expressed in terms of significant force.

47. The Defendants argue that the patent draws a clear distinction between the lever (as a structural element) and any rotatable element, such as a mere lock or retaining means, that couples and uncouples the vessel to the housing. In this regard, they refer to para. [0014] of the patent in suit and argue that the lever is clearly distinct from the catch (i.e. a lock or a retaining mechanism) of the prior art. A component that merely locks or retains the vessel, without actively generating coupling force through a specific lever geometry, does not fall within the scope of claim 1. They point out that para. [0010] as granted places a generic 'coupling mechanism' expressly outside the claimed subject-matter.

48. According to the Defendants, the patent in suit does not disclose, and the skilled person/team would not understand 'lever' to encompass a component in which the user applies two opposing forces symmetrically about the axis of rotation. Such a component has a fundamentally different structure: it lacks the spatial separation between the single effort point and pivot that structurally defines a lever. Rather, as in the sole embodiment of the patent in suit, the user applies a single force at the extremity of the handle (the effort arm), at a substantial distance from the pivot.

49. The Defendants point out that Exhibit HLC 12 (the Engineering ToolBox article on levers), submitted by the Applicant, confirms this view. In every illustration in Exhibit HLC 12, the effort is applied at only one point that is visibly and significantly distant from the fulcrum, the specific geometry that creates the moment arm.

50. The Defendants consider their view in line with the common general knowledge of the person/team skilled in the art. They refer to the standard meaning of lever, according to the Oxford dictionary: 'a long piece of wood, metal, etc. used for lifting or opening something by somebody placing one end of it under an object and pushing down on the other hand.'

51. In the Defendants' view, the prosecution history confirms firstly that the patent in suit was granted on a very narrow basis with the lever as a purely structural feature. Secondly and importantly, the prosecution history demonstrates that the patent in suit does not extend to any broader concept of coupling mechanism in general.

52. According to the Defendants, the function of the claimed lever is to provide a significant amplification of force. In their view, this is confirmed by paras. [0018], [0044] and [0048] of the patent in suit. The Defendants state that the description consistently discloses a single technical message: high force is exerted at the seal (via the cam), while only low effort is required from the user (at the handle, with one hand). They see this as con-

firmed by Fig. 5B of the patent in suit as the distance (blue arrow) from the pivot (rotation axis of the lever on the upper housing section (122)) to the handle (111) is approximately 5 times longer than the distance from the same pivot to the cam (113) contact point (orange arrow), which results in a force ratio of approximately 5:1:

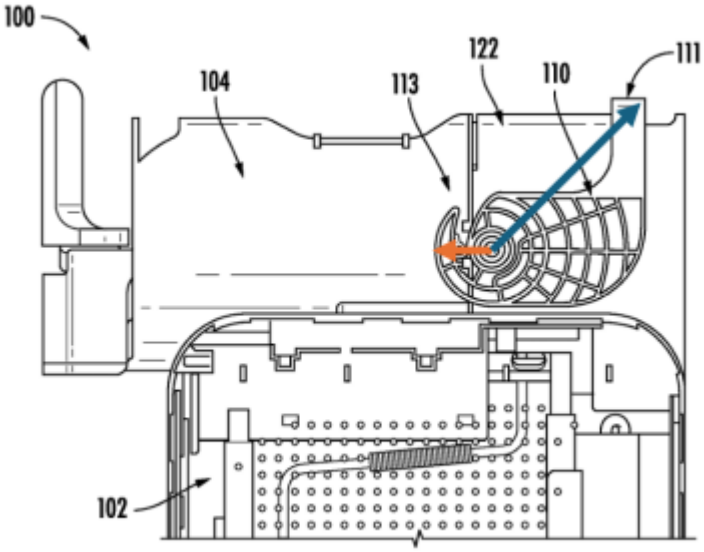


FIG. 5B

53. With regard to the declaration of Mr [redacted] (Exhibit HLC 22), the Defendants argue that this analysis in part confirms their point. In particular, Mr [redacted] links the alleged effort problem to a large or thick radial seal, and also refers to the distinction between the coupled and uncoupled positions. However, claim 1 is not limited to a large radial seal. The alleged effort-saving effect therefore is not achieved across the whole scope of claim 1 and cannot define the invention.

Upper housing section (feature 1.1)

54. In the context of the discussion of the prior art document CBD, the Applicant argues that an upper housing section does not exist in the CBD device, because the liquid tank of the CBD device rests on its tank base, and there is no upper house section behind the liquid tank that could couple to a mixing vessel. The tank base itself is located below the tank and already for this reason could not function as an upper housing within the meaning of the claim.

55. The Defendants understand the Applicant's submission with regard to the CBD device, to mean that, in the Applicant's view, the upper housing section must sit 'behind' the mixing vessel, along a horizontal axis. They point out that claim 1 does not recite any requirement regarding the relative position of the vessel and this 'upper part'. The claim requires no more than a section located in the upper part of the housing, without any requirement that it sits behind the vessel. Furthermore, there is no technical effect associated with the Applicant's claim construction.

Mixing vessel

56. The Applicant states that the skilled person would understand that the mixing vessel within the meaning of claim 1 is a container which is distinct from the housing and which

is configured to receive and hold a liquid drink product once properly installed to the housing.

57. In the Applicant's view, the mixing vessel must be such that, when it is coupled to the housing and liquid is poured into it, the liquid is received by the vessel and not by the housing itself. The Applicant considers this to be consistent with the overall purpose of the invention, which is to make the frozen drink maker more adaptive and user-friendly. A configuration in which the liquid would be initially received by the housing, or even come into contact with the housing, would make the device more challenging to operate and clean.

58. Lastly, the Applicant points out that this understanding is consistent with the prior art documents referred to in para. [0003]. In both of these documents, the mixing vessel is distinct from the housing and directly receives that liquid drink product once coupled to the housing, without such product coming into contact with the housing.

59. The Defendants object to this view. They argue that the claim requires a mixing vessel in which the drink product is mixed. It does not require a self-contained tank, nor does it exclude any contact between the liquid and the housing.

60. They point out that the flexible seal between the vessel and the housing is needed because the liquid reaches the junction between vessel and housing. A vessel whose contents never come into contact with the housing would need no seal against it.

Coupling and uncoupling/movement of the lever

61. According to the Applicant, the lever rotation brings the two elements, the upper housing section and the mixing vessel, into the two different positions by moving them relative to each other. The Applicant points out that this is supported by para. [0017], where it is explained that the rotation of the lever results in a sliding of the mixing vessel against the upper housing section. The mixing vessel and the upper housing section are not in contact anymore in the uncoupled position.

62. The Defendants assert that the Applicant has amended its own claim construction in this regard, which is therefore inconsistent. In the application, the Applicant defined the coupled and the uncoupled positions by reference to sealing: in the coupled position, the vessel is sealed; in the uncoupled position, it is no longer sealed. However, in the response to the objection, the Applicant has added new requirements absent from the claim: the lever must physically displace the vessel, separate it from the housing, and even remove it.

63. According to the Defendants, claim 1 defines the lever by its two end positions only. It does not claim the movement of the lever. Rather, it merely recites what the lever achieves in each of its two positions. The Defendants argue that this is confirmed by the wording of the claim, the structure of the claim set, the first priority application, and the prosecution history.

Infringement

64. The Applicant is of the opinion that the knob of the Freezi device constitutes a lever within the meaning of claim 1. It points out that the user turns the knob by applying

rotational force to the crossbar projecting from the rotary knob. The manual input force applied to this rigid crossbar, at a radial distance from its rotation axis, creates a moment arm that multiplies the input torque. The knob thereby provides a mechanical advantage.

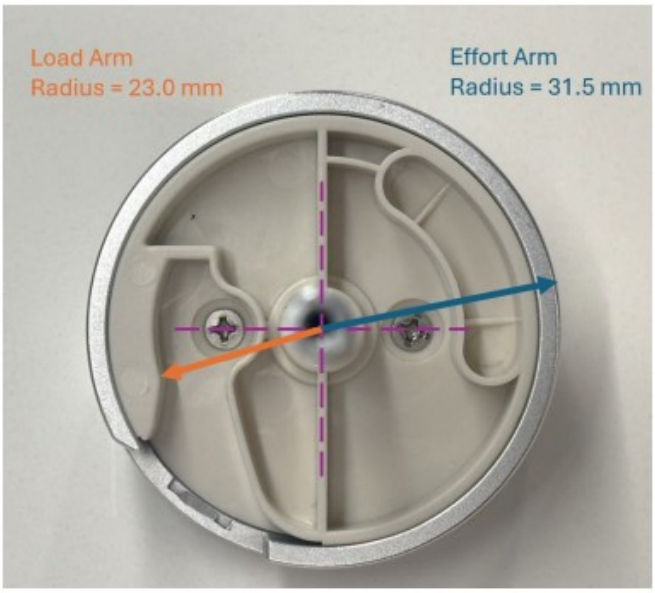
65. As the Applicant sees it, it is not contested that the knob of the Freezi device has a pivot (or fulcrum), namely the knob's axis of rotation. Furthermore, the Applicant is of the opinion that all the structural features of a lever, as identified by the Defendants themselves, are present in Freezi's knob. The Applicant argues that the knob also comprises:

    - *A point of force application* (or 'input point') at a radial distance from the fulcrum: the user applies force at an end of the crossbar structure or at the outer perimeter of the knob. This constitutes an *effort arm.*

    - *An output point,* distinct from the input point, at which the transmitted force is exerted on the load: the surface of the cam acts on the vessel at a distinct (shorter) radial distance from the fulcrum. This constitutes the *load arm*.

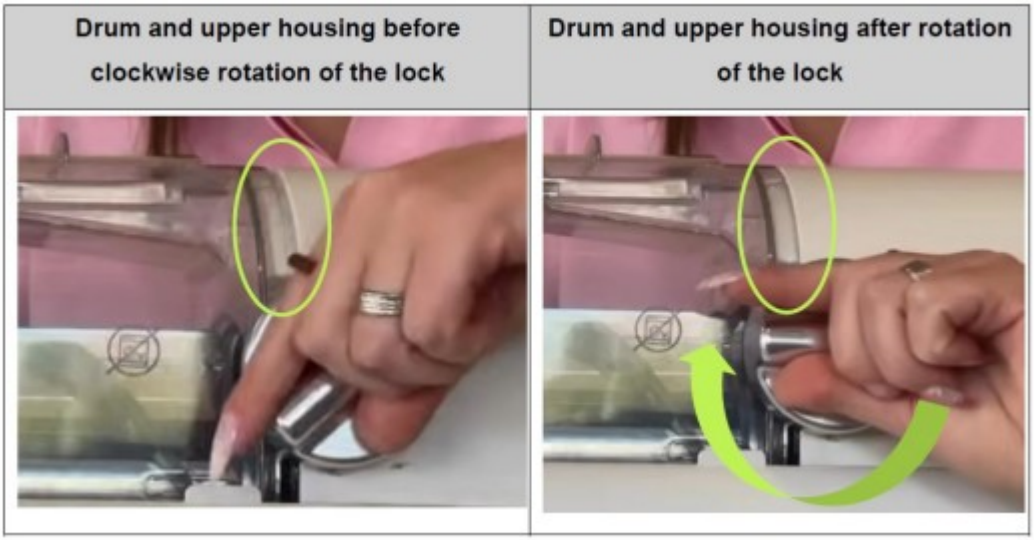
66. The Applicant further states that the force is transmitted from the input point to the output point, about the fulcrum, by a *rigid body* formed by the knob itself – including its outer shell and internal ribs. This body constitutes an indivisible and non-deforming unit of sufficient structural length to create meaningful mechanical distances.

67. In the Applicant's view, the lever of the Freezi device provides a mechanical advantage, even under the Defendants' assumption that only the difference between the load and effort arm generates the mechanical advantage. This results from the ratio of the respective lengths of the effort arm and the load arm, i.e. a longer distance between the input point and the fulcrum and the output point. This can be seen in the following photograph of the internal side of Freezi's knob in which the relative length of the effort arm and of the load arm have been specified, based on measurements performed by Mr [redacted] on a sample Freezi device (Exhibit HLC 22, see response to the objection, p. 32):



68. The Applicant argues that at the point identified in the picture, the ratio of the two lengths is 1.37 (31.5/23). This is a substantial difference between the respective lengths of the effort arm and of the load arm, which clearly results in a mechanical advantage.

69. The Applicant considers it to be misleading on the Defendants' part to suggest that the user can bring the vessel in a coupled position by simply pushing on it, and that the only effect of turning the knob is then to maintain this position. Rather, as shown in the YouTube video of a Freezi device, a gap between the vessel and the upper housing is only closed when the knob is turned into the coupled position (see reply to the objection, p. 36):



70. This gap makes the difference between a vessel which is properly sealed and one which may leak and/or potentially expose moving parts. It is actually very hard, if not impossible, to push the mixing vessel of Freezi into its coupling position without using the knob.

71. The Defendants argue that feature 1.4 is not reproduced. The Freezi knob does not uncouple the vessel, which is pushed out by the elasticity of the seal. Furthermore, according to SharkNinja's own criterion for validity, a knob that travels part of its course without acting on the vessel does not uncouple it.

72. Furthermore, they contend that features 1.1, 1.4, 1.5 and 1.6 are not reproduced because the rotary knob used by the Freezi device is not a lever. The Freezi knob is a compact rotary lock that retains the vessel in position but does not generate the coupling force itself. It lacks the structural architecture of the claimed lever: there is no effort arm at a substantial distance from the pivot and no-load arm transmitting amplified force. The essential force that presses the vessel against the seal comes from the user's hand, not from the knob. The Freezi knob therefore operates as a lock or latch and not as the specific claimed lever.

73. The Defendants point out that the crossbar of the knob is only a grip aid, not a meaningful effort arm. Likewise, its cams are small retention features, not load arms producing significant force amplification. The essential force that presses the vessel against the seal comes from the user's hand, not from the knob.

74. Moreover, they argue that the Freezi knob does not reproduce the function of the claimed lever, namely to provide a significant amplification of force resulting from a single input force applied at a defined distance from the pivot, generating a proportionally greater force at the load arm through the arm-to-arm ratio. Rather, the user operates the Freezi knob by gripping and turning it, applying forces on both sides of the rotation axis. This is the application of a couple, not of a single force at one end of a lever. There is no single effort point, no meaningful arm-to-arm ratio, and therefore no lever-type amplification. The force applied by the user to the knob is substantially the same as the force transmitted by the cams to the vessel.

75. According to the Defendants, the Applicant further requires the alleged mechanical advantage to produce a technical effect by reducing the manual force required from the user. But the measured locking torque of the Freezi is below 1 N.m on average, even with the highest measured value remaining well within ordinary one-handed user capability. There is therefore no effort problem to solve. The Freezi does not seat a vessel over a large radial seal; it locks a vessel against a small seal requiring no significant torque.

76. The Defendants submitted two videos: the original knob decoupling video (Exhibit AD no°10.5) and the modified knob decoupling video (Exhibit AD no°10.6). Both videos show the same decoupling sequence. In the second video, on both knobs of the machine parts have been removed. The Defendants point out that in both videos, the seal pushes the vessel away from the machine in exactly the same way. It is therefore the seal that decouples the vessel from the housing. The alleged 'ejection feature' plays no part in it and ejects nothing. Moreover, the CAD video also shows at least that, starting from the coupled position, on unlocking, the knob first travels part of its course without moving the vessel at all.

Validity

77. The Defendants base their validity attack on the following grounds:

- Lack of novelty over:
    - Stoelting Model CBD's operator's manual, Exhibit AD n°5.1 ('CBD device'); EP 2 186 421, Exhibit AD n°5.2 ('CBD application); associated YouTube videos, Exhibits AD n°5.3 and 5.4 ('CBD video – disassembling and reassembling) ('CBV');
    - CA 616587, Exhibit AD n°6 (hereinafter: 'Knibb').
- Lack of inventive step based on JP 2001169730A ('JP '730'), Exhibit AD n°7 with automated translation ('JP '730') as a realistic starting point, combined with various prior art documents showing the common use of a lever, namely:
    - US 2013/0269536, Exhibit AD n°8.1 ('Gavillet'),
    - SharkNinja's application US 2014/0263340, Exhibit AD n°8.2 ('Audette'),
    - Carnival King's user manual, Exhibit AD n°8.3 ('Carnival King'),
    - WO 2004/064592, Exhibit AD n°8.4 ('Svaldi'),

- US 2017/0304784, Exhibit AD n°8.6 ('Kasprzycki'),
- US 2015/0230496, Exhibit AD n°8.6 ('Sipp'),
- WO 2013/011078, Exhibit AD n°8.7 ('Nestec').

78. In the reply to the response, the Defendants mention that claim 1 is not novel and in a subsidiary order, not inventive over CBD and Knibb. However, they do not provide a specific reasoning in this regard.

79. The Applicant considers the patent in suit to be valid.

80. It points out that the claimed invention is new because the CBD device and Knibb do not disclose all features of claim 1, and Defendants in both cases inadmissibly rely on more than one prior-art reference.

81. According to the Applicant, the multiple inventive-step attacks starting from JP '730 are in violation of the Court order that arguments shall be limited to three challenges. In any case, the Applicant argues that the Defendants' inventive step arguments rely entirely on hindsight, lack a reason to combine technically disparate references, and do not arrive at the claimed arrangement.

Auxiliary requests

82. The Applicant states that, in any event, convergent auxiliary requests combining claims 1, 2, 4, 6 and 10 further distinguish the invention.

Liability of Defendant 5

83. The Applicant states that all Defendants are committing acts of direct infringement by at least offering and placing on the market, in a Contracting Member State, the Freezi product. In the Applicant's opinion, all Defendants are jointly liable for the infringing acts.

84. With regard to Defendant 5., the Applicant argues that the relevant online presentations are offers under the UPCA and objectively attributable to Defendant 5. It is at least liable for the offerings of the Freezi device on the www.tefal.de and www.moulinex.fr websites. Both include a link to 'Groupe SEB' at the bottom left. The term 'Groupe SEB' is defined on https://www.groupeseb.com/en/legals to mean 'all the companies directly or indirectly attached to the SEB SA company ("We", "Us").' Therefore, Defendant 5., operating as 'Groupe SEB' takes responsibility for the Freezi offerings made on the www.tefal.de and www.moulinex.fr websites. It should also not be left unnoticed that the Freezi offerings form part of a group-wide, uniform presentation of the Freezi device across Groupe SEB websites in multiple UPC markets, not only on the French and German websites. The Applicant points out that all of these websites include the same reference to 'Groupe SEB'.

85. The Applicant states that in the alternative, Defendant 5. must be held liable as a co-perpetrator. Defendant 5. owns each of Defendants 1. to 4. either fully or to a significant extent. It is therefore not conceivable that it does not exert significant influence over these entities. The uniform marketing strategy and website design across Europe show

that there is central coordination of the activities related to Freezi. The Applicant considers it to be highly doubtful that the respective subsidiaries take all decisions related to the marketing of Freezi autonomously. Rather, all Defendants operate under a common plan and through a division of labour.

86. In the Defendants' view, no infringing acts can be attributed to Defendant 5., which is a financial holding company with no employees or operational and commercial activities. It meets neither of the two cumulative conditions established in the 'Belkin case law' for attributing infringement acts to an entity other than the one that materially committed them.

87. The Defendants point out that Defendant 5. does not carry out any manufacturing, selling, distributing, offering for sale, importing or otherwise commercially exploiting any products whatsoever.

88. They state that Defendant 5. (SEB S.A.) does not operate the corporate websites. Rather, this function is carried out by SEB Développement. In addition, SEB S.A. is not the owner of these domain names. The owner of groupeseb.com, tefal.de and moulinex.fr is SEB Développement. Moreover, SEB S.A. is not mentioned anywhere in the legal notices which refer to GROUPE SEB WMF CONSUMER GmbH, Groupe SEB France and SEB Développement. On the contrary, the glossary of the general terms of use expressly provides that the terms 'we', 'us' and 'our' refer to the SEB Group company or companies identified in the legal notices of the website or the application. Nor is SEB S.A. mentioned on the pages to which the 'Contact us' button leads.

89. The definition of 'Groupe SEB' on the legal notice of www.groupeseb.com that the Applicant refers to ('all the companies directly or indirectly attached to the SEB SA company') shows that 'Groupe SEB' is a collective designation of the group as a whole. A link that points to 'all the companies' of the group cannot single out the holding company as the offeror.

90. Defendant 5. cannot be held liable as a co-perpetrator either. The elements relied upon by SharkNinja do not establish the existence of a joint plan or identify any specific task performed by SEB S.A. in connection with the alleged acts of infringement, as required under the Belkin test. The Defendants state that no acts attributable to SEB S.A. have been demonstrated. Moreover, the existence of a common marketing plan does not constitute evidence of SEB S.A.'s involvement in the alleged infringing acts but merely reflects standard practice within a corporate group.

Necessity of provisional measures

91. The Applicant considers the requested provisional measures to be necessary and proportionate.

92. In the Applicant's view, there was no undue delay as the grant of the patent in suit has been published on 5 August 2026, and the application is dated 7 August 2026. The Applicant has thus filed its application at the earliest possible time.

93. The Applicant points out that SharkNinja and SEB are direct competitors in the field of

household (in particular, kitchen) appliances. The Applicant's SLUSHi product had already been established on the European market when Freezi launched. Being a direct competitor product, Freezi has a clear impact on the market that the Applicant operates in with its SLUSHi device. The Applicant's SLUSHi device and SEB's Freezi device compete directly. They are both devices for preparing frozen drinks in a variety of forms and are even optically very similar. Both products are sold at similar prices. The Applicant asserts that the public perception also confirms the fact that both devices are in direct competition with each other (see Exhibit HLC 24, article from www.pcgameshardware.de, dated 10 July 2026). The Applicant further submits that this article points out that beyond SLUSHi, further devices marketed by the Applicant face competition by the Freezi device.

94. According to the Applicant, on the retail market for household appliances, the end of the year is a decisive period due to the combination of the promotional event known as 'Black Friday' and, a few weeks later, the holiday period. The Applicant states that the crucial year-end sales period could not be protected through merits proceedings in time, and continued sales of the infringing Freezi device threaten lasting loss of sales, market share and reputation.

95. Furthermore, the Applicant points out that unlawful competition by the Freezi device has the potential to divert consumer attention from its own innovative SLUSHi product and thus significantly impact the 'reputation building' related to the end-of-year shopping period.

96. The Applicant also contends that it is still relatively new to the European consumer market whereas the Defendants with their established trademarks, such as Moulinex and Tefal (and others), have been operating and known to consumers on the European market for a much longer time. As the Defendants have much more market share in the overall market segment of at-home small kitchen appliances, they may be considered a dominant market player in this field. Accordingly, there is a concrete risk that consumers confuse SLUSHi and Freezi and would falsely attribute the innovation behind at-home slushy machines to the Defendants.

97. A provisional injunction is necessary to preserve the status quo that existed prior to the recent launch of the Freezi device. As a competitor product, sales of the Freezi device may cause significant financial harm to the Applicant, in particular if consumers choose the Freezi device over the Applicant's SLUSHi device. Such damages would have a long-lasting effect as a frozen drinks maker is a device with a long service life that is not exchanged regularly. Thus, customers choosing to purchase a Freezi device would be 'lost' to the Applicant for a significant amount of time. It would be very difficult for the Applicant to regain any market share lost because of the infringing sales of the Freezi device. It should be noted that Freezi is already selling in significant numbers.

98. The Applicant explains that its business strategy is built heavily on viral social media marketing campaign to generate attention for its innovative and disruptive household appliances. As a result, the Applicant usually observes a rapid market expansion in the early months and years of a product's launch (and during key high-sales seasons), while the sales trajectory significant flattens after this initial period. The launch of Freezi falls exactly within this crucial early timeframe of the Applicant's products.

99. Moreover, the Applicant emphasises the crucial importance of the holiday shopping season, starting with 'Black Friday' and leading up to Christmas for the consumer market. Based on past experiences, a significant portion of annual sales of product such as the devices in question take place during this holiday period.

100. The Defendants' interest in marketing the infringing Freezi device is, as the Applicant sees it, not worth protecting. Freezi is still a relatively young product that has not yet been established on the market. A provisional injunction would therefore not impair an established competitive position but would rather simply preserve the status quo on the market prior to the launch of the Freezi device.

101. The Applicant alleges that the Defendants systematically copy the Applicant's innovative products in recent years, as shown by several examples. It takes the position that such a behaviour highlights that necessity of the very legal protection it is seeking. In the Applicant's view, this should also be taken into account when balancing the parties' interests.

102. The Defendants state that the balance of interest weighs decisively against the grant of provisional measures. The Freezi device was already on the market before the patent in suit was granted. The measures sought would disrupt the market status quo, not preserve it. The harm that an unjustified injunction would cause to the Defendants, including the irreversible destruction of the seasonal product launch and irreparable reputational damage, is unquantifiable and cannot be compensated. By contrast, any potential loss suffered by the Applicant could be quantifiable and could be fully compensated by an award of damages against a solvent group. The Applicant's criticism that they do not quantify their alleged harm misses the point. The Defendants point out that they have identified concrete and irreversible consequences of the requested measures, including the loss of their launch investment, the loss of retailer listings during the critical first commercial season, and the need to send recall notices to their entire customer base.

103. According to the Defendants, the sales figures confirm the absence of any pressing need. Between April and August 2026, SEB sold only 2,751 Freezi units in France and Germany, compared with the 68,412 units sold by the Applicant. The Applicant has not demonstrated any material impact on its sales or market shares.

104. The Defendants point out that the patent in suit was only granted on 5 August 2026, has never been examined in opposition or revocation proceedings, and the very feature on which the grant was based (the position of the lever) is the feature whose construction is disputed. This militates against depriving the Defendants of their business activity by way of summary proceedings and reinforce the fact that the patent in suit and infringement should be assessed in a proceeding on the merits.

105. Moreover, the Defendants argue that the patent in suit covers only a marginal aspect of the device. The marginal technical and economic significance of the patented feature substantially weakens the Applicant's asserted interest in obtaining provisional measures and weighs against their grant in the overall balance of interests. As can be seen from the Applicant's promotional video for the SLUSHi, the patented feature is neither highlighted nor specifically brought to consumers' attention.

106. The Defendants are of the opinion that the provisional measures would not preserve the status quo, but would change it, as the Freezi device was launched and has been openly sold, advertised and reviewed for several months before the grant of the patent in suit on 5 August 2026. Where the accused product was already marketed by the alleged infringer before the grant of the patent in suit, necessity may be denied precisely because the requested measures would change the status quo of the market established before grant. Furthermore, the market for domestic frozen drinks already comprises several operators.

107. Provisional measures would exclude the Defendants from the market at the very moment when, on the Applicant's own case, consumer demand is at its highest – and would do so in the first season following the launch of the Freezi device, before it has had any meaningful opportunity to establish itself commercially.

108. The Defendants take the view that the Applicant's arguments relating to the end-of-year shopping period is misleading. Indeed, frozen drink and ice-cream makers are seasonal products, one of whose most important sales seasons runs in summer from April to August. Although Black Friday involves price reductions across all product categories, frozen dessert and slush drinks are a lesser consumer priority in winter.

109. They contest the Applicant's argument that SEB is much more established on the European consumer market and has 'much more market share' (see Exhibit AD n°1.7, a declaration of SEB Key Account Manager Amazon Europe with estimated figures for SharkNinja and figures of the number of Freezi products sold by Amazon to end consumers).

110. Lastly, they object to the Applicant's allegation that Freezi, as well as other SEB products, imitate SharkNinja products (see Exhibit n°1.8, a market survey). They point out that the Applicant's allegations concerning harm to its reputation, consumer confusion, imitation and 'piggybacking' relate to the overall appearance of the devices, their marketing and their chronology, rather than to the technical feature of the patent in suit.

GROUNDS FOR THE ORDER:

111. The application for provisional measures is admissible. On the merits, the application is well-founded with regard to Defendants 1. to 4., but must be dismissed with regard to Defendant 5.

A. Admissibility of the application for provisional measures

112. The application for provisional measures is admissible.

113. In particular, the UPC has international jurisdiction. It is a common court within the meaning of Art. 71a(1) of the Brussels Ibis Regulation (Art. 71a(2)(a) of the Regulation). Therefore, the UPC has jurisdiction if the courts of a Contracting Member State would have jurisdiction under the Brussels Ibis Regulation for an action within the meaning of Art. 32(1) UPCA (Art. 71b(1) of the Brussels Ibis Regulation). This is the case here.

114. As all Defendants are domiciled within the Contracting Member States, international jurisdiction follows from Art. 4(1) Brussels Ibis Regulation in conjunction with Art. 71a(2)(a), 71b(1) Brussels Ibis Regulation and Art. 32(1) UPCA.

115. The jurisdiction of the Düsseldorf Local Division was correctly recognised by the Defendants. As Defendants 1. and 2. have their principal place of business in Germany and all Defendants have a commercial relationship, and as the action relates to the same alleged infringement, the Düsseldorf Local Division is competent to hear the case under Art. 33(1)(b) UPCA.

B. Scope of the patent in suit

I. Person skilled in the art

1. Principles

116. The person skilled in the art (hereinafter: skilled person) is a legal fiction which, in the interests of legal certainty, forms a standardized basis for the assessment of the legal concepts of 'prior art', 'novelty, 'inventive step' and 'enablement'. The skilled person stands for the average expert who is typically active in the technical field of the invention, has had the usual prior training and has acquired average knowledge, skills and practical experience for routine work, but does not have inventive imagination, thinking and skills. When interpreting a patent claim, the person skilled in the art does not apply a philological understanding but determines the technical meaning of the terms used with the aid of the description and the drawings (UPC_CFI_307/2023 (CD Paris), Decision of 29 November 2024, para. 34 – NJOY v VMR Products).

2. Assessment

117. Having said that, the skilled person is a mechanical engineer with experience in developing and designing frozen drink maker devices.

118. While the Applicant broadly suggests that the skilled person is an engineer with experience in developing and designing frozen drink maker devices, *mechanical* engineers fall more specifically under the above definition.

119. The Defendants suggest that the skilled person is a mechanical engineer, working on all sort of household appliances, with a focus in moving parts and seals between such moving parts and works in a multidisciplinary team with engineers with other technical backgrounds (e.g. specialists in fluids or motors).

120. However, with regard to the focus on moving parts and seals, this definition is too limited, as it incorporates specialised knowledge relating to the invention into the definition of the skilled person. In terms of working in a multidisciplinary team, it is unclear, why a mechanical engineer would need to consult other engineers on the questions related to fluids or motors. These subjects form part of a mechanical engineer's education. Moreover, the term 'working on all sorts of household appliances' is too far-fetched, as it suggests that the person is capable of re-pairing appliances of all kinds, which is not realistic. While companies that design, manufacture and/or sell frozen drink makers, vacuum cleaners, coffee machines, blenders, kitchen robots and commercial beverage dispensers may exist, as the Defendants suggest, it has not been sufficiently demonstrated that the engineers working for these companies are the average experts who is typically active in the technical field of the invention.

II. Technical background to the invention

121. The patented invention relates to a frozen drink maker, and a corresponding method of producing a frozen drink, the frozen drink maker including a detachably connectable mixing vessel configured to be easily installed and uninstalled from the frozen drink maker with minimal user effort (para. [0001]).

122. Frozen drink makers, which may also be referred to as semi-frozen beverage makers, or crushed-ice drink makers typically include a transparent tank or mixing vessel in which a drink product is received and processed, including being cooled, often transforming the drink product from a pure liquid (or a combination of a liquid and portions of ice) to a frozen or semi-frozen product, such as, for example, a granita, slush drink, smoothie, ice cream, or other frozen or semi-frozen product, which is then dispensed. The cooled product is typically dispensed through a tap, spigot or dispenser located at the front and near the bottom of the vessel. Thus, the term 'frozen drink maker' as used herein is not limited to a device that only makes drinks or frozen drinks, but includes devices that cool received drink products to produce cooled outputs in any of a variety of frozen and semi-frozen forms. A drink product typically consists of a mixture of water or milk, a syrup flavouring powders, or other additives that give the drink product the desired taste and colour (para. [0002]).

123. Some existing frozen drink makers include a mixing system within the mixing vessel having a mixing blade or auger that is rotated by a motor via a drive shaft and drive assembly. Some existing frozen drink makers include a refrigeration system having a compressor, a condenser and an evaporator (i.e., chiller) for receiving refrigerant from the compressor where the evaporator is located adjacent to or within the mixing vessel to cool the drink product during processing. US 2013/263747 A1 and JP 2001169730 A disclose examples of such frozen drink makers (para. [0003]).

124. As the skilled person further deduces from the patent in suit, some existing frozen drink makers include a controller that controls operations of the frozen drink maker related to making drink products, including the temperature of frozen food products during processing (para. [0004]). It is considered that deficiencies associated with prior frozen drink makers, including commercial slush machine vessels, are addressed such as reducing the force required to install and uninstall a mixing vessel from the device (para. [0005]).

125. The architecture of prior commercial slush machines is considered disadvantagous, because such machines usually require a significant force to position the vessel over a large radial seal. This makes it challenging for a user to install and uninstall the vessel from the device. In many prior commercial slush machines, the vessel is installed by engaging a catch to retain the vessel, which strains the plastic to properly position the vessel and requires significant user effort.

126. Against this background, the specification points out that there is a need for a more user-friendly architecture to install and uninstall the vessel of a frozen drink maker, namely a lever that is used to couple and decouple the vessel to a housing and/or that only requires one hand of use (para. [0014]).

127. For this purpose, the patent in suit provides a frozen drink maker characterised by the

following features:

1. A frozen drink maker (100) comprising:

1.1 a housing (102) comprising an upper housing section (122) and a lever (110) moveable relative to the upper housing section between a coupled position and an uncoupled position;

1.2 a mixing vessel (104) to mix a drink product; and

1.3 a flexible seal (121) between the upper housing section and the mixing vessel,

1.4 wherein the lever couples the mixing vessel to the upper housing section when in the coupled position and uncouples the mixing vessel from the upper housing section when in the uncoupled position,

1.5 wherein, when the lever is in the coupled position, the mixing vessel is sealed against the upper housing section by the flexible seal, and

1.6 wherein the lever is rotatably coupled to the upper housing section.

III. Claim Construction

1. Principles

128. The patent claim is not only the starting point but the decisive basis for determining the protective scope of a European patent under Art. 69 EPC in conjunction with the Protocol on the Interpretation of Art. 69 EPC. The interpretation of a patent claim does not depend solely on the strict, literal meaning of the wording used. Rather the description and the drawings must always be used as explanatory aids for the interpretation of the patent claim and not only to resolve any ambiguities in the patent claim. The patent claim is to be interpreted from the point of view of a person skilled in the art. In applying these principles, the aim is to combine adequate protection for the patent proprietor with sufficient legal certainty for third parties (UPC_CoA_335/2023, Order of 26 February 2024, Headnote 2 and p. 26 seq. – 10x Genomics v Nanostring; UPC_CoA_1/2024, Order of 13 May 2024, para. 26 – VusionGroup v Hanshow; UPC_CoA_182/2024, Order of 25 September 2024, para. 82 – Mammut v. Ortovox; UPC_CoA_528/2024, Decision of 25 November 2025, para. 39 – Amgen v Sanofi; UPC_CoA_464/2024, Decision of 25 November 2025, para. 50 – Meril v Edwards).

2. Assessment

129. Some claim features require further explanation. The same claim construction must be used in the assessment of infringement and the validity of the patent.

a. Frozen drink maker (feature 1)

130. The object to which the patent pertains is a frozen drink maker.

131. Claim 1 does not contain any restriction to a domestic use. As it does not specify the dimensions of individual components either, such a use is also not a mandatory result achieved by the invention.

132. The parties are debating whether the term 'maker' in 'frozen drink maker' implies that the device must have means to cool a liquid in the process of making a frozen drink. However, neither the wording of claim 1 itself nor the patent specification demands such an understanding.

133. The wording 'frozen drink maker' requires the ability to make frozen drinks. However, the claim does not specify whether this is achieved by means of the device's own cooling system or, for example, by adding ice or pre-chilled liquids.

134. Claim 1 does not require cooling means as part of a frozen drink maker. The patent specification mentions means as an evaporator and/or chiller (para. [0019]). It can include a refrigeration circuit including a compressor, an evaporator, a condenser, and others (see, e.g., paras. [0020], [0073]). However, an evaporator is only mentioned in claim 6. Feature 1.2 describes a mixing vessel to 'mix a drink product'.

135. It is true that para. [0002] states:

> *'Frozen drink makers, which may also be referred to as semi-frozen beverage makers, or crushed ice drink makers typically include a transparent tank or mixing vessel in which a drink product is received and processed, **including being cooled**, often **transforming the drink product from a pure liquid** (or a combination of a liquid and portions of ice) **to a frozen or semi-frozen product**, such as, for example, a granita, slush drink, smoothie, ice cream, or other frozen or semi-frozen product, which is then dispensed. The cooled product is typically dispensed through a tap, spigot or dispenser located at the front and near the bottom of the vessel. **Thus, the term "frozen drink maker" as used herein is not limited to a device that only makes drinks or frozen drinks, but includes devices that cool received drink products to produce cooled outputs in any of a variety of frozen and semi-frozen forms.** A drink product typically consists of a mixture of water or milk, a syrup flavoring powders, or other additives that give the drink product the desired taste and color.'*
>
> *(emphasis added)*

136. Moreover, para. [0096] reads as follows:

> *'It should be appreciated that the various implementations described herein are not limited to making frozen or semi-frozen drinks, but may be applied to produce **a cold and/or cooled drink product that is cooler than a received drink product**, but not frozen or semi-ifrozen. For example, in some implementations, the same or similar mechanisms and/or techniques may be used as part of **a cold drink machine and/or cooled drink maker to produce, maintain and dispense cold drinks.**'*
>
> *(emphasis added)*

137. However, para. [0002] states that 'often' the drink product to a frozen or semi-frozen product. Likewise, para. [0016], which explains Figure 1, refers to a *'handle 120 … to dispense a processed (**e.g., cooled**) drink product from mixing vessel 104'* (emphasis added).

138. In summary, these considerations justify the conclusion that a frozen drink maker within the meaning of feature 1 does not require cooling devices.

b. Lever (features 1.1, 1.4, 1.5, 1.6)

139. Claim 1 describes the lever as a component of the housing (see feature 1.1). The *lever* is moveable relative to the upper housing section between a coupled and an uncoupled position (feature 1.1). It is rotatably coupled to the upper housing section (feature 1.6). In the coupled position, the lever couples the mixing vessel to the upper housing section (feature 1.4). Furthermore, in this position, the mixing vessel is sealed against the upper housing section by the flexible seal (feature 1.5). In the uncoupled position, the lever uncouples the mixing vessel from the upper housing section (feature 1.4).

140. On this basis, there is rightly no dispute between the parties that the 'lever' is a structural element. However, claim 1 does not contain any further structural features relating to the design of the lever.

141. This raises the question of what structural requirements arise from the fact that claim 1 requires a lever, and not, in general, a coupling mechanism.

142. As the person skilled in the art notes, the patent in suit states in para. [0010] that an embodiment comprising a (mere) coupling mechanism falls outside the scope of protection:

> *'In an example **outside of the subject matter of the claims**, a frozen drink maker is described that includes a housing, a mixing vessel to mix a product, and a flexible seal. The housing includes an upper housing section and **a coupling mechanism** moveable relative to the upper housing section between a coupled position and an uncoupled position. The flexible seal is positioned between the upper housing section and the mixing vessel. The **coupling mechanism** couples the mixing vessel to the upper housing section when in the coupled position and uncouples the mixing vessel from the upper housing section when in the coupled position. When the **coupling mechanism** is in the coupled position, the mixing vessel is sealed against the upper portion of the housing by the flexible seal.'*
>
> *(emphasis added)*

143. Moreover, para. [0017] states:

> *'Frozen drink maker 100 includes a coupling mechanism that enables a secure coupling of mixing vessel 104 to housing 102, including upper housing section 122. **The coupling mechanism is a lever** 110 rotatably coupled to the upper housing section 122. […]'*
>
> *(emphasis added)*

144. Since it is clear from the specification that a general coupling mechanism which does not meet the requirements for a lever does not fall within the scope of protection, the question of the extent to which the prosecution history may be relied upon is not decisive in this case. The specification of the patent in suit must, in any event, be taken into account. From para. [0017] of this specification, the skilled person will deduce that a lever is a type of coupling mechanism. However, this does not imply that all coupling mechanisms meet the requirements of a lever.

145. No positive definition of the term 'lever' is to be found in the specification of the patent in suit. Where a 'lever' is shown in Figures 1, 5A and 5B, this is a preferred embodiment to which the invention must not be reduced without further consideration. Moreover,

the figures show many components which are merely optional and therefore not an essential part of the claimed solution. However, it seems that in the preferred embodiments the patent in suit understands the term 'lever' as the entire assembly including the optional parts such as a handle, cam features and mating features.

146. In summary, neither claim 1 nor the patent specification contain structural specifications regarding the detailed technical design of the 'lever' that go beyond the term 'lever' itself.

147. On this basis, two key questions arise in the case at hand:

    1. What function does the term 'lever' serve according to the patent in suit, and does this give rise to specific requirements regarding its design?

    2. How does the person skilled in the art, taking into account its knowledge and this function, interprets the term 'lever'?

148. Taking into account paras. [0018], [0038] and [0044] of the patent description, the lever is the means of switching to two positions and, furthermore, the means by which the flexible seal is able to fulfil its own sealing function. To this end, the lever can cause the seal to compress.

149. Furthermore, the patent in suit specifically describes further particular advantages in paragraph [0005] of the description:

    > *'The invention is defined in the claims. The application, in various implementations, addresses deficiencies associated with prior frozen drink makers, including commercial slush machine vessels, such as reducing the force required to install and uninstall a mixing vessel from the device.* ***A unique lever*** *is described* ***that provides helpful mechanical advantages****,* ***allowing a user to easily and securely couple the mixing vessel onto an upper housing of the frozen drink maker with just one hand, if desired****.'*
    >
    > *(emphasis added)*

    According to this paragraph, the 'unique lever' allows the user to easily and securely couple the mixing vessel onto an upper housing of the frozen drink maker with just one hand, if desired.

150. Moreover, devices are provided that permit a mixing vessel to be easily installed and uninstalled from a frozen drink maker in a more adaptive and user-friendly manner. Para. [0014] also emphasises that the lever allows for an easier installing and uninstalling of the vessel, namely with minimal effort and using just one hand, if desired.

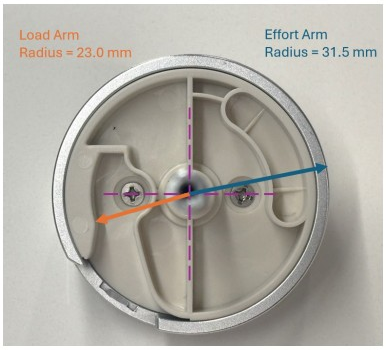
151. In addition, it is worth mentioning that the patent in suit distinguishes itself from a certain design in the prior art, where the user needed to engage a catch to install and uninstall the vessel from the rest of the device, which required significant user effort as the plastic needed to be strained to properly position the vessel.

152. That said, the parties and the Court agree on the minimum requirements for a lever: It must have a rigid body, a fixed pivot axis (called the fulcrum), an effort arm and a load arm, and it must be capable of angular displacement about the pivot axis. The extent of the effort arm away from the fulcrum is larger than the extent of the load arm from the

fulcrum to provide the mechanical advantage that the magnitude of the force exerted by the lever at the end of its load arm onto a further object is larger than the magnitude of the force applied by the user at the end of the effort arm.

153. The parties and the Court agree that the lever is a structural element. The patent does not provide any particular limitations to the shape of its components (Claimant: “Levers can come in a wide variety of physical forms and structural configurations.”; Defendant: “What claim 1 requires is a lever, i.e. a rigid body whose effort arm is materially and substantially longer than its load arm, *whatever its shape*”; emphasis added). Especially, the patent in suit does not require the effort arm or the load arm to be of a particular physical shape as long as they fulfil the minimum requirements set out above.

154. Given this background the discussion of the components of a lever can be simplified by symbolising (identifying) the respective effort arm or load arm of a particular lever-structure by means of straight-line arrows or straight-line dashed lines, as both parties have done. See below left the photograph of the internal side of Freezi’s knob in which the relative length of the effort arm and of the load arm have been specified as provided by the Applicant and below right an annotated version of Figure 5 as provided by the Defendant.



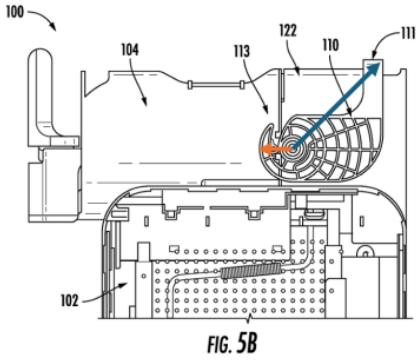


FIG. 5B

155. Ultimately, the effort arm and the load arm are provided for by (possibly complex shaped) structural parts of the lever between the point of force application by the user and the fulcrum (for the effort arm) and between the fulcrum and the point of force application from the lever onto a further object (the load arm). But given that the patent in suit does not place any importance on their actual physical shape, it suffices to discuss the question of the existence or non-existence of a lever by reference to placeholder objects like the arrows or dashed lines.

156. Similarly, given that the lever is a *structural element* its existence or non-existence is not established by performing a particular method of operation of the structure, but by determining, if a structure is provided that upon regular use of the structure provides the mechanical advantage. The mere circumstance that upon a different, likewise regular use of the overall structure that contains the lever no mechanical advantage is obtained, does not lead to the conclusion that structural element ‘lever’ is not present. If an overall structure that contains elements that could operate as an effort arm and a load arm provides an interface at the end of what could be the effort arm that offers itself for the user to readily apply a force upon it, this establishes the existence of a lever. If the overall structure contains further interface for different interaction by the user, this does not make the structure of a lever disappear.

157. The only remaining question is how much support this lever must provide when the user interacts with the device.

158. The patent in suit does not define any minimum requirements regarding the amount of support and the forces acting upon the object. Moreover, as already mentioned, claim 1 does not deal with the dimensions of any of the parts mentioned there. Therefore, it does not contain requirements of the minimum lengths of the effort arm and the load arm. As indicated above, the parties rightly agree that a lever is, in any event, a mechanism that can be used to exert a large force over a small distance at one end of the lever by exerting a small force over a greater distance at the other end (see Exhibit HLC 12). For this to happen, the effort arm must be longer than the load arm. This difference in length is therefore the minimum requirement for a lever to exist. However, there is no need for any of the two components (effort arm; load arm) to have a specific minimum length or for them to be in a specific ratio beyond this minimum requirement.

159. Defendants' narrower claim construction is not justified by the fact that certain advantages of the lever are only addressed in paras. [0038] seq. within the description of the preferred embodiments by reference to additional components, such as the cam or the handle (see also subclaims 7, 8 and 9). This is because the patent in suit already explains the fundamental advantages of a lever in para. [0005], i.e. in the general description, irrespective of any components not mentioned in claim 1. While the cam is one way of designing the load arm, the handle is one way to design the effort arm. However, this does not mean that the load arm and the effort arm must be designed as a cam and a handle. These are merely preferred embodiments, and the invention must not be limited to them.

c. Coupled position/uncoupled position (features 1.1, 1.4)

160. According to feature 1.1, the lever is moveable relative to the upper housing section between a coupled position and an uncoupled position.

161. Features 1.4 and 1.5 describe the positions in more detail:

162. In the coupled position of the lever, the lever has coupled the mixing vessel to the upper housing (feature 1.4). Furthermore, in this position, the mixing vessel is sealed against the upper housing by the flexible seal (feature 1.5). In the uncoupled position of the lever, the lever has uncoupled the mixing vessel from the upper housing section (feature 1.4).

163. Para. [0017] describes one possible method of operation as follows (see also, e.g., para. [0046]):

> *'… Lever 110 may be placed in the coupled position by sliding mixing vessel 104 against upper housing section 122 and then rotating lever 110 in a clockwise direction until its handle rests on or about the top surface of upper housing section 122. Mixing vessel 104 can be disengaged and/or decoupled from housing 102 and upper housing section 122 by rotating lever 110 in a counterclockwise direction (from the perspective of FIG. 1) toward the front of mixing vessel 104, which causes lever 110 to release mixing vessel 104. Once released and/or decoupled, mixing vessel 104 may slide in a forward direction (away from upper housing section 122) to be fully detached and/or removed from housing 102.'*

164. However, such a movement process itself is not part of the claim. Claim 1 is a device claim and requires that the lever be capable of assuming both the coupled and the uncoupled position.

165. The Panel has inferred from the parties' dispute a discussion as to whether the 'coupled position' is more than merely a locked position. However, this question should be answered by referring to feature 1.5. In the coupled position, the mixing vessel needs to be sealed against the upper housing by the flexible seal, and not merely locked in place.

d. Mixing vessel (feature 1.2)

166. Feature 1.2 states that 'the frozen drink maker comprises a mixing vessel to mix a drink product'. It therefore defines the function of the mixing vessel. The purpose of the mixing vessel is 'to mix a drink product'.

167. Claim 1 does not contain any specific structural requirements regarding the technical design of such a 'mixing vessel'.

168. Against this background, the question arises as to whether specific design requirements can be derived solely from the use of the term 'mixing vessel', for example, that it must be a separate container capable of retaining the liquid even when the mixing vessel has not yet been installed.

169. In this context, the skilled person must take into account para. [0002] of the patent specification, which reads as follows:

> *'Frozen drink makers, which may also be referred to as semi-frozen beverage makers, or crushed-ice drink makers typically include* ***a transparent tank or mixing vessel in which a drink product is received and processed,*** *including being cooled, often transforming the drink product from a pure liquid (or a combination of a liquid and portions of ice) to a frozen or semi-frozen product, such as, for example, a granita, slush drink, smoothie, ice cream, or other frozen or semi-frozen product, which is then dispensed. …'*
>
> *(emphasis added)*

170. Both the wording ('vessel') and function suggest that the component is capable of holding the liquid in order to mix it.

171. However, this does not necessarily have to be the case when the component is considered in isolation. Rather, the skilled person will also take feature 1.5 into account, which states that the mixing vessel is sealed against the upper housing section by the flexible seal *when the lever is in the coupled position (emphasis added)*. Therefore, in the coupled position, there is a contact between the mixing vessel and the seal and a contact between the seal and the upper housing section. In contrast, claim 1 does not stipulate that this type of contact must be present in the decoupled position, nor that the mixing vessel must be a sealed component itself.

172. From this, the skilled person draws the conclusion that it is sufficient for the component to be capable of performing this function when properly installed.

173. Such an understanding is also supported by Figure 7B, which is shown below in a reduced size:

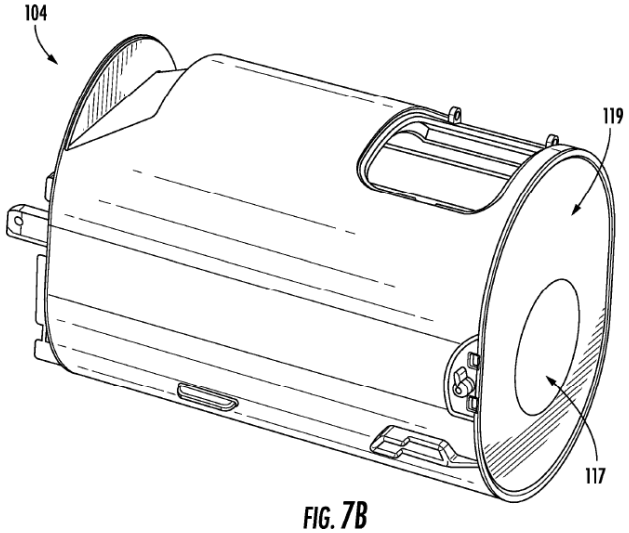


FIG. 7B

174. In this embodiment, the mixing vessel has the opening (117). In this context, para. [0042] describes that, when the mixing vessel (104) is in a coupled position on the upper housing section (122), the lever (110) in cooperation with the flexible seal (121), seals the opening (117).

175. With this design, the sealing effect only becomes effective once the 'mixing vessel' is coupled with the 'upper house section'. When uncoupled, however, the mixing vessel has an opening in it. The fact that the opening (117) – as the Defendants pointed out during the oral hearing – is located on the side wall does not alter the finding that the seal is only made of use when the unit is coupled.

176. In summary, the mixing vessel does not necessarily have to be a sealed component.

177. To justify its dissenting view, the Applicant refers to two prior art documents and argues that both are described as comprising mixing vessels (para. [0003]). According to the Applicant, in both of these documents the mixing vessel is distinct from the housing and receives the liquid product directly once coupled to the housing, without the product coming into contact with the housing. However, this argument is not convincing. The fact that the mixing vessels in the prior art are designed in a certain way does not rule out other designs.

178. Finally, the mixing vessel does not necessarily have to be a single-piece component. A design featuring a removable lid would also qualify as a mixing vessel. If such a lid exists, the skilled person would regard it as part of the mixing vessel.

C. Merits of the application for provisional measures

179. R. 211.2 RoP, in conjunction with Art. 62(4) UPCA (see also Art. 9(3) Directive 2004/48/EC), provides that the Court may invite the applicant for provisional measures to provide reasonable evidence to satisfy the court to a sufficient degree of certainty that the applicant is entitled to initiate proceedings under Art. 47 UPCA, that the patent is valid and that his right is being infringed, or that such infringement is imminent.

180. Such a sufficient degree of certainty requires that the Court considers it at least more likely than not that the Applicant is entitled to initiate proceedings and that the patent is infringed. A sufficient degree of certainty is lacking if the court considers it on the balance of probabilities to be more likely than not that the patent is not valid (UPC_CoA_335/2023, Order of 26 February 2024, p. 27 – NanoString v 10x Genomics).

I. Entitlement

181. As the registered and sole proprietor of the patent in suit, the Applicant is the right holder, Art. 62(4) UPCA.

II. Infringement

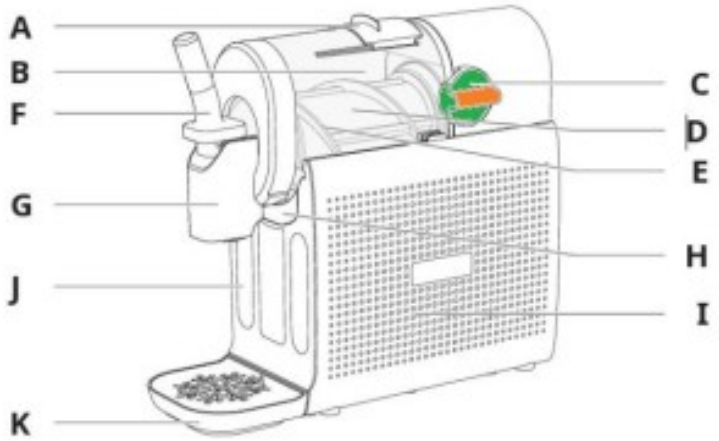
182. The Defendants only contested literal infringement of claim 1 on the basis that the Freezi device does not feature a 'lever' and that the Freezi knob does not uncouple the vessel. There is no dispute regarding the realisation of the remaining features of claim 1, so no further comments are required in this regard.

183. Based on the claim construction as explained in detail above, it is more likely than not that the challenged embodiment features a 'lever' within the meaning of claim 1 (features 1.1, 1.4, 1.5 and 1.6), which, in particular, also meets the requirements of feature 1.4. and therefore infringes claim 1 of the patent in suit.

1. Operation of the Freezi device

184. The Freezi device comprises a rotary knob on each side of the upper housing section. The user manual designates this knob as a 'lock'. Both knobs are physically connected so that rotation of one causes the other to rotate.

185. The knob can be rotated between a locked and an unlocked position. A crossbar projects from one of the two knobs. This is illustrated in the following figure, which is an extract from the user manual (Exhibit HLC 13) and has been highlighted in colour by the Defendants:



186. In the figure above, the knob is shown in green and labelled 'C'. Furthermore, the bar on the knob is shown in orange.

187. The pictures shown below depict the knob of the challenged embodiment as well as various scenarios in which this knob is used:



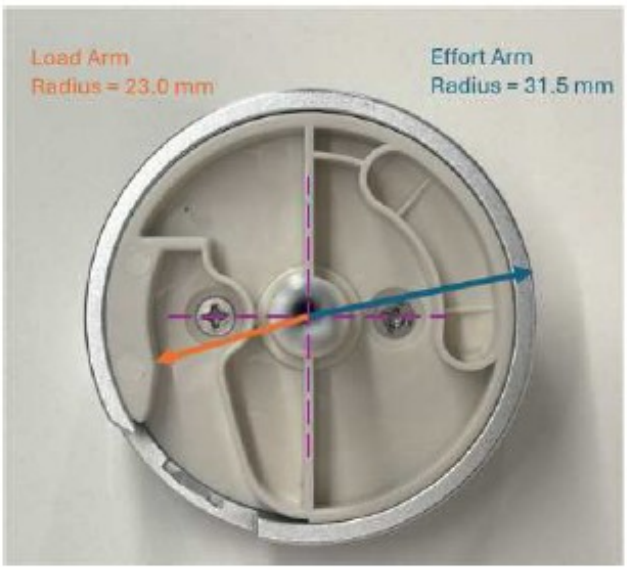
Exhibit HLC 18, 0:02	Exhibit HLC 18, 0:04
	

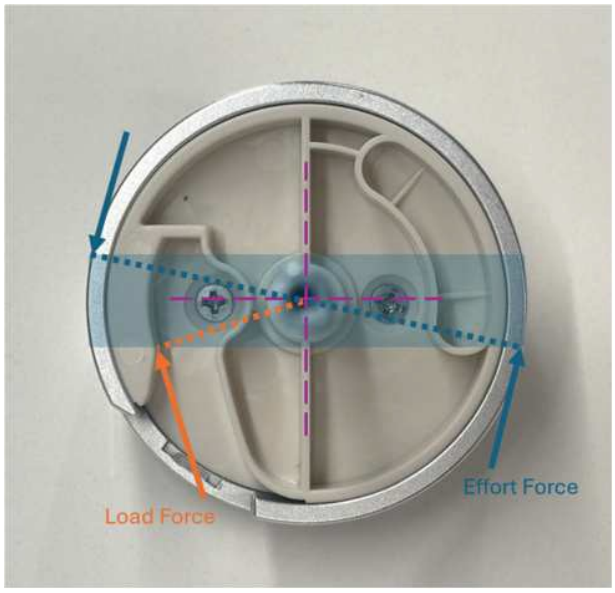


188. The way the Freezi knob works is essentially undisputed and was demonstrated by the parties during the oral hearing using samples of the challenged embodiments. Following the oral hearing, the parties provided these samples to the Court.

189. The points of dispute between the parties concerning the functioning of the challenged embodiment are not relevant for the assessment of infringement. In any event, the challenged embodiment makes literally use of the technical teaching of claim 1 of the patent in suit.

190. The following figures are taken from the declaration submitted by the Applicant as Exhibit HLC 22, the light blue bar in the lower picture is presenting the location of the bar on the other side of the knob:





191. As can be seen from these figures above, the minimum requirements for a lever are fulfilled. It has a rigid body, a fixed pivot axis (called the fulcrum), an effort arm and a load arm, and it must be capable of angular displacement about the pivot axis.

192. The fact that the knob comprises additional components does not preclude literal infringement. Claim 1 does not preclude such additional components. The knob is an overall structure that contains elements that can function as an effort arm and a load arm and by way of its circumferential surface (the surface that the tip of the blue arrow points to) provides an interface at the end of what can be the effort arm that offers itself for the user to readily apply a force upon it. This establishes the existence of a lever. This mode of operation has been referred to as 'Force is applied at the ends of the rectangular projections and/*or at the outer perimeter of the cylindrical shape'*. (emphasises added) by the Applicant's expert in Exhibit HLC 22. Defendants were not able to convincingly render this mode of operation as merely theoretical and without relevance.

During the presentation of the challenged embodiment in the oral hearing it could be seen that gripping (only) the circumferential surface of the knob is an equally possible mode of operation of the knob than the modes indicated by the pictures above.

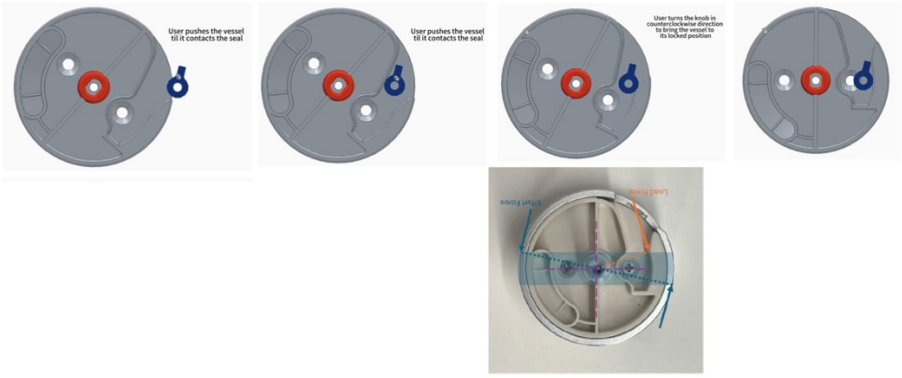
193. In addition, the challenged embodiment was measured by the Applicant. According to these measurements, the effort arm is 31.5 mm long. The length of the load arm is 23.00 mm. Consequently, the effort arm is longer than the load arm. The Defendants have not specifically contested the results of these measurements. Therefore, pursuant to R. 171.2 RoP, these results shall be held to be true between the parties. The Defendants have also not contested that the ratio of the two length is 1,37, which is a substantial difference between the respective arms that may result in a relevant mechanical advantage. As already explained in detail, claim 1 does not specify the length ratio between the effort arm and the load arm, nor does it require a specific force ratio.

194. It is reasonable to expect that the user grips the knob in a way that allows the longer effort arm and the shorter load arm to exert the expected lever effect on forces. Claim 1 does not specify a minimum force ratio.

195. Given the design of the knob, one possible way of using it is to grip it at the end of the effort arm. The design of the knob does not specify exactly where it should be gripped. The location of the user's grip is not specified. However, the knob's shape does allow for a mode of use in which the lever components (effort arm, load arm) can fulfil their function. This is sufficient to implement the technical teaching protected by claim 1.

196. The parties' debate whether the lever also provides a pulling effect in the compression direction of the seal. However, such an effect is not a prerequisite for the realisation of claim 1. Nevertheless, during the oral hearing, the Applicant demonstrated that this effect exists, albeit to a minimum extent. The possibility that the user may utilise the challenged embodiment, and in particular its knob, differently does not preclude infringement.

197. Likewise it does not preclude infringement if uses of the challenged embodiment exist, where the coupling part of the mixing vessel (the projection on the mixing vessel that is to be caught by the knob) does not come into contact with that part of the knob that forms the end of the load arm. It can be taken from the parties' written presentation and was confirmed during the presentation of the challenged embodiment in the hearing that in a typical use of the device, upon assembly of the device, the coupling part *comes* into contact with that part of the knob that is highlighted above by the orange arrow and designated as the end of the load arm. Below, the pictures provided by the Defendants and taken from a CAD simulation of the attacked embodiment that show the assembly of the device are shown left to right with the photograph taken from Exhibit HLC 22 set below one of them (flipped to allow an ease of comparison). The comparison shows that both parties hence seem to agree that the coupling part of the mixing vessel contacts this portion of the knob upon assembly. The third picture from the defendant shows the coupling part of the mixing vessel to be in contact with exactly that surface of the knob that the orange arrow points to as the end of the load arm.



3. Defendants' liability

a. Defendants 1. to 4.

198. The liability of Defendants 1. to 4. is not in dispute between the parties.

199. As these Defendants offer the challenged embodiment within the territorial scope of the patent in suit and place it on the market, they are liable as infringers under Art. 25(a) UPCA.

b. Defendant 5.

200. In contrast, based on the parties' submissions, the Defendant's 5. (SEB S.A.) liability cannot be established.

aa. No liability as infringer

201. On the basis of the parties' submissions, it cannot be determined that Defendant 5. is committing acts of infringement within the meaning of Art. 25 and 26 UPCA. Defendant 5. therefore cannot be classified as infringer.

202. Defendant 5. is the mother company of Groupe SEB, which owns and controls Defendants 1., 2. and 5. to 100%. It holds 46,8% of the capital of Defendant 3.

203. Insofar as the Applicant primarily relies on an offer attributable to Defendant 5., its submissions are not sufficient to establish such an offer.

General principles

204. The term 'offering' within the meaning of Art. 25(a) UPCA is to be understood in an economic sense and not in the sense of a binding contractual offer. It is therefore not required to include all the details that would be necessary for the immediate conclusion of a contract by mere acceptance of the offer (UPC_CoA_534/2024, Decision of 3 October 2025, para. 205 – Belkin v Philips).

205. If a company is the owner of the domains the embodiments are presented on, a normally informed and reasonably attentive internet user could believe that this company is making the offer. This can result in the liability of this company, in particular if this company is in a position to cease the infringing use (see UPC_CoA_534/2024, Decision of 3 October 2025, para. 207 – Belkin v Philips; UPC_CFI_757/2024 (LD Lisbon), Decision

of 6 May 2026, para. 239 – Ericsson v Asustek). As the owner of the domains, the company is generally responsible for ensuring the accuracy of its website's contents (UPC_CFI_757/2024 (LD Lisbon), Decision of 6 May 2026, para. 239 – Ericsson v Asustek). A consumer, searching online for products of the group of companies in question, including the allegedly infringing products, will in such a case associate this offer with the company in question, and consider that it is just another channel owned by this company (see UPC_CFI_757/2024 (LD Lisbon), Decision of 6 May 2026, para. 239 – Ericsson v Asustek).

Assessment

206. Based on these principles, the Applicant has failed to demonstrate that Defendant 5. made such an offer.

207. The Applicant refers to a note at the left bottom on both the www.tefal.de and www.moulinex.fr website, through which the Freezi device is offered. This note links to the 'Groupe SEB' corporate website:





208. On the linked website www.groupeseb.com, 'Groupe SEB' is defined to mean 'all the companies directly or indirectly attached to the SEB SA company'.

209. These statements are insufficient to substantiate an offer by Defendant 5.

210. Defendant 5. does not operate the corporate websites and is not the owner of the domain names. Both functions are carried out by SEB Développement.

211. Moreover, merely referring to Groupe SEB is also not sufficient in itself to identify Defendant 5. Rather, it is necessary to consult the definition on the linked website. Under the circumstances described, it cannot be established that a user would assume that the offer originated from Defendant 5.

212. The Applicant's additional reference to the fact that the Freezi offerings 'form part of a group-wide, uniform presentation of the Freezi device across Groupe SEB websites in multiple UPC markets' does not suffice either.

bb. No liability as co-perpetrator

213. Defendant 5. cannot be regarded as a co-perpetrator either.

General principles

214. An 'infringer' is also a person who does not personally carry out the acts referred to in

Art. 25 UPCA but to whom the acts of a third party are attributable because that person is an instigator, co-perpetrator or accessory. Joint perpetration requires that the persons responsible for the infringing acts cooperate in division of labour on the basis of a common plan. An accessory is a person who assists the third party in performing the acts constituting while having knowledge of the patent infringement. Knowledge of a patent infringement does not merely require that the accessory is aware of the circumstances which constitute a patent infringement. What is required, rather, is an awareness of the unlawfulness of the act (UPC_CoA_534/2024, Decision of 3 October 2025, headnotes 3, para. 180 et seq. – Belkin v Philips).

215. The mere status as a (financial) holding company does not suffice to conclude that the holding company is liable for infringing acts committed by its subsidiaries as an instigator, accomplice or accessor. Rather, as with any instigator, accomplice or accessor, awareness of the act of use is also required. The holding company may be liable if its actions go beyond the typical role of shareholder/financial holding, for instance using the other companies to commit infringement, exercises decisive control over the specific business activities of the subsidiary that resulted in the infringement or having knowledge of the infringing activities and not taking possible and reasonable action to stop it (UPC_CFI_819/2024 (LD Mannheim), Decision of 16 April 2026, para. 214 – Corning v TCL; see also UPC_CFI_723/2025 (LD Düsseldorf), Order of 12 April 2026, para. 202 – Align Technology v Angelalign). It is for the applicant to present sufficient facts in this regard, in particular for the fact that the company in question is able to exercise operational control over the sales of the infringing products (see UPC_CFI_819/2024 (LD Mannheim), Decision of 16 April 2026, para. 215 – Corning v TCL).

Assessment

216. It cannot be established that these conditions are met with regard to Defendant 5.

217. The Applicant argues in this regard that Defendant 5. owns each of Defendants 1. to 4. either fully or to a significant extent. Therefore, in the Applicant's view, it is not conceivable that it does not exert significant influence over these entities. The uniform marketing strategy and website design across Europe show that there is a central coordination of the activities related to Freezi. Furthermore, the Applicant takes the view that it is highly doubtful that the respective subsidiaries take all decisions related to the marketing of Freezi autonomously.

218. The Defendants stated that Defendant 5. (SEB S.A.) is a pure holding company with no employees. They pointed out that it made no contribution to the infringing acts, in particular did not develop the Freezi product, defined its sales strategy or commercialise it. According to the Defendants, the product is sold only by the local market companies.

219. For this reason, the Applicant's general arguments are not sufficient to establish Defendant's 5. liability. It would have needed to put forward specific grounds.

220. The ownership of various EU trademarks for 'Moulinex' brands including ice cream makers and ice machines the Applicant is referring to in the application is not sufficient. The Applicant does not even allege an ownership for a trademark in connection with Freezi.

221. During the oral hearing, the Court highlighted the issue of the liability of Defendant 5. However, the Applicant did not further elaborate on its arguments in this regard.

III. Validity

222. According to the case-law of the Court of Appeal, a sufficient degree of certainty as to the validity of the patent is lacking if the court considers it on the balance of probabilities to be more likely than not that the patent is not valid (UPC_CoA_335/2023, Order of 26 February 2024, p. 27 [English version] – 10x Genomics v Nanostring).

223. This is not the case here. The patent in suit is not considered to be more likely than not invalid.

1. Novelty

a. General principles

224. According to Art. 54(1) EPC, an invention is considered new if it does not form part of the state of the art. A technical teaching does not form part of the state of the art if it differs in at least one of its known features from what is already known in the state of the art. Only that what the skilled person, using his common general knowledge at the relevant filing or priority date, would derive directly and unambiguously from a single piece of prior art is considered to be anticipated thereby (cf. UPC_CoA_182/2024, 25 September 2024 – Mammut v Ortovox; UPC_CoA_382/2024, 14 February 2025 – Abbott v Sibio).

b. Assessment

225. Based on these principles, none of Defendants' arguments is capable of seriously calling the novelty into question.

aa. CBD device

226. It is unnecessary to decide whether the Defendants' challenge can be understood as referring to prior public use of the 'CBD machine' or as being based on the manual for that machine. In either case, the challenge is unsuccessful.

227. To establish prior public use, it must be proven that all features of the invention were publicly disclosed and accessible to third parties before the priority date, with no confidentiality agreement in place. The party referring to the prior public use is responsible for providing the necessary evidence. As the circumstances surrounding an alleged public prior use usually lie entirely within the control of the party invoking it, strict requirements must be imposed on the evidence provided. This must include full documentation of what was made available, to whom, when, and under what circumstances. In particular, it is essential to ensure that the sample material examined can be attributed with sufficient certainty to the product actually supplied (UPC_CFI_466/2025 (LD Düsseldorf), Decision of 5 November 2026, headnotes 1 and 2 – Dai Nippon v Zapp).

228. The Defendants' submissions do not meet these requirements. However, in the present case, it may be assumed, in favour of the Defendants, that the operator's manual (Exhibit AD n°5.1) can be regarded as a single prior art document. The Defendants have

made clear that they are relying on the operator's manual and that the videos only show the same device in operation.

229. However, not all features of claim 1 are disclosed in this manual.

230. If the requirement for a 'mixing vessel' is interpreted differently compared to the above claim construction, meaning that the mixing vessel must be sealed to prevent the liquid from coming into contact with the upper housing, such a 'mixing vessel" (feature 1.2) is not disclosed.

231. Regarding the disclosure of a 'mixing vessel', Defendants are referring to a removable tank (part 724058) which is marked with a purple arrow in the picture below:



Figure 1-1 Model CBD117-37

Extract from page 1 of CBD device

232. While being called a 'tank', the actual element with the number 724058 is nothing than a sleeve with an open bottom and an open top and needs to be installed onto the machine body and to be covered with the tank cover:

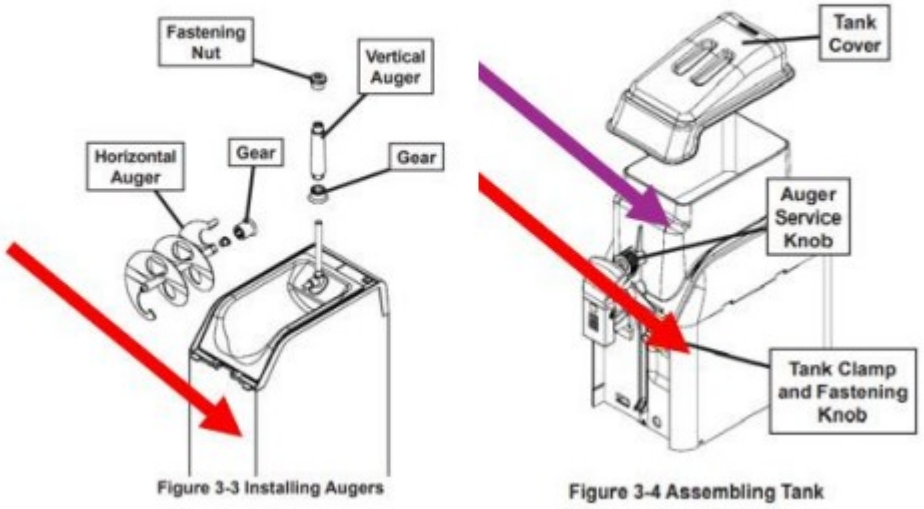
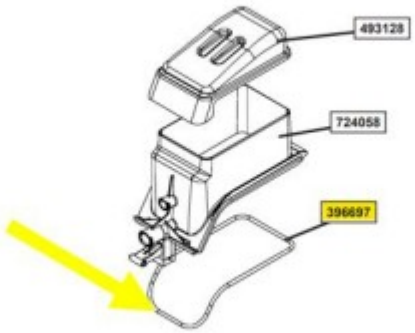


Figure 3-3 Installing Augers

Figure 3-4 Assembling Tank

Extract from page 8 of CBD device showing the housing and its upper section

5.2 TANK AND COVER



Part	Description	Quantity
493128	Cover - Tank	1 per tank
396697	Gasket - Tank	1 per tank
724058	Tank - 1.5 Gallon	1 per tank

Extract from page 15 of CBD device

233. Therefore, this 'tank' (sleeve) can only hold the liquid in combination with the upward facing surface of the machine body (the 'tank base') and the liquid rests and is fully supported on the 'the tank base'.

234. If one follows the Applicant's interpretation and, contrary to the above claim construction, interprets feature 1.2 to mean that the mixing vessel itself is a self-contained component to be separated from the upper housing, there is no disclosure of a mixing vessel within the meaning of feature 1.2.

235. The Panel's broader interpretation of the term 'mixing vessel', as explained in detail above in claim construction, does not lead to a different assessment either.

236. If the bottom part of the mixing vessel is formed by parts of the upper housing section, the disclosure of features 1.3 and 1.5 is lacking due to the location of the seal, number 396697 in the picture above. This is because the mixing vessel is then not sealed 'against the upper housing section' by the flexible seal and because this seal is not located 'between the upper housing section and the mixing vessel'. Rather, the flexible seal is then a part of the mixing vessel/located within the mixing vessel.

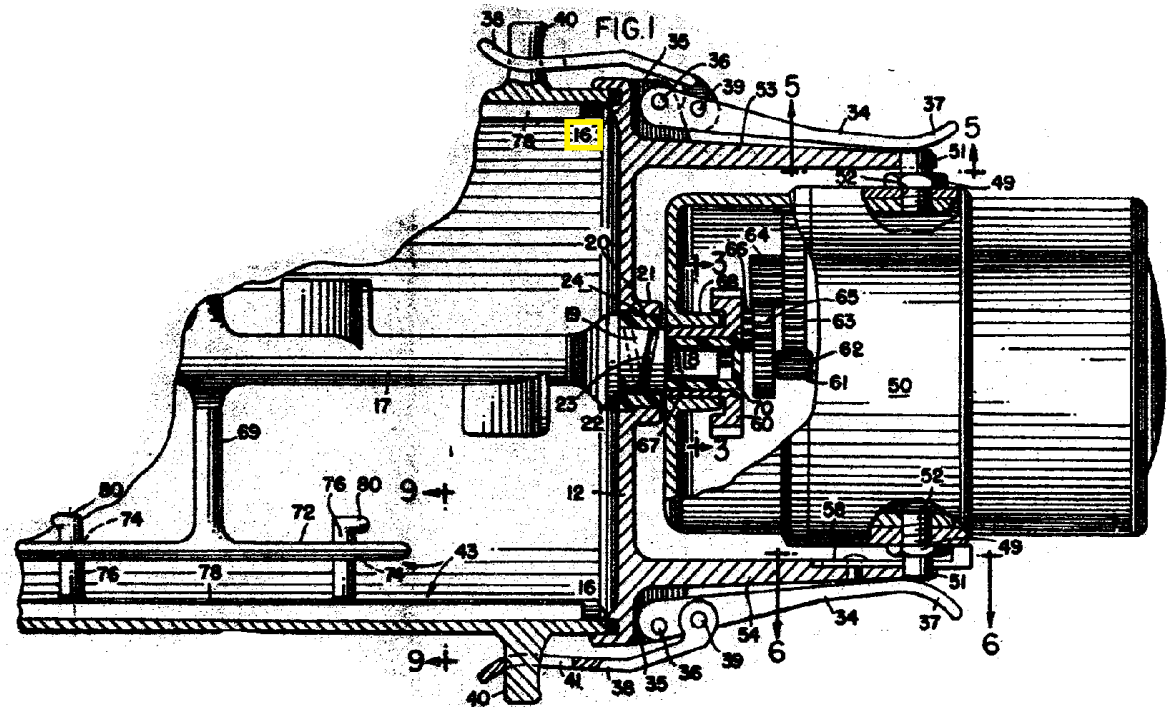
b. Knibb device (CA-616587)

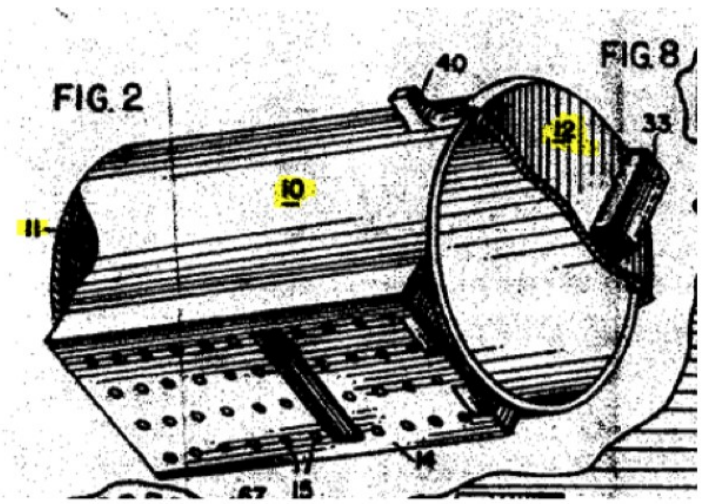
237. The 'Knib device' is also not novelty destroying in relation to claim 1.

238. The Defendants made it clear that they are referring to the Canadian document, and that the French document (FR-1 202 961) was only submitted to provide higher-quality of the pictures. Therefore, the Defendants base their challenge to novelty on a single document, satisfying the requirements of Art. 54(1) EPC.

239. Regarding the assignment of terms, according to the skilled person's understanding, the cylindrical container (10) with an integrated wall (11) on the left hand side and a removable cover (12) on the right hand side is the mixing vessel in Knibb.

240. Figures 1 and 2 of Knibb are shown below, with the yellow highlighting added afterwards. This highlighting is not part of the disclosure.





241. As can be seen from these figures, in Knibb the removable cover (12) is attached to the main body of the container. The annular gasket (16), referred to by the Defendants, is an internal element of the mixing vessel, namely an internal seal that seals the cover (12) (that is part of the mixing vessel) to the main body (the container (10) of the mixing vessel).

242. Therefore, the annular gasket (16) cannot form a flexible seal between the upper housing section and the mixing vessel. The Defendants did not indicate for any other seal in Knibb to be arranged between the upper housing section and the mixing vessel.

243. Consequently, features 1.3 and 1.5 are not disclosed in Knibb because the seal (gasket (16)) is not located between the mixing vessel and the upper housing section, but rather within the mixing vessel itself.

2. Inventive step

244. Taking into account Defendants' challenge to the inventive step, it is not more likely than not that the patent in suit is invalid.

a. General principles

245. According to the case law of the Court of Appeal, the approach taken by the Unified Patent Court when establishing inventive step is as follows (see UPC_CoA_464/2024, Decision of 25 November 2025, headnotes 4–13, paras. 128–136 – Meril v Edwards; UPC_CoA_528/2024, Decision of 25 November 2025, headnotes 10–22, paras. 122–138 ff. – Amgen v Sanofi):

246. It first has to be established what the object of the invention is, i.e. the objective problem. This must be assessed from the perspective of the skilled person, with his or her common general knowledge, as at the application or priority date (also referred to as the relevant date) of the patent. This must be done by establishing what the invention adds to the state of the art, not by looking at the individual features of the claim, but by comparing the claim as a whole in context of the description and the drawings, thus also considering the inventive concept underlying the invention (the technical teaching), which must be based on the technical effect(s) that the skilled person on the basis of the application understands is (are) achieved with the claimed invention.

247. In order to avoid hindsight, the objective problem should not contain pointers to the claimed solution.

248. The claimed solution is obvious when at the relevant date the skilled person, starting from a realistic starting point in the state of the art in the relevant field of technology, wishing to solve the objective problem, would (and not only: could) have arrived at the claimed solution.

249. The relevant field of technology is the field relevant to the objective problem to be solved as well as any field in which the same or similar problem arises and of which the person skilled in the art of the specific field must be expected to be aware.

250. A starting point is realistic if the teaching thereof would have been of interest to a skilled person who, at the relevant date, wishes to solve the objective problem. This may for instance be the case if the relevant piece of prior art already discloses several features similar to those relevant to the invention as claimed and/or addresses the same or a similar underlying problem as that of the claimed invention. There can be more than one realistic starting point and the claimed invention must be inventive starting from each of them.

251. The skilled person has no inventive skills and no imagination and requires a pointer or motivation that, starting from a realistic starting point, directs them to implement a next step in the direction of the claimed invention. As a general rule, a claimed solution must be considered not inventive/obvious when the skilled person would take the next step prompted by the pointer or as a matter of routine, and arrive at the claimed invention.

252. A claimed solution is obvious if the skilled person would have taken the next step in expectation of finding an envisaged solution of his or her technical problem. This is generally the case when the results of the next step were clearly predictable, or where there was a reasonable expectation of success.

b. Assessment

253. Based on the aforementioned principles, the Defendants' arguments are insufficient to demonstrate a lack of inventive step.

aa. Objective of the invention

254. The Panel agrees with the Applicant that the objective of the invention is to provide a frozen drink maker with a user-friendly architecture that enables a user to easily install or uninstall the mixing vessel.

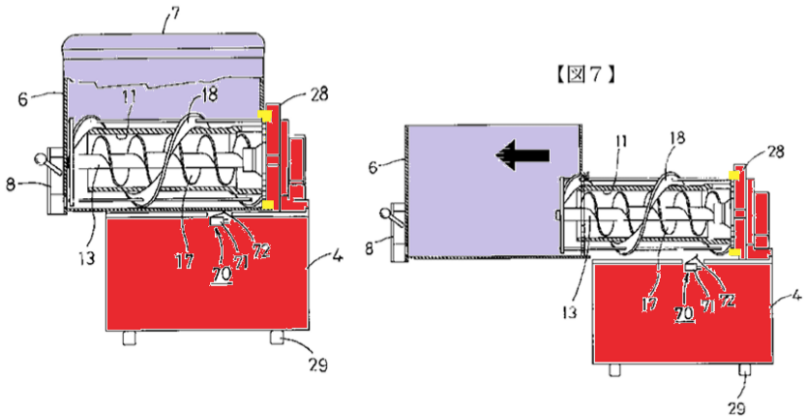
255. The definition suggested by the Defendants, namely to provide an alternative to the known means of retaining the mixing vessel in the coupled and sealed position and of releasing it in the uncoupled position, already contains a pointer to the claimed solution. It already identifies the means of retaining the mixing vessel as the object that needs to be improved in order to achieve the aim to provide a frozen drink maker with a user-friendly architecture that enables a user to easily install or uninstall the mixing vessel.

bb. Realistic starting point

256. JP ‘730 is a realistic starting point.

257. The document relates to ‘a dispenser for mainly manufacturing frozen desserts such as soft ice cream, ice cream, and frozen sherbet’ (JP '730, para. [0001]). The patent in suit itself cites JP '730 in para. [0003] of the description as one of the two examples of the prior frozen drink makers.

258. Therefore, JP ‘730 relates to a frozen drink maker. This frozen drink maker has a housing (below red) comprising an upper housing section (top right of red housing):



Figures 6 and 7 of JP’730

259. The frozen drink maker of JP’ 730 also has a mixing vessel (violet in the pictures above) to mix a drink product. According to [0044] of JP730, ‘a seal made of a soft material is provided at the connection portion between the mix tank (6) and the motor case (28)’.

260. Applicant’s argument that JP ‘730 addresses the problem that a drink maker needs different cleaning routines for different drinks and thus provides a dispenser in which the washing process can be appropriately changed depending on the type of the produced drink, does not render JP ‘730 not a realistic starting point. Also in JP ‘730, the mixing vessel must be decoupled from the housing and hence providing a user-friendly architecture that enables a user to easily install or uninstall the mixing vessel is also an issue for JP ’730.

cc. Inventive step

261. Irrespective of whether the other features are disclosed, which can be assumed in favour of the Defendants, JP ‘730 in any event fails to disclose a lever. On the contrary, JP ‘730 does not even describe means for holding the tank against the seal once it has slid into position. Therefore, JP ‘730 does not concern particular designs for retention means of a mixing vessel on an upper housing section. It does not provide any pointer to identify particular means as being problematic. Consequently, with the aim to provide a frozen drink maker with a user friendly architecture that enables a user to easily install or uninstall the mixing vessel, JP ‘730 does not provide a pointer to consider different designs of retention means to fulfil this aim.

262. Defendants' approach to suggest to implement levers known from several documents ('Gavillet', 'Audette', 'Carnival King', 'Svaldi', 'Kasprzycki', 'Sipp' and 'Nestec') into JP '730 essentially is a hindsight argument. Defendants, knowing that the provision of a lever is the solution, turn to these seven documents and show that these disclose levers and that it would be possible to implement these levers into the device of JP '730. However, this line of argument is already flawed for the reason that it works on the understanding that a lever is necessary. It is not explained, how the skilled person (that has no inventive skills and no imagination) would have taken the initial step of considering the lever to be a possible solution to the aim providing a frozen drink maker with user-friendly architecture that enables the user to easily install or uninstall the mixing vessel.

263. In addition, the Applicant has correctly pointed out that the documents other than 'Carnival King', namely 'Gavillet', 'Audette', 'Svaldi' and 'Kasprzycki', relate to different products than a frozen drink maker, namely brewing machines, blenders, cleaning devices or carbonators. It is not explained, how the skilled person (that has no inventive skills and no imagination) would have considered any of these devices to implement a user-friendly architecture that enables a user to easily install or uninstall the mixing vessel, especially since none of these devices have a mixing vessel that is to be installed or uninstalled.

264. The Defendants have also not provided sufficient evidence to demonstrate that the use of a lever is a matter of routine starting from JP '730, nor is this apparent (see UPC_CoA_687/2025, Decision of 28 August 2026, para. 73 – Hurom v NUC).

265. As the question of a 'matter of routine' was raised by the Defendants for the first time at the oral hearing without any explanation for the late submission, this argument is dismissed pursuant to R. 9.2 RoP.

266. Setting aside this formal aspect, this argument is also unsuccessful on its merits.

267. The Defendants have not provided sufficient merits for what they regard as 'a matter of routine'. Common general knowledge does not automatically create such a matter.

268. In the present case, the Defendants would be required to explain why it is a 'matter of routine' for the skilled person to use a lever to couple the mixing vessel and the upper housing section, without knowledge of the invention. However, the Defendants have not put forward any such arguments.

269. Since JP '730 is lacking any disclosure of means for holding the tank against the seal once it has slid into position, the first step is to select such means. In this case, the skilled person must therefore choose a lever from among all the available fastening options. However, this selection constitutes already a step towards the invention and is therefore not a 'matter of routine'.

dd. Additional arguments based on CBD and Knipp

270. Insofar as the Defendants argued for the first time in their reply to the response to the objection that, on the basis of CBD and Knibb, there was in any event a lack of inventive step, these arguments are disregarded pursuant to R. 9.2. RoP. The Defendants did not provide a reason to justify this late filing.

271. Apart from this, however, the Defendants have failed to conclusively demonstrate, based on these prior art documents, that there is a lack of inventive step in light of the specific requirements set out by the Court of Appeal.

IV. Necessity of provisional measures and balance of interests

1. General principles

272. Under Art. 62 UPCA and R. 211.1 RoP, the Court may grant provisional measures intended to prevent any imminent infringement, to prohibit, on a provisional basis and subject, where appropriate, to a recurring penalty payment, the continuation of the alleged infringement or to make such continuation subject to the lodging of guarantees intended to ensure the compensation of the right holder (UPC_CoA_540/2024, Order of 24 February, para. 17 – Bioletic v Light Guide; UPC_CFI_2258/2026 (LD Düsseldorf), Order of 30 June 2026, para. 27 – ParTec v Lenovo).

273. Such provisional measures are treated by way of summary proceedings (R. 205 RoP). Compared to proceedings on the merits, these proceedings are short and fast and make it possible to bring a patent infringement to an immediate end. The expedited procedure, however, does not allow for full examination of the Applicant's entitlement to commence proceedings, of the validity of the patent and of the alleged infringement as provided for in proceedings on the merits. The expedited procedure can therefore be used only if, considering the nature of the case, proceedings on the merits cannot be awaited. If proceedings on the merits can be awaited, provisional measures are not necessary since proceedings on the merits offer more procedural safeguards (UPC_CoA_540/2024, Order of 24 February, para. 19 – Bioletic v Light Guide; UPC_CFI_2258/2026 (LD Düsseldorf), Order of 30 June 2026, para. 28 – ParTec v Lenovo).

274. Pursuant to Art. 62(2) UPCA and R. 211.3 RoP, the Court shall, in the exercise of its discretion, weigh up the interests of the parties and, in particular, take into account the potential harm for either of the parties resulting from the granting or the refusal of the injunction. In view of the considerations given above, this means that the Court must not merely take into account the harm for either of the parties, but also the time factor. More specifically, the Court must assess whether it is possible to await proceedings on the merits, or whether provisional measures are necessary (UPC_CoA_540/2024, Order of 24 February, para. 19 - Bioletic v Light Guide; UPC_CoA_768/2024, Order of 30 April 2025, para. 102 – Insulet v EOFLow; UPC_CoA_61/2026, Order of 21 August 2026, para. 112 – SharkNinja v. SEB; UPC_CFI_2258/2026 (LD Düsseldorf), Order of 30 June 2026, para. 29 – ParTec v Lenovo).

275. Accordingly, R. 206.2(c) RoP requires that the Applicant in its application for provisional measures sets out the reasons why provisional measures are necessary to prevent a threatened infringement, to forbid the continuation of an alleged infringement or to make such continuation subject to the lodging of guarantees. This is not a formal requirement but concerns the merits of the application for provisional measures and must be considered by the judge when issuing an order under R. 211 RoP (UPC_CoA_335/2023 Order of 26 February 2024, p. 21 – NanoString vs. 10x; UPC_CoA_540/2024, Order of 24 February 2025, para. 20 – Bioletic v Light Guide; UPC_CoA_768/2024, Order of 30 April 2025, para. 103 – Insulet v. EOFlow;

UPC_CoA_61/2026, Order of 21 August 2026, para. 113 – SharkNinja v. SEB UPC_CFI_2758/2026 (LD Düsseldorf), Order of 30 June 2026, para. 30 – ParTec v Lenovo).

276. The Court must also take the time factor into account. In particular, it must consider whether to await proceedings on the merits, or whether provisional measures are necessary (UPC_CoA_540/2024, Order of 24 February 2025, para. 19 – Biolitec v Light Guide; UPC_CoA_768/2024, Order of 30 April 2025 – Insulet Corporation v EOFLow; UPC_CFI_213/2025 (LD Düsseldorf), Order of 10 July 2025, para. 104 – Aesculap v Shanghai International Holding).

277. Provisional measures are, for example, necessary, if a delay would cause irreparable damage to the patent proprietor. However, such damage is not a necessary prerequisite for ordering provisional measures (UPC_CoA_182/2024, Order of 25 September 2024, para. 237 – Mammut v Ortovox; UPC_CoA_540/2024, Order of 24 February 2025, para. 21 – Biolitec v Light Guide; UPC_CoA_768/2024, Order of 30 April 2025, para. 103 – Insulet v EOFlow; UPC_CoA_61/2026, Order of 21 August 2026, para. 112 – SharkNinja v. SEB; UPC_CFI_213/2025 (LD Düsseldorf), Order of 10 July 2025, para. 105 – Aesculap v. Shanghai International Holding; UPC_CFI_2758/2026 (LD Düsseldorf), Order of 30 June 2026, para. 30 – ParTec v Lenovo).

278. The need for provisional measures may arise from direct competition between the challenged embodiment and the patent proprietor's product (UPC_CoA_540/2024, Order of 24 February 2025, para. 26 – Biolitec v Light Guide). In such situations, provisional measures may be justified if they are necessary to maintain the status quo prior to the alleged infringement until a decision is taken on the merits (UPC_CFI_182/2024, Order of 25 September 2024, para. 238 – Mammut v Ortovox; UPC_CoA_540/2024, Order of 24 February 2025, para. 28 – Biolitec v Light Guide; UPC_CoA_61/2026, Order of 21 August 2026, para. 115 – SharkNinja v SEB; UPC_CFI_213/2025 (LD Düsseldorf), Order of 10 July 2025, para. 106 – Aesculap v Shanghai International Holding; UPC_CFI_387/2025 (LD Hamburg), Order of 14 August 2025, para. 136 – Dyson v Dreame International).

279. The need for the ordering of provisional measures may also arise from a change in the market situation from one in which only one product is available to one in which two competing products are on the market. Such a transition may lead not only to price pressure but also to lasting price erosion (UPC_CoA_523/2024, Order of 3 March 2024, para. 93 – Sumi v Syngenta; UPC_CoA_768/2024, Order of 30 April 2025, para. 104 – Insulet v EOFlow; UPC_CoA_61/2026, Order of 21 August 2026, para. 115 – SharkNinja v. SEB; UPC_CFI_213/2025 (LD Düsseldorf), Order of 10 July 2025, para. 106 – Aesculap v. Shanghai International Holding; UPC_CFI_712/2025 (LD Düsseldorf), Order of 5 December 2025, para. 361 – Roche v Menarini).

280. The necessity of provisional measures may also arise from the difficulty to switch from one solution to another in a field of practice, both in terms of technical implementation and in terms of the necessary approval procedures (UPC_CoA_768/2024, order of 30 April 2025, para. 108 – Insulet v EOFlow).

281. When weighing up the interests, the Court takes into account any unreasonable delay in applying for provisional measures, as set out in R. 211.4 RoP in conjunction with R. 209.1(b) RoP.

2. Assessment

a. No unreasonable delay

282. Urgency is not an issue here. The application for provisional measures was filed only two days after the mention of the grant of the patent in suit was published. Additionally, the Defendants have expressly stated that they do not contest the urgency. Therefore, there is no need for further explanations on this point.

b. Necessity of provisional measures

283. Based on the above stated general principles, the weighing of interests in the present case is in favour of the Applicant. The Panel is convinced that the Applicant has an (urgent) interest that the Defendants be injuncted from bringing the challenged embodiments on the market.

284. The parties are direct competitors in the slush machines market. In particular, their devices SLUSHi and Freezi directly compete. They are both available on the European market, in particular in France and in Germany. The products are comparable in the relevant aspects of size and price, and are perceived by consumers as direct competitors. The distribution of the challenged Freezi devices therefore has an impact on the Applicant's market share with regard to its SLUSHi device. This impact carries all the more weight given that the slush machines in question are products with a long lifespan.

285. It was not necessary for the Applicant to demonstrate an actual drop in sales. Rather, it is sufficient to establish that there is a risk of a drop in sales. The Applicant has satisfied this requirement by pointing to the comparable nature of the product and their comparable prices. Furthermore, the slush machines in question are products for which, by their very nature, customers typically only require one machine at a time (see CoA_61/2026, Order of 21 August 2026, para. 127 – SharkNinja v SEB).

286. There is no doubt that a period of strong sales is just around the corner, with Black Friday and the Christmas shopping season approaching. Even though slush machines may be particularly in demand during the summer, it is clear that, given the generally high level of demand in the coming weeks, significant sales of slush machines can be expected. A decision in the proceedings on the merits, which have not yet been initiated, is not to be expected before this upcoming sales period and even not before the next summer period.

287. Moreover, the Applicant explained comprehensively that its business strategy is built heavily on viral social media marketing campaign to generate attention for its innovative and disruptive household appliances. As a result, the Applicant usually observes a rapid market expansion in the early months and years of a product's launch (and during key high-sales seasons), while the sales trajectory significant flattens after this initial period. The launch of the Freezi device falls exactly within this crucial early timeframe of the Applicant's products.

288. The fact that the Freezi device has been on the market for some months before the application was filed does not alter the necessity of provisional measures. However, it must be noted that distribution of the Freezi device had in fact begun before the patent

in suit was granted. The Court of Appeal has stated that it would be relevant if the distribution of the challenged embodiment had started before the grant of the patent and the requested provisional measures would change the status quo of the market established years before the grant of the patent (UPC_CoA_540/2024, Order of 24 February 2025, para. 27 – Bioletic v Light Guide; UPC_CoA_768/2024, Order of 30 April 2025, para. 111 – Insulet v EOFlow; CoA_61/2026, Order of 21 August 2026, para. 129 – SharkNinja v SEB). In the case at hand, however, the distribution of the Freezi device had only started a few months before the grant of the patent in suit. There is no established market. Against this background, the present case is not comparable to that decided by the Court of Appeal. Unlike in that case, there was no established status quo at the time the patent in suit was granted that would have been changed by the order for provisional measures.

c. Weighing of interests

289. When weighing up the interests, it must be taken into account that the Court considers it more likely than not that there is an infringement of the patent in suit. Furthermore, the Defendants have failed to convince the Court that it is more likely than not that the patent in suit is invalid.

290. Contrary to the Defendants' view, the patent in suit does not only protect a marginal aspect of the device, but rather the entire frozen drink maker. The fact that the dispute has centred on the 'lever' does not change this.

291. All of these factors suggest that the Applicant's interest in enforcing its patent by ordering provisional measures outweighs the Defendants' interests. This is all the more true given that a decision on the merits could not to be expected before the Black Friday and Christmas shopping period this year. This was clear from the outset.

292. The fact that the Applicant has not yet filed an infringement action cannot be held against him. According to the Rules of Procedure, it is also possible for the applicant to start proceedings on the merits only after a provisional injunction has been issued (see R. 213 RoP; UPC_CoA_768/2024, Order of 30 April 2025, para. 109 – EOFlow v Insulet; UPC_CoA_61/2026, Order of 21 August 2026, para. 130 – SharkNinja v SEB). The reason for this is that applications for provisional measures are usually decided within a very short period of time. Conversely, this means that in cases where proceedings for provisional measures take a relatively long time, the applicant may have grounds for initiating main proceedings. If it fails to do so, this must be taken into account to his disadvantage when weighing up the interests involved (UPC_CoA_768/2024, Order of 30 April 2025, para. 109 – EOFlow v Insulet; UPC_CoA_61/2026, Order of 21 August 2026, para. 130 – SharkNinja v SEB). The Applicant had no grounds to initiate main proceedings before the preliminary injunction was issued. The application for provisional measures was filed on 7 August 2026. As the parties had been informed early on that the oral hearing was scheduled for 10 November 2026 and the Court had indicated at the same time that it had taken note of the submissions regarding Black Friday, the Applicant could reasonably have expected the PI proceedings to conclude relatively quickly.

293. The Court assumes in favour of the Defendants that it would be difficult to relaunch the challenged embodiment if the preliminary injunction were to be set aside, and that the

preliminary injunction results in a deterioration of Defendants' brand image among consumers, investors and distributors and the loss of credibility of the SEB companies among its distributors. However, given the likelihood that the patent is valid and infringed by the challenged embodiments is not remote, the Applicant´s interests prevail (see UPC_CoA_61/2026, Order of 21 August 2026, para. 131 – SharkNinja v SEB).

294. Although it cannot be ruled out that the Applicant may put forward further grounds for invalidity in possible appeal or main proceedings that could be successful, this is merely hypothetical and does not carry decisive weight in the balancing of interests (UPC_CoA_61/2026, Order of 21 August 2026, para. 132 – SharkNinja v SEB).

D. Legal consequences

295. The following applies to the legal consequences for which the Applicant is applying.

I. Preliminary injunction

296. In exercising its discretion (R. 209.2 RoP), the Court considers the grant of a preliminary injunction against Defendants 1., 2., 3. and 4. to be appropriate and justified (Art. 62(1), 25(a) UPCA). Only a preliminary injunction takes into account the Applicant's interest in the effective enforcement of the patent in suit.

297. There is no justification for the amendment to the wording of the injunction proposed by the Defendants. In general, in PI proceedings, a general injunction is admissible. The need for a limitation of the issued injunction to the specific infringing products cannot be inferred from Art. 62(1) UPCA (CoA_382/2024, Order of 14 February 2025, para. 157 – Abbott v Sibio). Moreover, the order must be read in its entirety, taking into account the grounds for interpreting the operative part. It is clear from this which product the Applicant has challenged in the present proceedings.

298. Defendants' argument that the case turns on the construction of a single structural term (lever), and the only product examined prima facie is the Freezi, is not convincing. They point out that even for that product, an injunction should be limited to the configuration allegedly reproducing claim 1, rather than extending to the product as a whole. However, the injunction is indeed limited in this sense if it reproduces the patent claim. Infringement was found in respect of the Freezi device in its current form, irrespective of whether this is expressly mentioned in the operative part. Any modification that falls outside the scope of protection is not covered by the operative part. Whether and to what extent modified versions of this product are still covered by the order will, if necessary, have to be clarified in possible enforcement proceedings.

II. Delivery up

299. According to Art. 62(3) UPCA, R. 211.1(b) RoP, the Court may order the seizure or delivery up of the products suspected of infringing a patent so as to prevent their entry into, or movement, within the channels of commerce.

300. The delivery up can, in addition to the injunction, prevent further infringing products from entering the market (see CoA_382/2024, Order of 14 February 2025, para. 165 – Abbott v Sibio). Defendants' argument that removing their stock of the product would cause irreversible harm which cannot be repaired is not convincing.

301. An order to deliver products is not the same as an order to destroy them. If the order is subsequently lifted, the products become available for distribution again. They are not destroyed solely as a result of this order.

302. The Defendants' proposed alternative wording of the order is not justified. In this regard, they submit that sealing by independent bailiffs at their expense achieves the same result through far less intrusive means.

303. However, the Applicant convincingly refers to the wording of Art. 62(3) UPCA, which provides for the seizure or delivery up, but not for the sealing. Moreover, it is unclear exactly how such sealing is to be carried out. The Defendants explain in their reply to the response that sealing requires only a visit by a judicial officer to inventory the goods and place seals, which can be carried out quickly and cost-efficiently. However, the Court cannot identify a sufficient legal basis for enforcement in this case or determine whether such a measure could actually be implemented at the enforcement stage.

304. It goes without saying that an order for the delivery of products can only cover those products which were placed on the market from the date on which the patent in suit was granted. The Court has therefore included this restriction in the order.

III. Information

305. Art. 67 UPCA applies to proceedings for provisional measures as well (CoA_382/2024, Order of 14 February 2025, para. 160 – Abbott v Sibio).

306. The Applicant's request is justified. The requested information will allow the Defendants to take appropriate action to prevent any further infringement within UPC territory (see CoA_382/2024, Order of 14 February 2025, para. 163 – Abbott v Sibio).

307. Defendants' argument that their distribution channels are a matter of public record is not convincing.

308. They further argue that disclosing the Defendants' supply chain and logistics partner to a direct competitor would cause irreversible competitive harm.

309. With regard to the information sought under motion III. ii ('the quantities delivered, received or ordered in all countries where patent EP 4 588 355 produces a unitary effect'), the Defendants argue that this information is primarily relevant to the calculation of damages. However, while it is true that information which is relevant only in relation to the calculation of damages cannot be ordered in PI proceedings (see CoA_382/2024, Order of 14 February 2025, para. 165 – Abbott v Sibio), this is not the case for the information in question. In Abbott v Sibio, the Court of Appeal has restricted the information only with regard to the prices, whilst the information on quantities was provided.

310. However, when drafting the order, the Court took into account that information is to be provided only for the period from the grant of the patent in suit onwards.

IV. Recall

311. Provisional measures are not limited to the measures that are explicitly stated in Art. 62 UPCA and R. 211.1 RoP (CoA_382/2024, Order of 14 February 2025, para. 160 – Abbott

v Sibio). The Court of Appeal points out that R. 211.1 RoP set out that the Court may 'in particular' order the provisional measures that are mentioned under (a) to (d), thus leaving open the possibilities that other measures may be ordered (CoA_382/2024, Order of 14 February 2025, para. 162 – Abbott v Sibio).

312. Given the circumstances of the case at hand, it is reasonable to order an obligation to recall.

313. In the light of the upcoming Black Friday and Christmas period, the Applicant has comprehensibly demonstrated that this measure is of crucial importance to safeguard Applicant's rights and secure the effectiveness of the provisional measures ordered. According to the Applicant, there is a high likelihood that Defendants will have already shipped large quantities of the attacked 'Freezi' device to retailers by the time of this order. Moreover, the Applicant pointed out that the Freezi device is sold to a significant extent through retailers, online shops, department stores, and the like. They also point specifically to previous proceedings between the parties and argue that the injuncted 'Cookeo Infinity' were still readily available weeks after the injunction. Therefore, a mere prohibitive injunction against the Defendants would not be sufficient to effectively stop sales of this device.

314. On this basis, the Applicant's interest in enforcing its patent effectively takes precedence in this case. As with an injunction, Defendants must accept the fact that the order to recall the products may damage their reputation as a consequence.

315. It is to the Defendants to reduce this damage to their reputation as much as possible. The Court considers it disproportionate to dictate the exact wording of the recall letter, as requested. Instead, the order sets out the minimum requirements for such a recall. The Defendants can then decide how to implement the recall in detail.

316. Only products placed on the market after the patent in suit was granted are to be recalled. This restriction has been included in the operative part of the judgement. There were no grounds for further restrictions on the recall, as sought by the Defendants in their auxiliary requests.

V. Applicant's and Defendants' requests for interim award of costs

1. General principles

317. Pursuant to Art 69 UPCA in conjunction with R. 150.2 and R. 211.1(d) RoP, the Applicant can request an interim award of costs. An interim award of costs may also be ordered in proceedings for provisional measures. This allows the successful party to recover, on an interim basis, at least part of the costs incurred from the unsuccessful party, pending the subsequent start and final conclusion of separate proceedings for cost decision as set out in R. 150 et seq RoP (UPC_CoA_317/202, Order of 28 November 2025, headnotes 8-9 and para. 97 - 99 – Barco v Yealink).

318. In general, the Court may assume that the successful party will be entitled to 50% of the applicable ceiling for recoverable costs, and may order reimbursement of that amount by means of an interim award, unless there are clear indications that the successful party in fact incurred fewer representation costs or that 50% of the applicable ceiling is

more than what would be reasonable or proportionate in the particular circumstances of the case. At the same time, as a general rule, the Court cannot assume that the successful party is entitled to more than 50% of the applicable ceiling before the conclusion of the costs proceedings according to Chapter 5 of Part 1 RoP. An exception may apply if parties have submitted and discussed cost specifications during the proceedings or agreed on the costs to be reimbursed (UPC_CoA_464/2024, Decision of 25 November 2025, para. 203 – Meril v Edwards; UPC_CoA_61/2026, Order of 21 August 2026, para. 136 – SharkNinja v SEB).

319. An interim award of costs up to the applicable ceiling for cost compensation effectively makes the procedure for cost decision pursuant to R. 150 et seq RoP largely redundant. While the Scale of ceilings for recoverable costs only applies to representation costs (see R. 152.2 RoP and Article 1(2) of the Scale of ceilings), and there can be additional costs in the form of recovery of court fees, costs of witnesses, costs of experts, and other expenses (see R. 151(d) RoP), representation normally forms the bulk of the costs. Even though the Court of First Instance has broad discretion in this matter, the Court of Appeal has considered that an interim costs award of up to equal to half of the ceiling is generally more appropriate. (UPC_CoA_317/202, Order of 28 November 2025, headnotes 8-11 and mn. 97 - 99 – Barco v Yealink).

2. Assessment

320. The Applicant requests an interim award of costs in the amount of EUR 75,900.00: EUR 19,900.00 in court fees and EUR 56,000.00 (1/2 of the ceiling) in attorney's fees.

321. The Defendants request an interim award of costs in the amount of EUR 56,000.00 (1/2 of the ceiling).

322. Taking into account that the application is dismissed with regard to Defendant 5. and besides successful, it is justified to grant the Applicant an interim award of costs of EUR 60,720.00 (80% of EUR 75.900,00) and Defendants of EUR 11,200.00 (20% of 56,000.00).

VI. Threat of penalty payments

323. The threat of penalty payments as requested by the Applicant is acceptable, particularly as the amounts are not fixed ('up to'). The price of the challenged products alone does not warrant a different assessment. In any event, the Court must carry out a case-by-case assessment when determining the amount. Against this background, the Court sees no reason to further limit the penalty payments at this stage, as proposed by the Defendants.

VII. Costs

324. The decision on costs follows the standards set by the Court of Appeal, according to which a decision on costs shall be made in inter partes proceedings for provisional measures, since it concludes the action (UPC_CoA_523/2024, Order of 3 March 2025, mn. 117 – Sumi Agro v. Syngenta).

It has been ordered that the Defendants 1., 2., 3. and 4., as the unsuccessful parties, have to bear most of the costs of the proceedings. However, as the application with regard to Defendant 5. was unsuccessful, it is justified to order the Applicant to pay 20%

of the costs.

VIII. (No) order for security

325. Where appropriate, the enforcement of a decision may, pursuant to Art. 82(2) UPCA, be subject to the provision of security or an equivalent assurance to ensure compensation for any damage suffered, in particular in the case of injunctions. For provisional measures, this is reflected in R. 211.5 RoP, first sentence, which states that the Court may order the applicant to provide adequate security for appropriate compensation for any injury likely to be caused to the defendant which the applicant may be liable to bear in the event that the Court revokes the order for provisional measures. Furthermore, according to R. 352.1 RoP, decisions and orders may be subject to the rendering of a security (whether by deposit or bank guarantee or otherwise) by a party to the other party for legal costs and other expenses and compensation for any damage incurred or likely to be incurred by the other party if the decisions and orders are enforced and subsequently revoked.

326. Where provisional measures are revoked, or where they lapse due to any act or omission by the applicant, or where it is subsequently found that there has been no infringement or threat of infringement of the patent, the Court may order the applicant, upon request of the defendant, to provide the defendant with appropriate compensation for any injury caused by those measures (R. 213.2 RoP). Pursuant to R. 354.2 RoP, where during an action an enforceable decision or order of the Court is subsequently varied or revoked, the Court may order the party which has enforced such decision or order, upon the request of the party against whom the decision or order has been enforced, to provide appropriate compensation for any injury caused by the enforcement.

327. A security order is not dependent on a request by one of the parties. If provisional measures are ordered without the defendant having been heard, the Court shall order the applicant to provide appropriate security, unless there are special circumstances that preclude this (R. 213.2 RoP, second sentence). While security is therefore normally ordered in ex-parte situations, the Court has a discretion when the Defendant has been heard (inter partes, see R. 211.5 RoP, first sentence, 'may', UPC_CoA_523/2024, Order of 3 March 2025, mn. 110 - 113 – Sumi Agro v Syngenta; UPC_CFI_213/2024 (LD Düsseldorf), Order of 10 July 2025, mn. 131 – Aesculap v. Shanghai International Holding; UPC_CFI_712/2025 (LD Düsseldorf), Order of 5 December 2025, mn. 402 – Roche v Menarini; UPC_CFI_723/2025, Order of 12 February 2026, para. 217 – Align v Angelalign).

328. As the Defendants do not request an order for security, nor put forward any facts that would justify such an order, the Court sees no reason to order the Applicant to provide security in this case.

VIII. Request for confidentiality

329. The Defendants requested that the order to provide evidence on compliance with the order to seal or deliver up provide information and any evidence as to compliance with the recall order is made conditional upon a confidentiality order against the Applicant to the effect that

1. the access to the information is restricted to Applicant's outside counsel and two representatives of Applicant who are named to the Defendants in advance and

2. the information may be used only for identifying other parties involved in the supply or distribution of the accused products for the purpose of asserting claims for alleged patent infringement against them.

330. They argue that the information is highly sensitive. It concerns non-public information about the Defendants' business relationships, supply chains, and commercial operations. Therefore, according to the Defendants, this information is confidential and must therefore be protected by a confidentiality order pursuant to R. 262A RoP.

1. Legal framework

331. Pursuant to R. 262A.1 RoP, a party may apply to the Court for an order that certain information contained in its pleadings or the collection and use of evidence in proceedings may be restricted or prohibited or that access to such information or evidence be restricted to specific persons.

332. Based solely on the wording of this provision, this is not the case. The Defendants are not seeking to protect confidential information contained in their pleadings. Rather, they are seeking protection for information that they are required to disclose under the operative part of the Court's decision or order.

333. However, as the Court of Appeal has already stated, R. 262A RoP applies at least mutatis mutandis. This already follows from the fact that, according to R. 190.1, second sentence, RoP, the Court may order that the evidence be disclosed to certain named persons only and be subject to appropriate terms of non-disclosure for the protection of confidential information. This is also applicable to communication of information 'as is specified in Art. 67 of the Agreement' pursuant to R. 191 RoP. The same must apply in cases where the court orders the communication of information pursuant to Art. 67 UPCA (UPC_CoA_930/2025, Order of 29 January 2026, para. 26 – EOFlow v Insulet; UPC_CFI_87/2025 (LD Düsseldorf), Decision of 23 July 2026, para. 397 – InterDigital v Disney; UPC_CFI_297/2025 (LD Düsseldorf), Decision of 2 September 2026, para. 369 – InterDigital v Disney).

334. The Court of Appeal has further stated that, if the defendant can reasonably foresee that the orders and evidence requested by the claimant may require the disclosure of confidential information, this should be raised by the defendant during the proceedings on the merits. This would allow appropriate measures to be taken to protect such confidential information, where necessary in the order or decision. Although it would still be possible to file a confidentiality request thereafter, confidentiality issues generally do not stay the time period set for compliance with a penalty reinforced order (UPC_CoA_699/2025, Order of 14 October 2025, para. 45 – Kodak v Fujifilm; UPC_CFI_87/2025 (LD Düsseldorf), Decision of 23 July 2026, para. 397 – InterDigital v Disney; UPC_CFI_297/2025 (LD Düsseldorf), Decision of 2 September 2026, para. 370 – InterDigital v Disney).

2. Case at hand

335. In accordance with these principles, the Court includes a limitation in the operative part of this order and issues a confidentiality order pursuant to R. 262A RoP alongside this order.

a. Limitation of the use of the information

336. The Court of Appeal has stated that there is no implicit limitation on the use of information received as a result of the other party's compliance with an order to communicate information pursuant to Art. 67 UPCA and R. 191 RoP (UPC_CoA_699/2025, Order of 14 October 2025, para. 45 – Kodak v Fujifilm). Therefore, imposing the limitation requested by the Defendants would restrict the Applicant's right to information. This is a matter of substantive law that must be examined in the proceedings on the merits. During these proceedings, it can be determined whether there are grounds to include such a restriction on the use of the information in the operative part of the decision (UPC_CFI_87/2025 (LD Düsseldorf), Decision of 23 July 2026, para. 400 – InterDigital v Disney; UPC_CFI_297/2025 (LD Düsseldorf), Decision of 2 September 2026, para. 372 – InterDigital v Disney)

337. A corresponding restriction on intended use can be included in the operative part of the order (see UPC_CFI_559/2024 (LD Düsseldorf), Decision of 28 April 2026, para. 268 – Quantificare v Canfield; see UPC_CFI_86/2025 (LD Mannheim), Decision of 16 June 2026, para. 195 – InterDigital v Disney; UPC_CFI_87/2025 (LD Düsseldorf), Decision of 23 July 2026, para. 401 – InterDigital v Disney; UPC_CFI_297/2025 (LD Düsseldorf), Decision of 2 September 2026, para. 373 – InterDigital v Disney).

338. These principles apply mutatis mutandis in PI proceedings. They also not only apply to the information to be provided, but also to any supporting documents required to prove the delivery up and recall.

339. The Applicant has not raised any specific objections to this limitation. Therefore, in exercising its discretion, the Court has refrained from disregarding the R. 262A RoP request (R. 9.2 RoP) and has included the requested limitation in its order.

b. Restriction of access

340. With regard to the further request to restrict the access to the information to Applicant's outside counsels and two representatives of the Applicant who are named to the Defendants in advance, the Court issues an order pursuant to R. 262A RoP alongside this order.

341. It is undisputed that all the information to be provided is confidential by its very nature. The Applicant did not contest the confidential nature of the information.

342. The names of the two internal individuals on the Applicant's side who are to be granted access, can be provided directly to the Defendants, prior to the information being given (UPC_CFI_87/2025 (LD Düsseldorf), Decision of 23 July 2026, paras. 402 seq. – InterDigital v Disney; UPC_CFI_297/2025 (LD Düsseldorf), Decision of 2 September 2026, para. 378 – InterDigital v Disney).

E. Value of the dispute

343. The Applicant considers an amount of EUR 1,000,000.00 as an appropriate amount for the application for provisional measures.

ORDER:

I. The Defendants 1., 2., 3. and 4. are ordered, individually and jointly, to cease and desist from offering, placing on the market, using, importing, or storing for those purposes, in all countries where patent EP 4 588 355 produces a unitary effect,

a frozen drink maker comprising: a housing comprising an upper housing section and a lever moveable relative to the upper housing section between a coupled position and an uncoupled position; a mixing vessel to mix a drink product; and a flexible seal between the upper housing section and the mixing vessel; wherein the lever couples the mixing vessel to the upper housing section when in the coupled position and uncouples the mixing vessel from the upper housing section when in the uncoupled position; wherein, when the lever is in the coupled position, the mixing vessel is sealed against the upper housing section by the flexible seal; and wherein the lever is rotatably coupled to the upper housing section;

which includes at least the frozen drink maker inter alia offered under the tradename 'Freezi'.

II. The Defendants 1., 2., 3. and 4. are ordered to deliver up to a bailiff, appointed by the Applicant, at their own expense, any product referred to in paragraph I. that has been in stock and/or otherwise held, owned, or in the direct or indirect possession of the Defendants in all countries where patent EP 4 588 355 produces a unitary effect since 5 August 2026, within one week after service of the order to be rendered, and to provide the Applicant's counsel with proper evidence of the full and timely compliance with the order within 10 days after the delivery up to the bailiff, for the purpose of safekeeping, which shall continue until a final decision has been made on the existence of a claim for destruction between the parties or an amicable settlement has been reached.

III. The Defendants 1., 2., 3. and 4. are ordered to provide the Applicant, within four weeks after service of the order, with a written statement as to the extent to which they – the Defendants – have committed the acts specified in paragraph I. since 5 August 2026, in the form of an orderly and electronically evaluable (searchable and sortable) list, specifying

i. the origin and distribution channels of the products referred to in paragraph I. (including the full names and addresses of the legal entities that are involved),

ii. the quantities delivered, received or ordered in all countries where patent EP 4 588 355 produces a unitary effect, as well as

iii. the identity of any third party involved in the production or distribution of the products referred to in paragraph I. in all countries where patent EP 4 588 355 produces a unitary effect (Art. 67(1) UPCA),

whereby the Defendants are further ordered to produce copies of the supporting documents in electronical form to substantiate the information rendered in ac-

cordance with paragraph III. of this order being allowed to redact confidential information outside the scope of this order,

IV. The Defendants 1., 2., 3. and 4. are ordered, within 14 (fourteen) working days after service of this order, to recall from the commercial customers the products described above under paragraph I. that have been placed on the market since 5 August 2026, with reference to the infringement of the products determined by the Court and with the binding promise to pay any fees and necessary packaging and transport costs, as well as customs and storage costs associated with the return.

V. The Applicant is ordered, subject to the final decision on the burden of costs, to pay an amount of EUR 11,200.00 as an interim award of costs pending the Decision on the costs of the proceedings.

The Defendants 1., 2., 3. and 4. are ordered, subject to the final decision on the burden of costs, to pay an amount of EUR 60,720.00 as an interim award of costs pending the Decision on the costs of the proceedings.

VI. The Defendants 1., 2., 3. and 4. are ordered

1. in the event of non-compliance with the order under I., to pay to the Court a penalty payment of up to EUR 1,000.00 per infringing product and/or, in the case of continuous infringement, such as offers on the internet, of up to EUR 200,000.00 per day for each act of noncompliance; and

2. in the event of non-compliance with the orders under II., III., and/or IV~~.~~ to pay to the Court a penalty payment of up to EUR 100,000.00 for each act of non-compliance.

VII. The information to provide evidence on compliance with the order to deliver up (paragraph II.), the information provided in accordance with paragraph III. and any evidence as to compliance with the recall order (paragraph IV.) may be only used for identifying the other parties involved in the supply or distribution of the challenged embodiment for the purpose of asserting claims for alleged infringement against them.

VIII. The above orders are effective and enforceable immediately.

IX. The application for provisional measures is dismissed in all other aspects.

X. The Applicant shall bear 20 % of the costs of these proceedings. The remaining costs shall be borne by Defendants 1., 2., 3. and 4.

XI. The value of the dispute is set at EUR 1.000.000,00.

Issued in Düsseldorf on 20 November 2026

NAMES AND SIGNATURES

Presiding Judge Thomas	Digitally signed Thomas Ronny 2026-11-20 07:18:03 +0100 Unified Patent Court Einheitliches Patentgericht Juridiction unifiée du brevet
Legally qualified Judge Dr Thom	Anna Bérénice Dr. THOM Digital unterschrieben von Anna Bérénice Dr. THOM Datum: 2026.11.18 17:38:37 +01'00'
Legally qualified Judge Rinkinen	Digitally signed Rinkinen Petri Olavi 2026-11-18 16:12:15 +0100 Unified Patent Court Einheitliches Patentgericht Juridiction unifiée du brevet
Technically qualified Judge Tilmann	Digitally signed Tilmann Max Wilhelm 2026-11-18 16:51:36 +0100 Unified Patent Court Einheitliches Patentgericht Juridiction unifiée du brevet
for the Sub-Registrar	LAURA CHANTAL DANIEL Digital unterschrieben von LAURA CHANTAL DANIEL Datum: 2026.11.19 07:15:26 +01'00'

Notice on the right on appeal:

The Applicant and the Defendants may bring an appeal against the present order within 15 days of service of this order (Art. 73(2)(a), 62 UPCA, R. 220.1(c), 224.2(b) RoP).

Information about enforcement (Art. 82 UPCA, Art. Art. 37(2) UPCS, R. 118.8, 158.2, 354, 355.4 RoP):

An authentic copy of the enforceable order will be issued by the Deputy-Registrar upon request of the enforcing party, R. 69 RegR.