

No. **34398/2025** (General Register of Civil Cases)



**COURT OF MILAN, 14TH CIVIL  
DIVISION  
SPECIALISING IN CORPORATE MATTERS - A**

The Judge, Dr Edmondo Tota, having lifted the reservation made at the hearing of 14 April 2026 in the *pre-trial* interim proceedings brought by application filed on 22 September 2025 by:

**PRESSES AND CISAILLES LEFORT S.A.** (also hereinafter “Lefort”),  
Tax No./VAT No. BE0406965973, with registered office at Gosselies  
(Belgium), rue Tahon 1A at B – 6041, represented and defended by Francesco  
Celluprica, Fabio Fischetti and Fabia De Bono, Solicitors;

-applicant-

against:

**C&G s.r.l.** (VAT No.: 03124220124), with its registered office in Daverio  
(VA), via Cesare Battisti No. 77, represented and defended by Prof. Giulio  
Enrico Sironi, Stefania Bergia and Anna Colmano, Solicitors;

-defendant-

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**GIVEN**

-that the claimant, Presses et Cisailles Lefort S.A. (hereinafter “Lefort”), invoking ownership of European patent No. EP 4 112 289 B1 (hereinafter “EP’289”) and Italian utility model No. 202025000000264, both claiming a shear press machine for ferrous scrap, has brought these interim proceedings *prior to the main action* in order to obtain, as a matter of urgency, the cessation of the infringing conduct carried out by the defendant C&G through the manufacture and marketing of the shear presses known as ‘CAT’ and ‘CATJ’;

-which, in the Lefort application, specifically requested: **1)** a declaration that the production, offering for sale and marketing by the defendant of the “CAT” and “CATJ” shear presses, identified by the product codes CAT8/CATJ8, CAT10/CATJ10, CAT11/CATJ11, CAT12/CATJ12, as set out in the technical opinion referred to in Doc. 1, or of any other machines with a different name but with the same characteristics, constitutes an infringement of European patent EP 4 112 289 B1 and Italian utility model patent No. 202025000000264, owned by the claimant;



2) consequently to prohibit the defendant from manufacturing, using, offering for sale, distributing, exporting, possessing, promoting, advertising and in any case using in any form the ‘CAT’ and ‘CATJ’ shear presses, identified by the product codes CAT8/CATJ8, CAT10/CATJ10, CAT11/CATJ11, CAT12/CATJ12; 3) to set a

a penalty of €50,000 for each breach of the forthcoming order, as well as a penalty of €5,000 for each day’s delay in its enforcement, pursuant to Article 614-bis of the Code of Civil Procedure; 4) to order the publication of the operative part of the forthcoming order, pursuant to Article 126 of the Code of Civil Procedure, for 30 days, in a prominent and clearly visible position, within 30 days of the order’s publication, in double the normal font size, on the defendants’ website and in the national daily newspaper ‘Il Corriere della Sera’, to be arranged by the applicant and at the defendants’ expense, to be paid in advance prior to publication upon presentation of a quotation;

-that by decree of 24 September 2025, a hearing was scheduled for 12 November 2025 for the hearing of the case, with a deadline for the defendant to enter an appearance by 7 November 2025;

-that on 7 November 2025 the defendant filed a statement of defence requesting the dismissal of the appeal on the grounds that the conditions of *fumus* and *periculum* were not met;

-that at the hearing on 12 November 2025, having considered it appropriate to order, pursuant to Article 132(5) of the Code of Civil Procedure, a court-appointed expert report to gather preliminary information regarding the validity of the intellectual property rights asserted in the appeal and the alleged infringement, the parties were invited to agree on the name of an expert, who was subsequently identified as Mr Andrea Mittler, an engineer, previously appointed as a court-appointed expert in proceedings

No. R.G. 24676/2023 pending between the same parties;

-that at the hearing on 10 December 2025, the court-appointed expert thus identified took the oath and was entrusted with the task, with the following question: ‘The court-appointed expert is asked, having examined the case files and the documents produced by the parties, and having carried out the necessary investigations regarding their respective allegations of infringement and invalidity: -whether the Italian portion of European patent No. EP 4 112 289 B1 and Italian utility model patent No. 202025000000264 meet the validity requirements contested by the Defendant; -whether the C&G s.r.l. shear presses contested in the application for interim relief, referred to as ‘CAT’ or by any other name, fall within the scope of protection of the aforementioned patent titles, as claimed by the Applicant;

-that the court-appointed expert filed his report on 31 March 2026,

-that at the hearing on 14 April 2026 the parties concluded as set out in the records;

#### CONSIDERING

-which, in the Lefort appeal, stated as a matter of fact:



- that it has been operating for over 70 years in the sector of the manufacture of presses, shears and mills for the scrap metal recycling industry;
- that ordinary proceedings are pending before this Court between the parties concerning the infringement of another European patent of the appellant (EP'333), registered under case number 24676/2023, preceded by interim proceedings for disclosure (case number 14980/2023);
- that European patent No. EP 4 112 289 B1 (Annex A1), relating to a '*Self-propelled* press-shear', was filed on 19 August 2022 as a divisional application of European patent application No. EP 17703917.9 / EP 3 405 333 (Annex A2), filed on 9 January 2017 in the name of Presses et Cisailles Lefort as international PCT application No. PCT/BE2017/000008, published on 27 July 2017 under No. WO 2017/124157A1 (Annex A3);
- that the European patent application EP'289 was published on 4 January 2023 and that on 27 September 2024 the Italian translation of the claims as published was filed under translation No. 51202400000038, and that supplementary application No. 822024000158296 was filed with an Italian translation of the set of claims under examination (Annex A1bis);
- that, pursuant to Article 54 of the Italian Industrial Property Code in conjunction with Article 67(1) of the European Patent Convention, the effects of European patent application EP'289 for the designation of Italy take effect from 27 September 2024;
- that the patent was granted on 28 May 2025 and on 24 June 2025 the relevant Italian translation No. 502025000023920 was provided to the UIBM (Annexes A4 and A5);
- that the purpose of the invention described in EP'289 is to provide a shear press that is more effective than those known in the prior art, overcoming the problems highlighted in the prior art, by equipping the shear press machine with autonomous remote-controlled mobility;
- that patent EP'289 comprises 15 claims, in which claims 1–5 relate to a shear press, claims 6–12 relate to an assembly comprising the shear press and a loading device, and claims 13–15 relate to a working method for the processing of ferrous scrap (Doc. 1, technical opinion);
- that Italian utility model patent No. 202025000000264 (hereinafter '*MU'264*' – Annex A6), relating to a '*Self-propelled shear press*', was filed on 21 January 2025 as a conversion pursuant to Article 58 of the Italian Industrial Property Code of European patent application No.



24202319.0 filed on 24/09/2024 (Annex A8), withdrawn on 25/09/2024 (Annex A9) and never published;

- that utility model MU'264 was granted on 28 February 2025 (Annex A6bis);
- that utility model MU'264 comprises 10 claims and also relates to a shear press for processing ferrous scrap, the objective of which is the same as that of patent EP'289, namely to overcome the problems highlighted in the prior art by equipping the shear press with autonomous remote-controlled mobility;

-that in the appeal, Lefort also raised the issue of *fumus boni iuris*:

- that the defendant markets shear presses known as 'CAT' and 'CATJ', namely scrap processing machines fitted with tracked undercarriages which differ from one another solely in that the 'CATJ' machines are additionally fitted with four stabiliser cylinders designed to ensure alignment with the ground when the machine is stationary;
- that these machines are identified by the product codes: CAT8/CATJ8, CAT10/CATJ10, CAT11/CATJ11, CAT12/CATJ12 at based on tonnes of cutting force for each machine model (from 800 to 1200 tonnes);
- that both categories of machines are further equipped with a remote control comprising two transmitters, one to operate the shear, and the other to manoeuvre the tracked vehicles for moving the machine;
- that, on the basis of the information obtained and in view of the findings of the technical opinion referred to in Doc. 1, the 'CAT' and 'CATJ' machines of C&G infringe the claimant's patent rights in that they reproduce all the technical features of claim 1 of European patent EP'289 as well as dependent claims 2, 3, 4, 6, 7, 8, 11, 12 and 13;
- that the defendant's machines also infringe the utility model patent MU'264 with regard to claims 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10;
- that there is also a *risk of delay*, since the infringement is ongoing and repeated, and is also carried out via the internet and social media;

#### CONSIDERING

-that, having appeared in court, the defendant C&G contested the existence of *fumus* and *periculum*, arguing:



- that, with regard to *periculum*, the grounds of urgency that should underpin an interim order are lacking, both because Lefort could have obtained and enforced both EP ‘289 and MU ‘264 years earlier, at around the same time as it enforced the other patent (EP ‘333) for which the proceedings on the merits for infringement, registered under Case No. 24676/2023, are pending; both because the press shears indicated by Lefort are not new products just launched on the market but form part of a range long advertised on the defendant’s website, in relation to which Lefort openly states that it acquired documentation even during the 2023 interim proceedings involving the same parties;
- that the passage of a considerable period of time is indicative of the absence of any damage that could be considered inherently irreparable and therefore of the non-existence of the requirement of *periculum in mora*;
- that as regards *fumus boni iuris*, EP ‘289 and MU ‘264 patents would be invalid under EPC law on the grounds of excessive scope, insufficient description, and lack of novelty and inventive step;

#### CONSIDERING

-that the court-appointed expert tasked with examining the validity of the patent and the possible infringement by the machines in respect of which the claimant alleged infringement concluded that:

- the European patent **EP-4112289B1** (EP’289) is **valid**;
- the Italian **utility model** patent No **20202500000264** (MU’264) is **valid**;
- the **shear presses** challenged in the application for interim relief infringe the scope of protection of **EP’289** and **IT’264**;

-that at the hearing following the submission of the court-appointed expert’s report, the parties did not raise any specific objections or requests for clarification regarding the expert’s reasoning and conclusions;

-that, in light of the conclusions drawn by the court-appointed technical expert on the basis of an exhaustive and logically sound assessment of the evidence, carried out following extensive technical cross-examination with the parties’ experts, which this Court considers to be correct, the requirement of *fumus boni iuris* is therefore satisfied, and therefore the infringement of the patent rights asserted by the claimant by the machines marketed by the defendant, identified in the claim by the



names “CAT” and “CATJ” and with the product product CAT8/CATJ8, CAT10/CATJ10, CAT11/CATJ11, CAT12/CATJ12;

**NOTED**

-that, with regard to the injunction sought by the applicant, pursuant to recital 22 of Directive 2004/48/EC, Member States of the European Union must establish provisional measures allowing for “*the immediate cessation of the infringement, without the need to await the decision on the merits, whilst respecting the rights of the defence, ensuring the proportionality of the provisional measures in accordance with the specificities of each situation and having adopted all necessary safeguards to cover the costs or damages caused to the defendant in the event of unfounded claims [...]*”;

- that recital 22 further states that such provisional measures “*appear particularly justified in cases where it is duly established that a delay could cause irreparable harm to the right holder*”, from which it may be inferred, by a process of deduction, that the measures in question are not admissible *only* where there is a risk of irreparable harm, but are particularly appropriate where there is a risk of irreparability, although they may also be adopted even where no such risk is present;

-that the interpretation favoured here is also supported by Article 9(1)(a) of Directive 2004/48/EC, pursuant to which Member States “*shall ensure that the competent judicial authorities may, at the request of the claimant: (a) issue an interim injunction against the alleged infringer to prevent any imminent infringement of an intellectual property right, or to prohibit, on a provisional basis and, where appropriate, subject to the payment of a financial penalty which may be repeated, where provided for by national law, the continuation of alleged infringements of that right, or to make such continuation subject to the lodging of guarantees intended to ensure the compensation of the rightholder ...*” [in the English version of the Directive: “or to make such continuation subject to the lodging of guarantees intended to ensure the compensation of the rightholder”] ...”;

-that, pursuant to Article 9(3) of Directive 2004/48/EC, furthermore, the judicial authority, with regard to the measure referred to in paragraph 1, must have the power to require the applicant to provide ‘any evidence reasonably available to establish with a sufficient degree of certainty that he is the right holder and that an infringement of that right is taking place or is imminent’, whereas proof of a risk of irreparable harm is not required [in the English version of the Directive: “The judicial authorities shall, in respect of the measures referred to in paragraphs

1 and 2, have the authority to require the applicant to provide any reasonably available evidence in order to satisfy themselves with a



sufficient degree of certainty that the applicant is the rightholder and that the applicant's right is being infringed, or that such infringement is imminent”];  
-that, furthermore, pursuant to Article 9(4) of the aforementioned Directive, Member States ‘*shall ensure that the measures referred to in paragraphs 1 [...] may, where appropriate, be adopted without the other party being heard, in particular where any delay could cause irreparable harm to the right holder*’;  
-that the requirement of irreparable harm cannot therefore be met (otherwise constituting a breach of Article 9 of Directive 2004/48/EC) as an indispensable prerequisite for the granting of interim measures to protect industrial property rights, given that irreparability may, if anything, justify the granting of urgent measures *without the other party being heard*, but the absence of that prerequisite cannot in itself justify the refusal of the measure;

#### CONSIDERING

-that the prerequisite for the interim injunction governed by Article 131 of the Industrial Property Code – which transposes Article 9 of Directive 2004/48/EC into national law – is therefore the existence of a “*sufficient degree of certainty*” as to the fact that the applicant is *the “right holder”* of the industrial property right for which protection is sought and that “*an infringement of that right is imminent or taking place*” (“a sufficient degree of certainty that the applicant is the rightholder and that the applicant’s right is being infringed, or that such infringement is imminent”);  
- whereas Article 700 of the Code of Civil Procedure is subject to the condition of irreparable harm in order to compensate for the atypical nature of the case; where the case is clearly defined, as in the case of patent infringement, the conditions for protection are those expressly set out in the relevant provision (in the case of Article 131 of the Industrial Property Code) and it is therefore sufficient that the infringement is ongoing or imminent;  
-that in the present case, the infringement of the claimant company’s rights, carried out through the sale on the market of the ‘CAT’ and ‘CATJ’ machines, is still undisputedly ongoing, and this is sufficient to consider the condition of *periculum* to be met;

#### CONSIDERING

-that the appeal should therefore be upheld, given that the requirements of Article 131 of the Italian Industrial Property Code are met;

#### CONSIDERING

-that it is therefore necessary to prohibit the defendant company from manufacturing, offering for sale and marketing the “CAT” and “CATJ” shear presses, identified by the product codes CAT8/CATJ8, CAT10/CATJ10, CAT11/CATJ11, CAT12/CATJ12, as they constitute an infringement of European patent EP 4 112 289 B1 and Italian utility model patent No. 202025000000264, owned by the claimant;  
-that in order to ensure the deterrent effect of the order to cease the infringement, it is appropriate, pursuant to Article 131(2) of the Italian Code of Civil Procedure,



to set a penalty pursuant to Article 614-bis of the Code of Civil Procedure which, in the absence of specific allegations by the claimant regarding the market price of the infringing products, may be set at €30,000 for each infringing product placed on the market after service of the injunction;

-that, following a summary assessment of the documents and on the basis of the facts reported by the claimant company, there are no grounds of such gravity as to warrant ordering the publication of the interim order, pursuant to Article 126 of the Italian Industrial Property Code;

**P.Q.M.**

Pursuant to Article 131 of the Italian Industrial Property Code, the appeal brought by Presses et Cisailles Lefort S.A. against C&G s.r.l. is upheld and, accordingly:

**1)** prohibits C&G s.r.l. from manufacturing, offering for sale, promoting, advertising and marketing the ‘CAT’ and ‘CATJ’ shear presses, identified by the product codes CAT8/CATJ8, CAT10/CATJ10, CAT11/CATJ11, CAT12/CATJ12;

**2)** sets a penalty of €30,000 for each breach of this order from the day following its service;

**3)** orders the defendant C&G s.r.l. to pay the costs of the interim proceedings in favour of the claimant Presses et Cisailles Lefort S.A., which it sets at €8,000.00 plus a lump-sum reimbursement, VAT and CPA, and in addition to the fees of the court-appointed expert, which are set in favour of Eng. Andrea Mittler at €12,000, plus statutory charges, as requested, taking into account the complexity of the work carried out and the urgency of the interim proceedings.

Please notify the parties and the  
court-appointed expert. Milan, 19  
April 2026

The appointed judge, Dr  
Edmondo Tota