

Apparatus for closing containers, Federal Court of Justice (Bundesgerichtshof), 07 October 2009

Kluwer Patent Blog
September 7, 2009

Clemens Rübel

Please refer to this post as: Clemens Rübel, 'Apparatus for closing containers, Federal Court of Justice (Bundesgerichtshof), 07 October 2009', Kluwer Patent Blog, September 7 2009, <http://patentblog.kluweriplaw.com/2009/09/07/apparatus-for-closing-containers-federal-court-of-justice-bundesgerichtshof-07-october-2009/>

The Federal Court of Justice confirmed the legal reasoning of the Federal Patent Court that a company that continued the business of another company, while it was founded independently from the continued company and does not take over the trade name under which it conducted business, is not bound by a non-contest clause between the continued company and the patent holder. This applies even to cases where the new company can be suspected to act as a straw man in order to evade the non-contest clause. This may violate the non-contest clause, but does not eliminate the right to sue of the new company in nullity actions against the patent.

The [full summary](#) of this case has been published on [Kluwer IP Law](#).