



Munich Local Chamber

File number: **ORD_562104/2023 UPC_CFI_14/2023**

Type of action: **Infringement lawsuit**

Procedural order of the Court of First Instance of the Unified Patent Court issued on: 17/08/2023

GUIDING PRINCIPLE: To ensure clarity, different applications must be submitted and processed in different workflows.

KEYWORDS: Large number of applications, different workflows, clarity, confusion, consolidation.

REFERENCE CODE ECLI: ...

Date of receipt of the statement of claim: June 1, 2023

Sanofi-Aventis Deutschland GmbH

(Defendant) - Höchst Industrial Park, Brüningstrasse 50 -
65926 - Frankfurt am Main - DE

Statement of claim served on 11/07/2023

Sanofi-Aventis Groupe SA

(Defendant) - 54 rue La Boétie - 75008 - Paris - FR

Statement of claim served on 11/07/2023

Sanofi Winthrop Industrie SA

(Defendant) - 82 avenue Raspail - 94250 - Gentilly - FR

Statement of claim served on 11/07/2023

Regeneron Pharmaceuticals Inc.

(Defendant) - 81 Columbia Turnpike - 12144 -
Rensselaer - US

Statement of claim served on July 19, 2023

PLAINTIFF

- | | | |
|----|--|------------------------|
| 1) | Amgen Inc.
(Plaintiff) - One Amgen Center Drive, Mail Stop
28-2-C - 91320-1799 - Thousand Oaks - US | Represented by:
XXX |
|----|--|------------------------|

DEFENDANT

- | | | |
|----|---|------------------------|
| 1) | Sanofi-Aventis Deutschland GmbH
(Defendant) - Höchst Industrial Park,
Brüningstraße 50 - 65926 - Frankfurt am
Main - DE | Represented by:
XXX |
| 2) | Sanofi-Aventis Groupe SA
(Defendant) - 54 rue La Boétie - 75008 -
Paris - FR | Represented by:
XXX |
| 3) | Sanofi Winthrop Industrie SA
(Defendant) - 82 avenue Raspail - 94250 -
Gentilly - FR | Represented by:
XXX |
| 4) | Regeneron Pharmaceuticals Inc.
(Defendant) - 81 Columbia Turnpike -
12144 - Rensselaer - US | Represented by:
XXX |

PATENT IN DISPUTE

Patent no.

owner

EP3666797

Amgen Inc.

DECISION JUDGE

REPORTER

Presiding Judge

Matthias Zigann

LANGUAGE OF THE PROCEDURE: German

SUBJECT OF THE CASE: Patent infringement

REQUESTS OF THE PARTIES

1)

In a letter dated July 21, 2023 (ORD_556750/2023 UPC_CFI_14/2023 - Workflow 2 "Separation of Defendant 4") was put into the room,

to hear the nullity action filed before the Munich Central Chamber Division against the patent in suit together with the infringement action, to the extent that it is admissible.

In this respect, the Central Chamber will soon make a decision on the objection under Rule 19 Constitutional Code.

2)

In a written statement dated August 10, 2023 (ORD_551192/2023 UPC_CFI_14/2023 - Workflow 1 "Separation of Defendant 4") applied for,

a. order that the lawsuit is deemed to have been filed on August 10, 2023, alternatively on June 20, 2023,

b. is deemed to have been served on June 20, 2023, so that the deadline for the objection (Rule 19) expires on September 11, 2023 and the deadline for the defense (Rule 23) expires on November 10, 2023;

alternatively:

c. to adapt the deadlines for the objection and the defense for defendants 1-3 to the deadlines for defendant 4.

3)

In a letter dated August 10, 2023 (ORD_560379/2023 UPC_CFI_14/2023 - Workflow "Uploading the attachments to the statement of claim") is requested,

to shorten the deadline for the defendant 4) to respond to the lawsuit so that it corresponds to the deadline for the defendants 1) to 3).

BRIEF STATEMENT OF THE FACTS

Service on defendants 1) to 3) took place on July 11, 2023 in accordance with Rule 271.1.c VerfO.

Service on defendant 4) also took place on July 19, 2023 in accordance with Rule 271.1.c VerfO.

Defendants 1) to 4) are represented by the same legal representative.

No attachments were filed with the statement of claim. Instead, the statement of claim states that the intention is to submit attachments as soon as delivery to the defendants by electronic means is possible. In a letter dated August 10, 2023 (ORD_560379/2023 UPC_CFI_14/2023 - Workflow "Uploading the attachments to the statement of claim"), attachments were uploaded in response to the rapporteur's order of August 9, 2023.

POINTS OF DISPUTE

The time of effective delivery is controversial. Both parties want the deadlines for the defendants to be aligned, but in different directions.

Due to the submission in different, partly already closed workflows, a confusing situation has arisen.

JUSTIFICATIONS FOR THE ORDER

Extensions and reductions in deadlines are possible according to Rule 9.3 VerfO after hearing the opposing side.

In order to maintain clarity within the different workflows ("arrangements"), it is necessary that a separate workflow is initiated for each topic. This was not taken into account here. As an exception, this order opens a separate workflow on the part of the court for the topics of calculating deadlines, shortening deadlines and extending deadlines.

The plaintiff's statements in the written statement dated July 21, 2023 (ORD_556750/2023 UPC_CFI_14/2023 - Workflow 2 "Separation of Defendant 4") with regard to a joint hearing of the infringement action and the nullity action are to be understood as a suggestion and not as a request. If the Chamber wishes to follow the suggestion, it will open a separate workflow for this purpose. If one of the parties would like to submit an application in this regard, a separate workflow would also have to be opened.

ARRANGEMENT

1. As an exception, applications submitted in the “wrong” workflows do not need to be submitted again.
2. For the current topics of deadline calculation, deadline extension or deadline reduction only use the local workflow.
3. The parties can comment on the respective requests for calculation of deadlines, extension of deadlines or shortening of deadlines until August 22, 2023.
4. The Chamber will consider the suggestion to hear the action for annulment together with the action for infringement after the Central Chamber's decision on the objection has been made. If you want to approach the suggestion, you will open a separate workflow for this purpose.

INFORMATION ON ARRANGEMENT

Order no. ORD_562104/2023 UPC_CFI_14/2023

Type of process: procedural ruling on the workflows

No. of the associated procedure: ACT_459916/2023 UPC_CFI_14/2023

Type of action: Infringement action

Dr. Zigann
Presiding judge and rapporteur