



**Order**  
**of the Court of First Instance of the Unified Patent Court**  
**in the main proceedings concerning European patent 3 646 825 issued on:**  
**05/03/2024**

**Guiding principles:**

1. An application to hold an interim hearing in person, which was previously planned as a video conference, can only be granted if an absolute necessity for this can be demonstrated due to the additional work involved for all parties.
2. Insofar as the infringing plaintiff has chosen German as the language of the proceedings for a patent granted in English and international parties, he must resolve the tension with his own choice of language in the context of an application for the court to provide simultaneous interpretation from German into English in favour of his own party.
3. In such a case, however, the infringing plaintiff is at liberty to make arrangements for simultaneous interpretation at his own expense in accordance with Rule 109.2 of the Rules of Procedure.

**Keywords:**

Application for the interim hearing to be held in person; chosen language of the proceedings; application for simultaneous interpretation to be provided by the court.

## KLÄGERIN

- 1)                    **Edwards Lifesciences Corporation**                    Represented by:  
(Plaintiff) - 1 Edwards Way - 92614 - Irvine   Elsa Tzschope  
- US

## DEFENDANTS

- 1)                    **Meril Ltd.**                    Represented by:  
(defendant) - Bornheimer Strasse 135-137   Andreas von Falck  
- 53119 - Bonn - DE
- 2)                    **Meril Life Sciences Pvt Ltd.**                    Represented by:  
(Defendant) - M1-M2, Meril Park,                    Andreas von Falck  
Survey No 135/2/B & 174/2  
Muktanand Marg, Chala, Vapi - 396 191  
Gujarat - Vapi - IN

## PATENT IN DISPUTE

<i>Patent no.</i>	<i>Owner</i>
<b>EP3646825</b>	Edwards Lifesciences Corporation

## DECIDING JUDGES

### COMPOSITION OF THE PANEL - COMPLETE COMPOSITION

Presiding judge and judge-rapporteur	<b>Matthias Zigann</b>
Legally qualified judge	<b>Tobias Pichlmaier</b>
Legally qualified judge	<b>Margot Kokke</b>
Technically qualified judge	<b>Stefan Wilhelm</b>

This order was issued by presiding judge Matthias Zigann as judge-rapporteur. LANGUAGE OF THE

PROCEEDINGS: German

### FACTS OF THE CASE

The plaintiff is suing the defendants 1 and 2 for infringement of European patent 3 646 825. The patent was granted in English. The action was filed in German. Defendants 1 and 2 are defending themselves with actions for revocation (CC\_584916/2023; CC\_585030/2023). An action for annulment brought by Meril Italy srl is pending before the Central Chamber in Paris (ACT\_551308/2023 UPC\_CFI\_255/2023). The appeal lodged against this was unsuccessful (App\_572915/2023).

The interim hearing was scheduled on 28/12/2023 (App\_597711/2023) for 14/03/2024. The judge-rapporteur ordered that the interim hearing be held by video conference.

By document dated 12/02/2024, the applicant claims that the Court should:

*"1. that the interim hearing of 14 March 2024 pursuant to R. 105.2 VerfO will take place on the premises of the Munich local division.*

*2. to order simultaneous interpreting for the interim hearing on 14 March 2024 for the languages German-English for the technical field of "medical devices", in particular "heart valve prostheses", in accordance with R. 109.1 VerfO."*

The plaintiff argues that the representatives of the US-based plaintiff and the plaintiff's legal representatives, Siddharth Kusumakar and Tessa Waldron from the law firm Powell Gilbert (Europe) LLP, do not speak German.

The order for simultaneous interpretation was necessary for her participation in the interim hearing.

By provisional order dated 15/02/2024, the judge-rapporteur invited the defendants to submit their observations on the application as follows:

*"It should be noted in advance that, as things stand today, the two applications will probably not be granted.*

*1. The interim hearing was previously planned as a pure video conference. A change would also have a negative impact on the operation of the Munich II Regional Court, which also uses the courtroom. Short-term changes should therefore be limited to what is absolutely necessary. It has neither been submitted nor is it otherwise apparent why it is now necessary to hold the hearing in person. The increased expense for all parties involved must also be taken into account.*

*2. The patent in suit was granted in English. The plaintiff is based in the USA, the defendant 2 in India. The only company based in Germany is defendant 1, a subsidiary of defendant 2. Nevertheless, the application was filed in German. The current application appears to be in a certain tension with this choice of language, which has not yet been resolved.*

*3. The President of the Court of First Instance has subsequently allocated a legally qualified judge and a technically qualified judge with German language skills. Against this background, there is currently no reason for the court to organise simultaneous interpreting from German to English itself. In the event of a final refusal, the plaintiff is free to make arrangements for simultaneous interpretation at its own expense in accordance with Rule 109.2 of the Rules of Procedure. In this case, the court would send the private interpreters an invitation to the court video conference by email.*

*4. Even if on-site interpreting is nevertheless ordered, the interpreters would have to participate via video conference. This is because there are no interpreting booths available on site. Whispered interpreting is not (or no longer) permitted due to the considerable disruption this would cause to the proceedings. Participants who wish to listen to the interpretation in the meeting room would have to dial into the interpreter video conference provided by the interpreters on site using their own equipment."*

In a document dated 23/02/2024, the plaintiff responded (App\_9763/2024):

*"We no longer adhere to our application of 12 February 2024 to hold the interim hearing on 14 March 2024 at the premises of the Munich local division and agree to the interim hearing as a video conference as planned by the court.*

*2. we also no longer adhere to our application for simultaneous interpreting pursuant to R 109.1 of the Rules of Procedure. After consultation with the defendant's legal representatives, the parties will instruct an interpreter in accordance with R 109.4 of the Rules of Procedure and divide the costs incurred for this equally between the plaintiff and the defendant. The defendant's authorised representatives have*

*expressly agrees to this procedure, which is hereby confirmed by a lawyer."*

The defendants confirmed this representation in a document dated 26/02/2024.

REASONS

Due to the withdrawal of the application, a decision is no longer necessary. The activities of private interpreters in the context of the video conference must be authorised. The workstream can be closed.

ORDER

1. A decision is no longer necessary.
2. Private interpreters must be admitted to the video conference.
3. The workstream is closed.

Dr Zigann  
Presiding judge and judge-rapporteur

Matthias ZIGANN  Digitally signed by Matthias  
ZIGANN  
Date: 2024.03.05 15:16:26 +01'00'

DETAILS OF THE ORDER

UPC number:	UPC_CFI_15/2023
Infringement action number:	ACT_459987/2023 Invalidity
counterclaims numbers:	CC_584916/2023; CC_585030/2023
Order number:	App_7662/2024
Type of order:	R 105.2, 109.4