Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Court of First Instance
UPC_CFI_501/2023
ACT_597277/2023

ORDER
of the Court of First Instance of the Unified Patent Court
Local Division Munich
issued on 9 April 2024
regarding R.9 RoP extension request

headnote: R.9.3 RoP request. Extension of deadline to file SoD rejected. Language change in the circumstances of this case not considered a justification for such extension.
Keywords: R.9.3 RoP extension request. Rejected.

PARTIES

1)	**Edwards Lifesciences Corporation** (claimant)- One Edwards Way - 92614 - Irvine - US	Represented by: Boris Kreye
2)	**Meril GmbH** (defendant) - Bornheimer Straße 135-137 - 53119 - Bonn - DE	Represented by: Andreas von Falck
3)	**Meril Life Sciences Pvt. Ltd.** (defendant) - M1-M2, Meril Park, Survey No 135/2/B & 174/2, Muktanand Marg, Chala, - 396 191 Gujarat - Vapi - IN	Represented by: Andreas von Falck
4)	**Meril Italy S.r.l.** (defendant) - Piazza Tre Torri 2 - 20145 - Mailand - IT	Represented by: Andreas von Falck

PATENT AT ISSUE

Patent No.	*Proprietor*
EP 3 669 828	Edwards Lifesciences Corporation

DECIDING JUDGE

The full panel in the main proceedings is composed as follows:
Presiding judge – Matthias Zigann
Legally qualified judge – Tobias Pichlmaier
Technically qualified judge – Stefan Wilhelm
Legally qualified judge/Judge-rapporteur (JR) - Margot Kokke

This order is issued by the JR.

LANGUAGE OF THE PROCEEDINGS

English

BACKGROUND AND REQUEST

1. With the agreement of both parties and the panel the language of the proceedings was changed (from German) to English by (preliminary) order of 27 March, 2024.

2. Together with its submission accepting the language change in workflow ORD_15012/2024, defendants requested to extend the period of filing of their next pleadings (statement of defence, "SoD") with three weeks from 26 April, 2024 to 17 May, 2024. The request to extend the term was also – correctly - submitted as a separate R.9.3 RoP-application in a new workflow (App_16619/2024).

3. The reason given by defendants for the extension request is that the language was changed, and the proposal to change the language was made on 20 March, 2024. According to defendants, an extension of three weeks for the filing of the SoD is hence justified, in view of, i.a., the principle of fair trial.

4. In both workflows, claimant was given the opportunity to reply to the request, which it did. It objects to the requested extension and requests the court to reject it. With reference to the considerations of the UPCA (No. 6), the preamble to the RoP (No. 7) and an order of the Paris Central Division of 20 February, 2024[1], it points out that the extension of deadlines in proceedings before the UPC should only be granted in exceptional circumstances, which are not at issue here.

[1] UPC_CFI_454/2023; App_8391/2024; nos. 16 to 18

GROUNDS

5. The deadline to submit a written submission in proceedings before the UPC should not be extended lightly, in view of the principle of ensuring expeditious decisions and to avoid delay, and should only be granted in circumstances that justify such extension.

6. By order of 8 February, 2024 (App_3489/2024) the term for defendants to file their SoD was extended to 26 April, 2024, with the agreement of the claimant. Defendants have failed to substantiate – other than with a general reference to 'fair trial'– why the language change one month before the deadline for filing the SoD, in the circumstances of this case makes that the these defendants will not be able to meet the deadline of 26 April, 2024, or are actually hindered in that respect. The JR takes into consideration, as also claimant points out, that in this case the SoD, also when it was drafted in German by counsel for defendants, would have to be made available in English as well in order to be shared with the defendants. Furthermore the time frame of one month to adjust to the language change, is considered sufficient. This is not so short that it is likely to hinder the defendants in their preparations, or in any case, this was not substantiated.

7. In view of the above, in the absence of a plausible justification thereto, the requested extension of the deadline to file the SoD by three weeks will not be granted.

8. The language change was confirmed in the (partly) preliminary order of 27 March, 2024, already. As this is a final order, the change will be confirmed once more below.

9. In order to close both workflows in the CMS this final order will be uploaded in both workflows (15012/2024 and 16619/2024).

ORDER

On these grounds and after hearing the parties,

1. The change of language of the proceedings from German to English effective 27 March 2024 is confirmed.
2. Defendants' request to extend the deadline to file its statement of defence is rejected.

DETAILS OF THE ORDER

Order number: ORD_15012/2024 and ORD_16619/2024
UPC case number: UPC_CFI_501/2023
CMS number of main proceedings: ACT_597277/2023
Type of proceedings: infringement action

Issued on 9 April, 2024

Margot Elsa KOKKE

Digitally signed by Margot Elsa KOKKE
Date: 2024.04.09 14:34:37 +07'00'