



Appeal n°:
UPC_CoA_805/2024
APL_65956/2024
App_8290/2025

ORDER
of the Court of Appeal of the Unified Patent Court
issued on 03 March 2025
Withdrawal pursuant to R. 265 RoP

APPELLANT (DEFENDANT IN THE PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

Curio Bioscience, Inc, Palo Alto, California, USA (hereinafter “**Curio**”)

represented by Cameron Marshall, patent attorney, and Agathe Michel-de Cazotte, attorney-at-Law,
Carpmaels & Ransford LLP

RESPONDENT (APPLICANT/CLAIMANT IN THE PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

10x Genomics, Inc., Pleasanton, California, USA (hereinafter “**10x**”)

represented by Prof. Tilmann Müller-Stoy, Martin Drews and Kerstin Galler, attorneys-at-law, Bardehle
Pagenberg, Partnerschaft mbB Patentanwälte Rechtsanwälte

PATENT AT ISSUE

EP 2 697 391

DECIDING PANEL

Panel 1b

Klaus Grabinski, President of the Court of Appeal,
Emmanuel Gougé, legally qualified judge and judge-rapporteur
Emanuela Germano, legally qualified judge

LANGUAGE OF THE PROCEEDINGS

English

IMPUGNED ORDER OF THE COURT OF FIRST INSTANCE

□ Order of the Court of First Instance of the Unified Patent Court, Düsseldorf Local Division, dated 03 December 2024

□ Numbers attributed by the Court of First Instance:

UPC_CFI_140/2024

ACT_15774/2024

App_48598/2024

ORD_48718/2024

SUMMARY OF FACTS AND PARTIES' REQUESTS

1. 10x has brought an action for infringement of the patent at issue against Curio in the Düsseldorf Local Division of the UPC Court of First Instance.
2. On 03 December 2024, the Düsseldorf Local Division ordered Curio, *inter alia*, to provide security for legal costs and other expenses to 10x in an amount of EUR 200,000 within four weeks from the date of service of the order and granted leave to appeal (impugned order).
3. On 13 December 2024, Curio filed an appeal under Rule 220.2 RoP (APL_65956/2024 UPC_CoA_805/2024) against the impugned order.
4. On 7 January 2025, 10x filed the Statement of response.
5. On 7 February 2025, the judge-rapporteur issued a procedural order pursuant to Rule 108 RoP.
6. In its response to the procedural order, Curio filed on 14 February 2025 an application to withdraw the appeal pursuant to Rule 265 RoP.
7. By procedural order of 19 February 2025, 10x was given the opportunity to comment on Curio's request for withdrawal of the appeal and has not filed any comments in this regard within the granted time period.

GROUND

8. As long as there is no final decision in an action, a claimant may, pursuant to Rule. 265.1 RoP, apply to withdraw his action. The application to withdraw shall not be permitted if the other party has a legitimate interest in the action being decided by the Court. R. 265.1 RoP applies *mutatis mutandi* on the withdrawal of an appeal (see UPC Court of Appeal, 19 February 2025 UPC_CoA 844/2024, APL_68522/2024 para 6), including an appeal pursuant to R. 220.2 RoP.
9. Considering that 10x has not filed any comments on Curio's request for withdrawal of the appeal and has therefore not objected to the request, it cannot be considered to have a legitimate interest in the appeal being decided by the Court. Thus, the application to withdraw the appeal can be permitted.

ORDER

The Court of Appeal:

- (i) permits the withdrawal of the appeal (APL_65956/2024, UPC_CoA_805/2024) and declares the proceedings closed;
- (ii) orders that this order shall be entered on the register;
- (iii) declares that there is no need for a cost decision.

This order is issued on 03 March 2025

Klaus Grabinski, President of the Court of Appeal

Emanuela Germano, legally qualified judge

Emmanuel Gougé, legally qualified judge and judge-rapporteur