



Milan - Central Division - First
Instance - central division

UPC_CFI_476/2024
Procedural Order
of the Court of First Instance of the Unified Patent Court
delivered on 22/04/2025

Claimants

Pfizer Inc.
Pfizer Europe MA EEIG
Pfizer B.V.
Pfizer S.A.
Pfizer Manufacturing Belgium S.A.
Pfizer Service Company S.R.L.
Pfizer Pharma GmbH
Pfizer Limited

Counterclaimants

Pfizer Corporation Austria GmbH
Pfizer Aps
Pfizer Oy
Pfizer SAS
Pfizer S.R.L.
Laboratórios Pfizer, Lda
Pfizer AB
Pfizer Luxembourg S.A.R.L.

Represented by Gareth Williams

Defendant

GlaxoSmithKline Biologicals SA

Represented by Oliver Jan Juengst and Dr. Daniela Kinkeldey

PATENT AT ISSUE

Patent no.

Proprietor/s

EP4183412

GlaxoSmithKline Biologicals S.A.

DECIDING JUDGE: Full panel

COMPOSITION OF PANEL – FULL PANEL

Presiding judge	Andrea Postiglione
Judge-rapporteur	Anna-Lena Klein
Technically qualified judge	Steen Lyders Wadskov-Hansen

LANGUAGE OF PROCEEDINGS: English

SUBJECT-MATTER OF THE PROCEEDINGS

Application to withdraw the application to amend the patent pursuant to R. 30, 49

SUMMARY OF FACTS

On August 14th, claimants and counterclaimants (referred to collectively as “Pfizer”, except where otherwise stated) filed a revocation action against defendant GlaxoSmithKline Biologicals SA (referred to as “Glaxo” in the following), concerning EP 4 183 412, entitled “RSV F protein compositions and methods for making same” (referred to as “EP412”) with the Milan Central Division. The revocation action was served to defendant on September 16th, 2024.

On August 5th, Glaxo had already filed an infringement action concerning the same patent against fourteen entities within the Pfizer Group with the LD Duesseldorf.

On November 14th, 2024, Pfizer lodged a counterclaim for revocation (“counterclaim”) in the infringement proceedings before the Local Division Duesseldorf (CC_ 60908/2024). In both proceedings, Glaxo filed an application to amend the patent (in the infringement proceedings before the LD Duesseldorf: 2086/2025, in the revocation proceedings before the CD Milan: (2019/2025). Pfizer and Glaxo unanimously asked the Local Division Duesseldorf to refer the counterclaim to the Central Division Milan. By order of 4 March 2025, the counterclaim and the application to amend the patent filed in the infringement proceedings were referred to the Milan Central Division.

Prior to the closure of the written procedure, Pfizer, by brief dated April 10th, requested that the withdrawal of the revocation action and the counterclaim for revocation be allowed, and requested the reimbursement of 60 % of the court fees. Pfizer also stated that a cost decision is not requested or, in the alternative, the Court is requested to order that each party bears the costs

it has incurred in the present proceedings, including the costs of the proceedings and the fees of its counsel.

On April 10th/ 11th, 2025, Glaxo agreed to the withdrawal of the revocation action and the counterclaim for revocation (see respective briefs filed under App_17656/2025, UPC_CFI_476/2024 and App_17784/2025 UPC_CFI_687/2024). They requested that the withdrawal of their applications to amend the patent be allowed. Glaxo also informed the Court that the parties have agreed that there should be no decision as to costs or, in the alternative, no costs decision against either the Claimant or the Defendants.

Pfizer agreed to the withdrawal of the applications to amend the patent.

GROUND FOR THE ORDER

The decision to allow the withdrawal of the revocation action and the counterclaim for revocation follows the parties' jointly expressed will.

Hereby, the applications to amend the patent become irrelevant. Thus, there is no need for an explicit allowance of the withdrawal of the applications to amend the patent (cf. UPC_CoA UPC_CoA_629/2024 APL_58696/2024 App_66724/2024 App_68614/2024 et alii, Order of 15 January 2025 - Avago v. Tesla).

Although R. 265.2(c) RoP provides that a decision on costs is to be taken in accordance with Part 1, Chapter 5, no decision on costs is required here: both parties have declared that a cost decision is not requested (cf. UPC_CoA_569/2024, Order of 24 January 2025 – DexCom v. Abbott). The order to reimburse the Claimant/ Counterclaimant 60 % of the court fees is based on R. 370.11 RoP, R. 370.9(b)(i) RoP.

ORDER

1. The withdrawal of the revocation action (ACT_45928/2024) and the counterclaim for revocation (CC_60908/2024) are allowed at the application of the Claimants/ Counterclaimants and with the consent of the Defendant.
2. The proceedings referred to in point 1. are declared closed.
3. This decision shall be entered in the register.
4. A cost decision is not required.
5. The Registrar is directed to reimburse the Claimant as soon as possible 60 % of the Court fees paid by the Claimants in the court proceedings in relation to the revocation action and 60 % of the Court fees paid by the Counterclaimants in the court proceedings in relation to the counterclaim.
6. The value in dispute for the revocation action and the counterclaim for revocation is set at more than EUR 50,000,000,-.

ORDER DETAILS

Order no. ORD_18710/2025 in ACTION NUMBER: ACT_45928/2024

UPC number: UPC_CFI_476/2024

Action type: Revocation Action

Related proceeding no. Application No.: 17656/2025

Application Type: Application for leave to withdraw an action (RoP265)

Signed on April 22nd, 2025

Presiding Judge Andrea Postiglione	
Legally Qualified Judge Anna-Lena Klein	
Technically Qualified Judge Steen Lyders Wadskov-Hansen	
For the Sub-Registrar	