



Düsseldorf local division
UPC_CFI_504/2023

Procedural order
of the Court of First Instance of the Unified Patent Court
issued on 20 May 2025
concerning EP 1 970 677 B1

Claimant:

1. **F. Hoffmann-La Roche Ltd**, represented by its Board of Directors, which is represented by its Chairman Dr Severin Schwan, Grenzacherstraße 124, 4058 Basel, Switzerland
2. **Roche Diabetes Care GmbH**, represented by its Managing Director Marcel Hunn, Sandhofer Straße 116, 68305 Mannheim, Germany

represented by:

Attorney Dr Christof Augenstein, Attorney Sophie Prudent, LL.M., Attorney Dr Katharina Brandt, Kather Augenstein Rechtsanwälte PartGmbH,
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Contributing:

Patent attorney Dr Thomas Kronberger, Grünecker Patent- und Rechtsanwälte PartGmbH, Leopoldstraße 4, 80802 Munich, Germany

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Defendant:

1. **Tandem Diabetes Care, Inc.**, represented by its legal representatives, 12400 High Bluff Drive, CA 92130, San Diego, United States of America
2. **Tandem Diabetes Care Europe B.V.**, represented by its legal representatives, Schiphol Boulevard 359, WTC Schiphol Airport, D-Tower 11th floor, 1118 BJ, Schiphol, The Netherlands
3. **VitalAire GmbH**, represented by its Managing Director Mr Mohamed Moez Karaoud, Bornbach 2, 22848 Norderstedt, Germany
4. **Dinno Santé s.a.i.**, represented by its legal representatives, 1 Rue Raoul Follerau, 77600 Bussy-Saint-Georges, France
5. **Air Liquide Healthcare Nederland B.V.**, represented by its legal representatives, Archimedeslaan 11, 8218 ME Lelystad, The Netherlands

6. **Rubin Medical ApS**, c/o Diatom A/S, represented by its legal representatives, Avedøreholmen 84, 2650 Hvidovre, Denmark

Defendants 1), 2) and 6) represented by: Lawyer Roland Küppers, lawyer Dr Alexander Rubusch, Taylor Wessing Partnerschafts-sellschaft mbB, Benrather Straße 15, 40213 Düsseldorf, Germany

Charlotte Garnitsch, Taylor Wessing N.V., Kennedyplein 201, 5611 ZT Eindhoven, Netherlands

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Defendants 3), 4) and 5) represented by: Rechtsanwältin Dr Christine Kanz, Patentanwalt Dr Tung-Gia Du, Hoyng Rokh Monegier, Steinstraße 20, 40212 Düsseldorf

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PATENT AT ISSUE:

European Patent No. EP 1 970 677 B1

PANEL/CAMBER:

Panel of the Düsseldorf local division

CONTRIBUTING JUDGES:

This Order was issued by the legally qualified judge Dr Schumacher as rapporteur.

LANGUAGE OF THE PROCEEDINGS: German

SUBJECT: R. 262A RoP - Protection of confidential information

REASONS FOR THE ORDER:

I.

The application of the defendants 1), 2) and 6) for the protection of trade secrets and other confidential information is admissible and is successful on the merits.

1.

Article 9(1) and (2)(a) of Directive (EU) 2016/943 provides that, in judicial proceedings, access to documents submitted by the parties or third parties containing trade secrets or alleged trade secrets may, on application, be restricted in whole or in part to a limited number of persons. The protection of confidential information is provided for in the UPCA in Art. 58 and implemented in the Rules of Procedure of the Unified Patent Court in R. 262A (see UPC_CFI_54/2023 (LD Hamburg), Order of 23 November 2023 - Avago Technologies International). November 2023 - Avago Technologies International v. Tesla Germany; UPC_CFI_463/2023 (LD Dusseldorf), Order of 11 March 2024 - 10x Genomics v. Curio Bioscience; UPC_CFI_16/2024 (LD Düsseldorf), Order of 22 April 2024 - Ortovox v. Mammut).

2.

The formal requirements standardised by R. 262A.2 and 3 RoP have been complied with. The plaintiffs' representatives were also heard before a protection order was issued, as required by R. 262A.4 RoP. They made use of the opportunity granted to them to comment.

II.

The plaintiffs have rightly raised no objections to the classification of the information mentioned under 1. of the operative part as confidential, so that no further explanation is required in this respect. However, the plaintiffs rightly pointed out that Annex BBY 9 was only uploaded to the CMS in the redacted version. The version of Annex BBY 9 labelled as "unredacted" is identical to the version labelled as "redacted".

The group of authorised persons corresponds to the unanimously declared will of the parties, whereby the named representatives of the plaintiffs were appointed by the plaintiffs in accordance with the application of the defendants 1), 2) and 6).

ORDER:

1. The information contained in the text sections highlighted in grey in the unredacted version of the document of 13 May 2025 (application pursuant to R. 352 RoP, App_22466/2025) and the information contained in the unredacted versions of Annexes BBY 1, BBY 6 (with translation BBY 6a) and BBY 9 (with translation BBY 9a), which is redacted in the redacted versions of the aforementioned annexes,

- are classified as confidential within the meaning of Art. 58 UPCA, R. 262.2 RoP.
2. Access to the information mentioned under 1. is restricted on the part of the plaintiffs to:
 - a) the authorised representatives of the plaintiffs in the present proceedings,
 - b) the auxiliary persons of the authorised representatives (including experts and their team members),
 - c) [...], Head Strategic IP Solutions at Claimant 1),
 - d) [...], Lead Patent Counsel Strategic IP Solutions at Roche Diagnostics GmbH.
 3. The information classified as confidential in clause 1. shall be treated as such by the persons referred to in clause 2. The information classified as confidential in Section 1 shall be treated as such by the persons named in Section 2 until further notice and may not be used or disclosed outside these legal proceedings unless it has come to the knowledge of the receiving party outside these proceedings, unless the receiving party has received it on a confidential basis from a source other than the defendants 1), 2) and 6) or their affiliated companies and this source is not bound by a confidentiality agreement with the defendants 1), 2) and 6) or their affiliated companies or by another confidentiality obligation.
 4. In the event of culpable violation of this Order, the court may impose a penalty payment to be determined according to the circumstances of the individual case for each case of violation.
 5. The defendants 1), 2) and 6) are ordered to provide the unredacted version of Exhibit BBY 9 to the plaintiffs with reference to this confidentiality order. This can be done by e-mail to the plaintiffs' authorised representatives, with the court being placed in cc.

ORDER DETAILS:

App_23079/2025 Main file reference ACT_597323/2023, CC_20972/2024 and CC_21542/2024

UPC number: UPC_CFI_504/2023

Type of proceedings: Action for infringement and action for annulment

Issued in Düsseldorf on 20 May 2025 NAMES

AND SIGNATURES

Judge Dr Schumacher

Jule Kathrin Schumacher Digitally signed by
Jule Kathrin
Schumacher
Date: 2025.05.20
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