Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

UPC_CFI_587/2025

ORDER
of the Court of First Instance of the Unified Patent Court
Local Division in The Hague
issued on 22 October 2025
concerning EP 3 988 471 (R.211 provisional measures)

APPLICANT

Abbott Diabetes Care Inc.
1360 South Loop Road –
CA 94502 - Alameda - US

Represented by: Christian Dekoninck

DEFENDANTS

1) **Sinocare Inc.**
no. 265, Guyuan Road,
Hi-tech Zone - 410205 –
Changsha,
Hunan Province CN

Represented: by Tjibbe Douma

2) **A.Menarini Diagnostics s.r.l.**
Via Sette Santi 3
50131 - Firenze - IT

Represented by Edoardo Barbera

PATENT AT ISSUE

European patent with unitary effect **EP3988471**

PANEL

Panel of the local division in The Hague

DECIDING JUDGES

This order has been issued by presiding judge Edger Brinkman, judge-rapporteur Margot Kokke, legally qualified judge Camille Lignieres and technically qualified judge Alain Dumont.

LANGUAGE OF PROCEEDINGS: English

I. BACKGROUND AND SUMMARY OF THE FACTS

The parties and the products

1. Applicant, Abbott Diabetes, hereafter Applicant or “Abbott”, develops and is a market leader in solutions for continuous glucose monitoring ("**CGM**") systems for diabetes in Europe where it claims to have a market share of 80%. In 2014 it launched the FreeStyle Libre CGM system, with an easy-to-use and accurate CGM, which was factory calibrated, meaning the user did not have to calibrate the device using finger-pricks. Abbott has continued to innovate the FreeStyle Libre since, with the latest version named the FreeStyle Libre 3 Plus. All versions are collectively referred to as FreeStyle Libre. The device comprises an applicator (i.e., an insertion device), an on-body unit consisting of an analyte sensor (sensing for glucose) and sensor electronics as an integrated unit, and a display device (such as a reader or smartphone) with software and functionality to facilitate the user's management of the glucose data. The applicator and the corresponding on-body unit (“OBU”, including an analyte sensor and sensor electronics) for several versions of the FreeStyle Libre are depicted below.

	FreeStyle Libre (2014)	**FreeStyle Libre 2 (2018)**	**FreeStyle Libre 3 (2020)**
Applicator			
On body unit			

2. Defendant 1, “Sinocare”, manufactures and distributes CGM systems internationally. Sinocare is a Chinese company that was established in 2002 and is headquartered in Changsha, China. Sinocare is the largest manufacturer of CGMs in Asia. Sinocare manufactures, inter alia, the **GlucoMen iCan** to which it refers to as a 3rd generation CGM System. The on-body-unit and the applicator are shown below:

3. Defendant 2, hereafter “Menarini” and together with Sinocare,“Defendants”, is an Italian company established in Florence, Italy and is part of the Menarini Pharmaceutical Group. Menarini markets inter alia glucose self-testing systems for people with diabetes.

4. On 4 December 2024, Sinocare published a press release announcing an exclusive distribution agreement with Menarini to register, promote, distribute, and market the new Sinocare 3rd Generation CGM system within reimbursed markets in Europe. A similar press release was issued by Menarini on 3 December 2024. This was described as a landmark agreement which grants Menarini exclusive rights to introduce the CGM system in more than 20 countries in Europe. Screenshots of the first part of the press releases on Defendant’s websites (menarini.com and sinocare.com) are depicted below:

A. MENARINI DIAGNOSTICS AND SINOCARE ANNOUNCE EXCLUSIVE DISTRIBUTION AGREEMENT FOR NEW CONTINUOUS GLUCOSE MONITORING SYSTEM

Florence, Italy - 3rd December 2024. A. Menarini Diagnostics announces an exclusive Distribution Agreement with Sinocare to register, promote, distribute, and market a new Sinocare 3rd Generation Continuous Glucose Monitoring (CGM) System within reimbursed markets. This landmark agreement grants A. Menarini Diagnostics exclusive rights to introduce this health technology to more than 20 jurisdictions in Europe.

The collaboration between A. Menarini Diagnostics and Sinocare represents a significant advancement in diabetes care. Sinocare's CGM system technology provides accurate and continuous glucose monitoring.

Global Market Expansion: Sinocare's CGM Products Enter the European Market

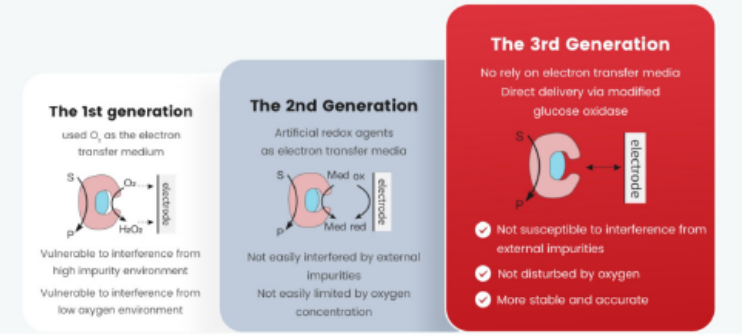
Release time : 2024-12-04 View count : 5935

Strategic Partnership with A. Menarini Diagnostics to Launch iCan CGM in Europe

Sinocare, a leading healthcare China company, has announced a strategic partnership and signed an exclusive distribution agreement with A. Menarini Diagnostics. The agreement marks a significant milestone as Sinocare's Continuous Glucose Monitoring (CGM) products will enter over 20 jurisdictions in Europe under a co-branded label. A. Menarini Diagnostics will register, promote, distribute, and market Sinocare CGM products within reimbursed markets.

A Synergistic Collaboration

Sinocare's advanced third-generation direct electronic transfer technology underpins its CGM product, delivering excellent accuracy, stability, and anti-interference capabilities. Widely acclaimed since its launch, this technology underscores Sinocare's commitment to improving diabetes management.



A. Menarini Diagnostics, with over 45 years of expertise in medical diagnostics, is part of the renowned Menarini Pharmaceutical Group, which operates in more than 140 countries. This partnership brings together Sinocare's innovative technology and A. Menarini Diagnostics's deep commercialization experience, fostering more opportunities for advancing diabetes care across Europe.

Bringing Advanced Diabetes Care to More Patients

"The partnership with A. Menarini Diagnostics is a significant milestone in our mission to make our CGM Systems widely accessible to people with diabetes," stated Dr. Jiangfeng Fei, Global Head of Sinocare CGM Business. "We are pleased to enter into a strategic partnership with A. Menarini Diagnostics, a leader in the healthcare industry, to bring this innovative diabetes technology to a broader audience."

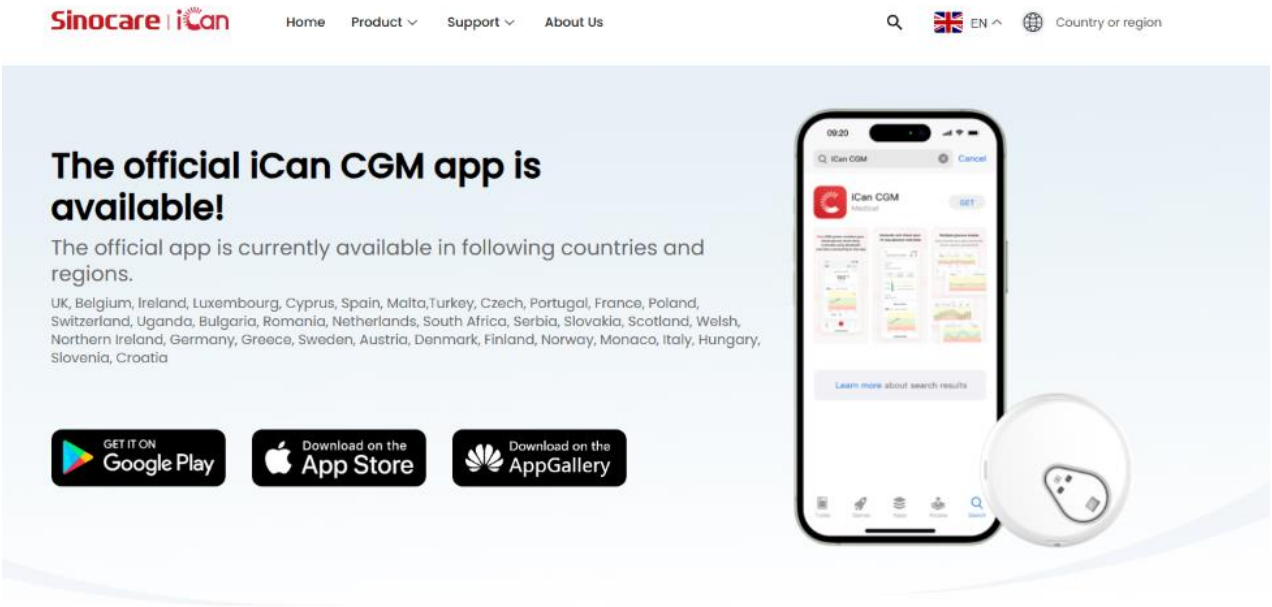
A. Menarini Diagnostics shares this enthusiasm for the collaboration and its potential impact on diabetes care. "Securing exclusive rights for the distribution and marketing of this Sinocare third Generation CGM System across various countries aligns with our commitment to providing innovative healthcare solutions," commented Fabio Piazzalunga, General Manager and Global Head of A. Menarini Diagnostics. " We are confident that this long-term partnership will meet the growing demand for advanced diabetes care."

5. On 3 December 2024 the GlucoMen iCan was registered as a medical device on the Eudamed database, mentioning that the product pertained to the same device family as the so-called Sinocare iCan i3, listing Sinocara as the manufacturer and indicating that the device will be placed on the EU market in Italy.

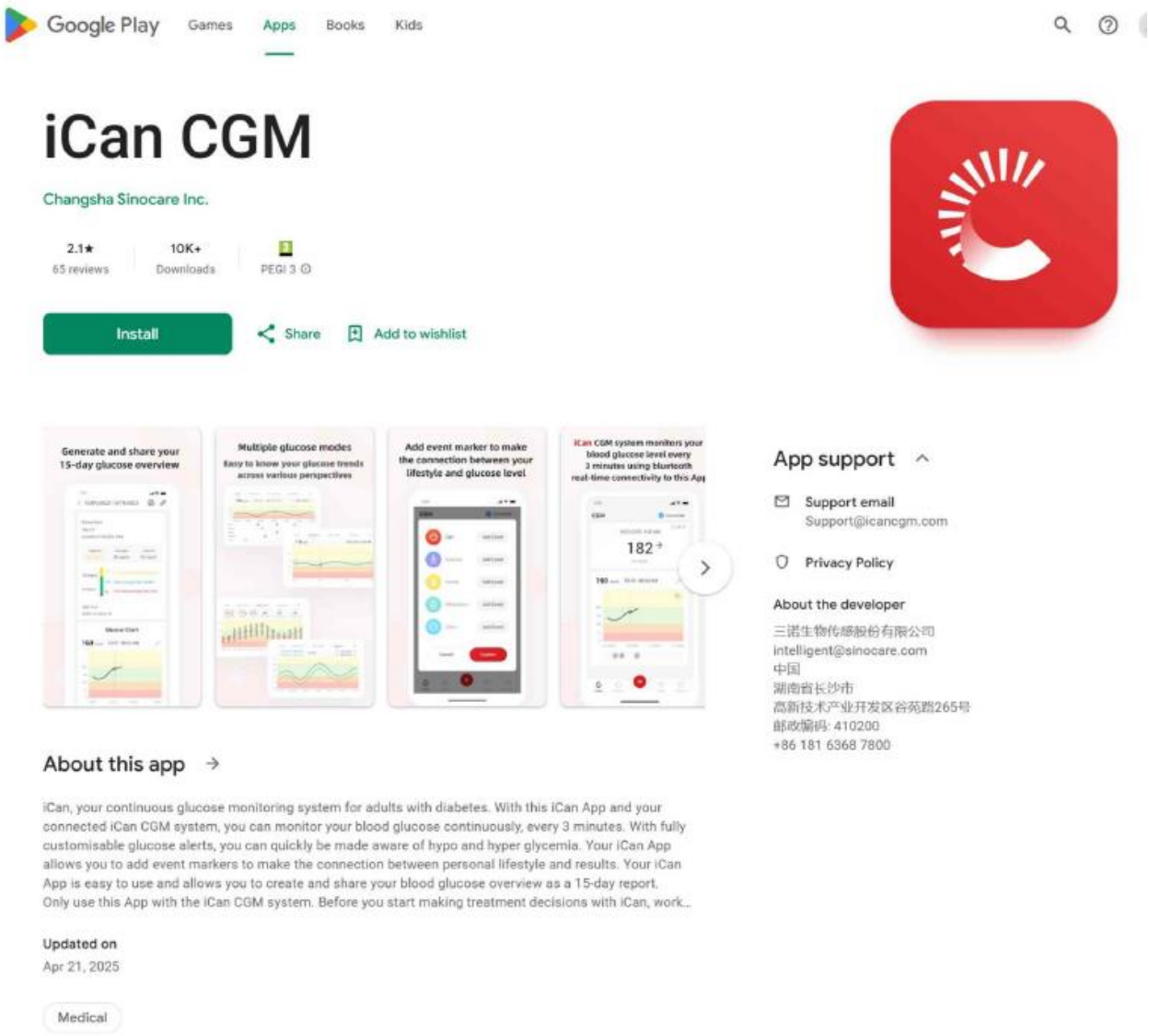
6. At the latest on 24 April 2025, Menarini launched the GlucoMen iCan in certain territories in Europe. On that date, the Glucomen user guide was released online on the dedicated website glucomen-ican.com, on the home page of which the following picture is depicted:

On the picture, both the OBU and the corresponding app (on the display of a mobile phone) can be seen. In the user guide, Sinocare is mentioned as the manufacturer of the product.

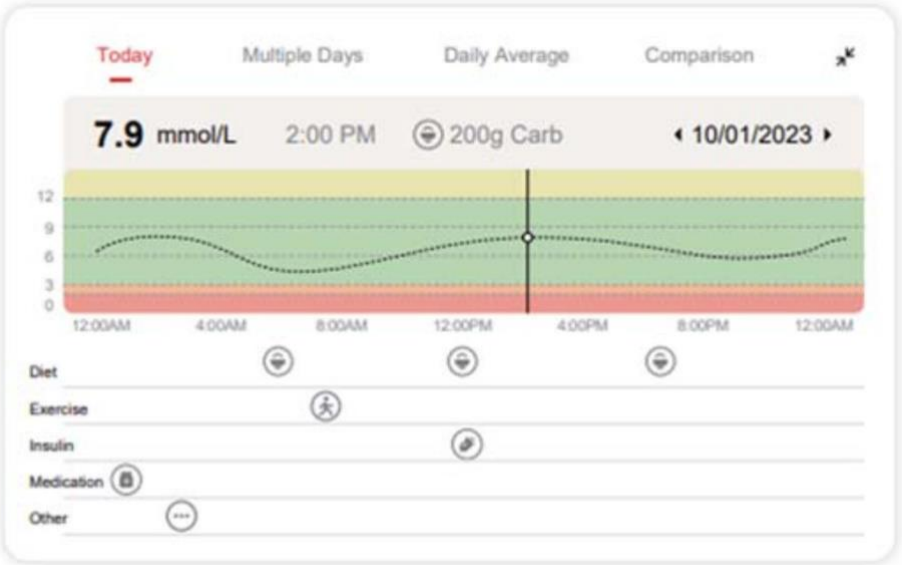
7. Sinocare offers and provides an application to be used in combination with the GlucoMen iCan in order to read the data; the “iCan CGM App”. A screenshot of the announcement by Sinocare of the availability of the iCan CGM App is depicted below.



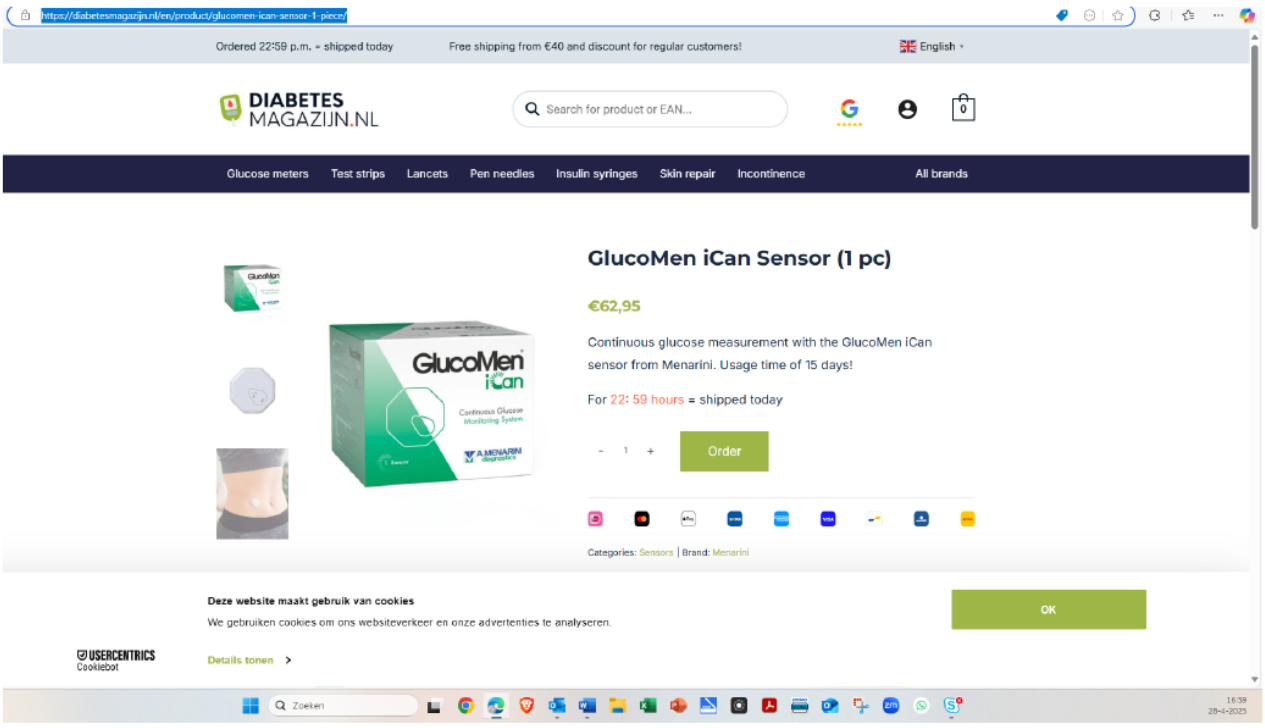
8. The following screenshot of Google Play, captured on 22 May 2025 (submitted as Exhibit D6 by Abbott), indicates that the iCan CGM app was updated on 21 April 2025.

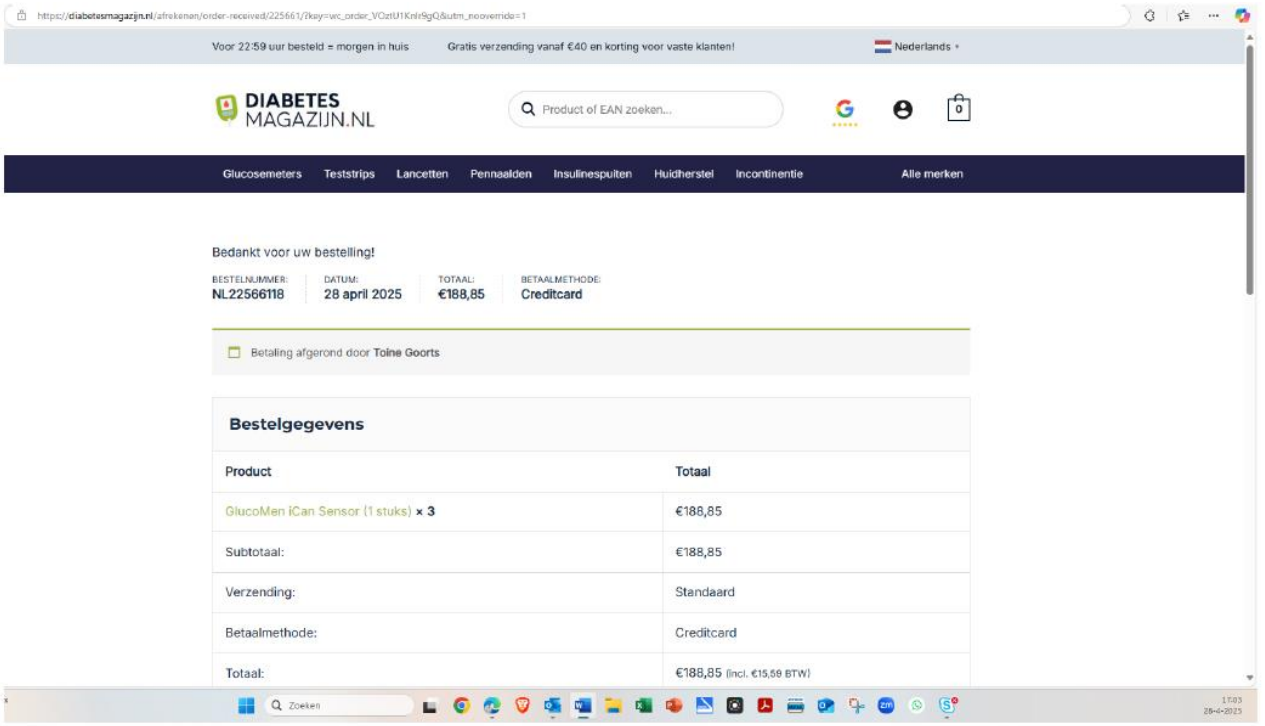


9. In the user guide of the GlucoMen iCan the following screen is displayed:

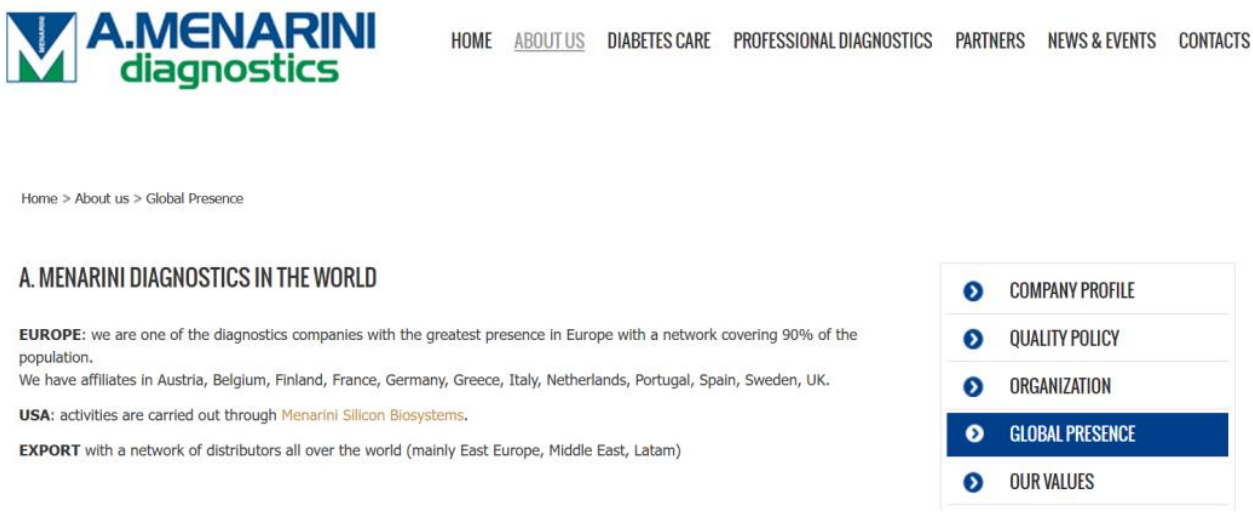


10. On 28 April 2025, a GlucoMen iCan was purchased via the Dutch website www.diabetesmagazijn.nl of a supplier of medical equipment. A screenshot of the website and a screenshot of the purchase are shown below.





11. The GlucoMen iCan is advertised on another Dutch website (bol.com). On Menarini's website www.menarinidiagnostics.com, affiliates in a number of countries are mentioned, including in The Netherlands:



12. Abbott also successfully commissioned purchases of Glucomen iCan in Austria (on 24 April 2025) and in Italy (purchase on 30 April 2025).

The patent

13. Abbott is the sole proprietor of the patent-in-suit EP 3 988 471 (hereinafter "the patent" or "UP 471"). The patent was granted on 26 July 2023 for 'Displays for a Medical Device' upon a divisional application derived from an original application filed on 30 August 2010, invoking an earliest priority of 31 August 2009. Unitary effect for the patent was published on 30 August 2023.

14. Opposition was filed against the grant of the patent by a third party (Dexcom), which party withdrew its opposition pursuant to a settlement with Abbott after the date for an oral hearing in opposition had been set. The opposition division continued the proceedings, and the patent was maintained in amended form (according to Auxiliary Request 2 filed there) at the oral hearing of 20 March 2025. At the time of the oral hearing in this UPC case on 3 September 2025, the new version of the claims was taken into account already, but the new text of the patent had not been published yet. It has come to the attention of the Court that UP 471 B2 has in the meantime been published on 15 October 2025.

15. The patent as maintained has sixteen claims. Independent claim 1 covers a glucose monitoring system comprising a glucose sensor, a transmitter unit and a receiver unit. Dependent claims 2-13 depend on claim 1 and claim variations to the glucose monitoring system of claim 1. Claim 14 corresponds to a method implemented by the glucose monitoring system of claim 1. Claims 15 and 16 are further method claims which depend on claim 14. The claims are discussed in more detail below at III.C.

16. The patent contains among others the following figures, illustrating display screens of the receiver unit:

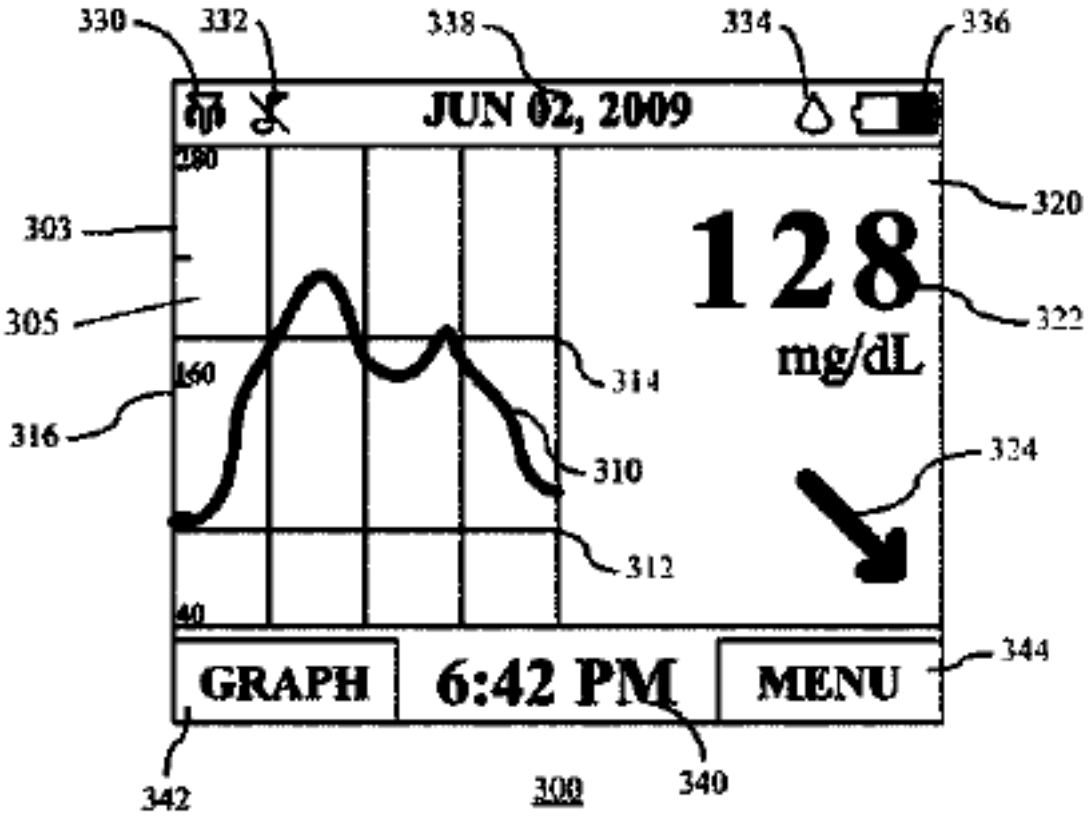

330
332
338
334
336
JUN 02, 2009
303
305
316
314
310
312
320
128
mg/dL
322
324
344
GRAPH
6:42 PM
MENU
342
340
300

FIG. 3A

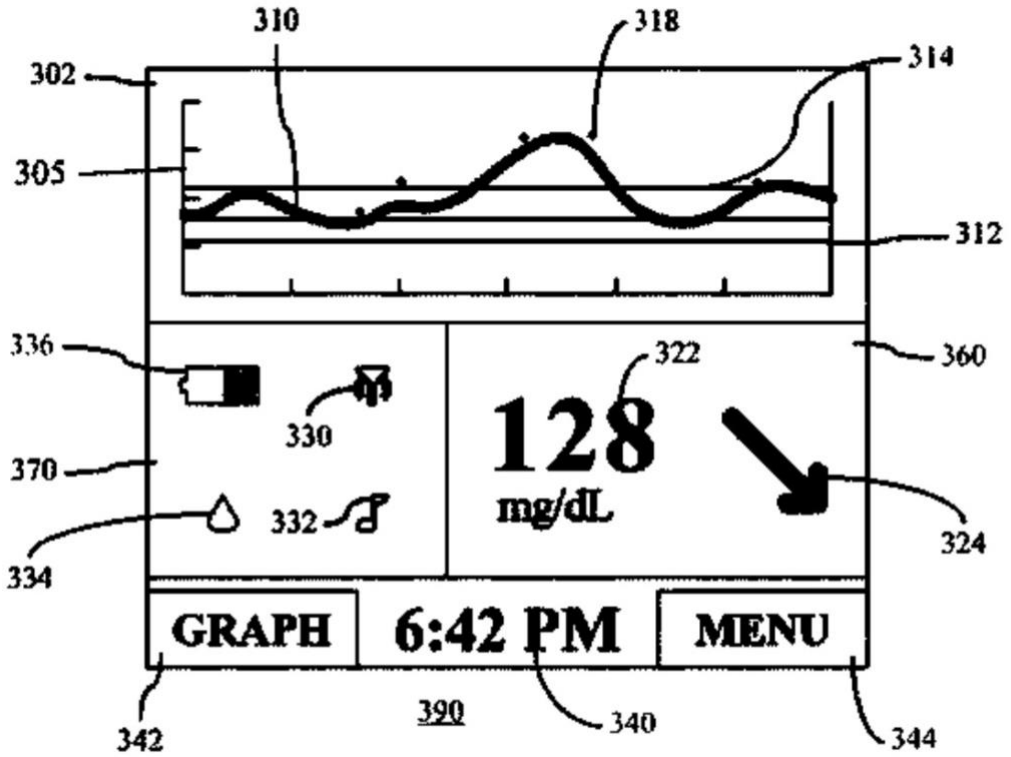

310
318
314
302
305
312
336
322
360
330
128
mg/dL
370
332
324
334
GRAPH
6:42 PM
MENU
342
390
340
344

FIG. 3C

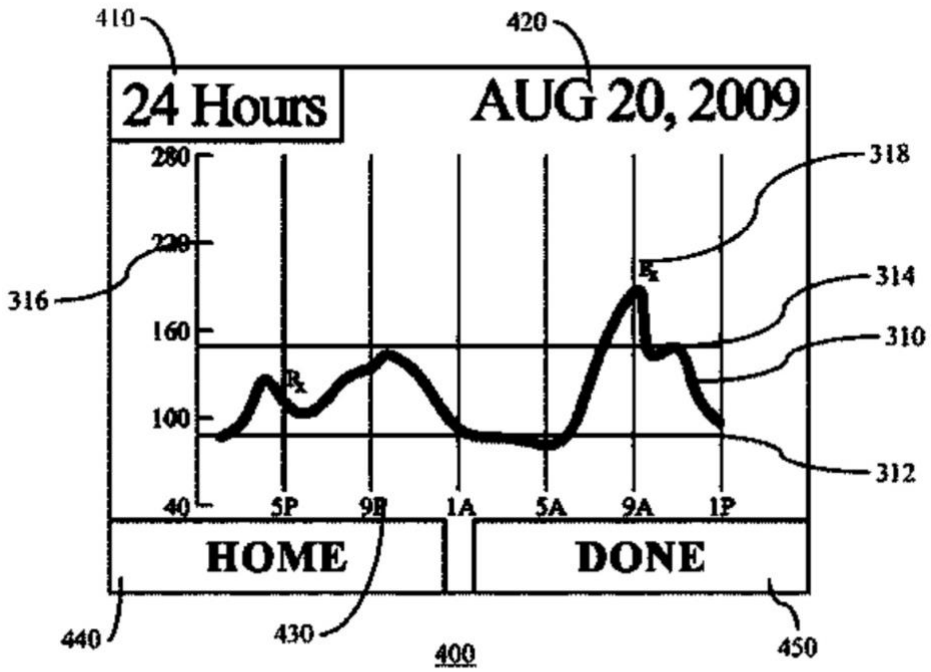


FIG. 4A

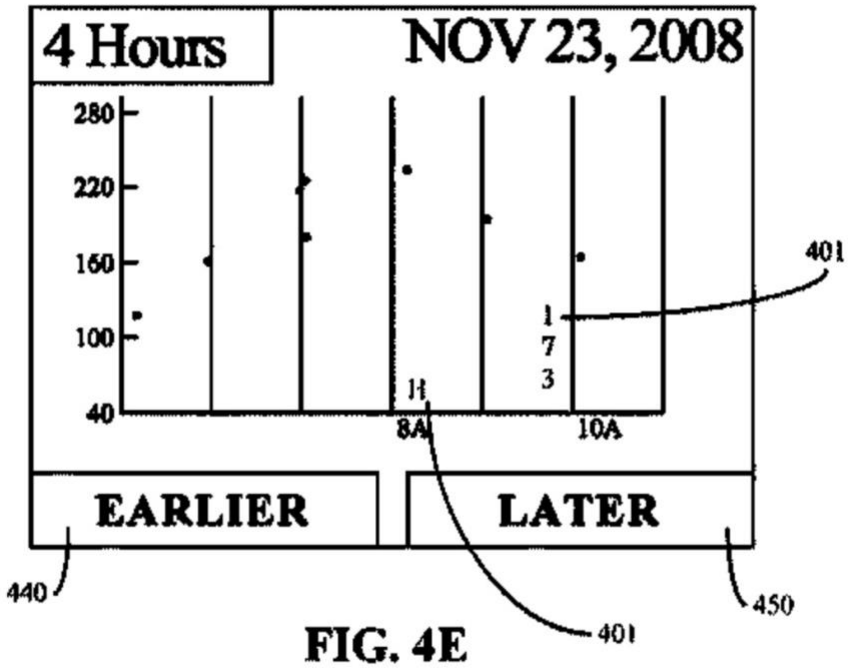


FIG. 4E

17. The description of the patent contains inter alia the following paragraphs:

BACKGROUND

(…)

[0003] (…) Glucose monitoring systems have the capability to continuously monitor a user's blood glucose fluctuations over a period of time and display the results to a user.

[0004] In such systems, it would be desirable to have a display and/or a user interface capable of robust, comprehensive information presentation, analysis, processing, user manipulation and/or usability features including, for example, programmable alarms and alerts, comprehensive visual, audible and/or vibratory output for assisting in diabetes management and improving glycemic control.

(…)

BRIEF DESCRIPTION OF THE DRAWINGS

[0007] (…)

FIG. 3A illustrates a home screen display of a user interface of the analyte monitoring device according to embodiments of the present disclosure;

(…)

FIG. 3C illustrates a home screen display of a user interface of the analyte monitoring device according to embodiments of the present disclosure;

(…)

FIGS. 4A-4F illustrate display screens showing timeline graphs according to embodiments of the present disclosure;

(…)

DETAILED DESCRIPTION

(…)

[0048] FIG. 3A illustrates an information mode home screen 300 according to embodiments of the present disclosure. Referring to FIG. 3A, the information mode home screen 300 includes a plurality of panels or sections. In certain embodiments, the panels are distinct from one another and the information. Thus, what is displayed in one panel may not necessarily affect what is displayed in a second panel. Furthermore, each panel or section may display different types of data to a user and the data in each panel is dynamically updated. A first panel and a second panel displays user state information while a third panel simultaneously displays system state information. Further, as information is received, such as, for example, continuous glucose data from the sensor 101 (FIG. 1), the information displayed in the panels is updated to display the newly received data. In certain embodiments, each panel is selectable. When a panel is selected, such as, for example, using the jog wheel 230 (FIG. 2C) to highlight a particular panel or by user actuation of an input button 220 or touch screen portion of the display 210, a user may zoom in on the information displayed in the panel or select that the particular panel be displayed on the entire area of the display 210. Furthermore, each of the panels may be sizable with respect to other panels. Thus, a user may select that one panel have a first size while a second panel have a second size relative to the first panel. In another embodiment, the panels can be arranged in different positions relative to one another based on user preference.

(…)

[0056] In certain embodiments, graph 305 includes event data icons 318 (FIG. 3C). The event data icons 318 are displayed on the graph line 310 at the time the event takes place. In certain embodiments, up to twenty of the most recent events can be displayed on the graph 305 at a single time. Thus, a user may readily identify a glucose level at the time the event took place and how the event affected the user's glucose level. Such events may include discrete blood glucose measurements, insulin dosing, exercise periods, meal times, state of health, and the like. Graph 305 may also display alarm icons that indicate when particular alarms, such as a high glucose threshold alarm, a low glucose threshold alarm, a projected high glucose alarm, and a projected low glucose alarm, were output by the analyte monitoring device 25 200. In certain embodiments, a user may create custom events and select icons, text or other indicator for each custom event. An exemplary graph having custom event indicators 401 is shown in FIG. 4E. It is contemplated that a user may select distinguishing icons for each event, 30 or class of events.

(…)

[0085] [paragraph number changed to [0086] in the B2 text] FIG. 4A illustrates a display screen showing a timeline graph 400 according to embodiments of the present disclosure. (…)

[0086] [paragraph number changed to [0087] in the B2 text] In certain embodiments, the timeline graph 400 includes similar display features as those described above with reference to FIG. 3A. For example, timeline 5 graph 400 includes a graph line 310 that represents continuous glucose readings.

User-selectable lower glucose target indicator 312 and upper glucose target indicator 314 may also be displayed on the timeline graph 400. In certain embodiments, the timeline graph 400 is configured to display a range of numbers corresponding to glucose level, such as from 40 mg/dL to 280 mg/dL on the y-axis with tick marks 316 at various points within the range, such as at 40 mg/dL, 100 mg/dL, 160 mg/dL, 200 mg/dL, and 280 mg/dL. (…) In certain embodiments, if glucose values fall below a lower threshold, such as 40 mg/dL or climb above an upper threshold, such as 280 mg/dL, the timeline graph 400 displays those values at 40 mg/dL or 280 mg/dL respectively. The timeline graph 400 may also be configured to display a range of numbers
on the y-axis in various units of measure, (…)
[0087] [paragraph number changed to [0088] in the B2 text] As described above, in certain embodiments, graph line 310, lower glucose target indicator 312 and upper glucose target indicator 314 may be output in various colors so a user may more readily identify points of interest on the timeline graph 400. Additionally, values 35 corresponding to each of the lower glucose target indicator 312 and the upper glucose target indicator 314 may be changed by a user or changed by a healthcare professional.
[0088] [paragraph number changed to [0089] in the B2 text] The timeline graph 400 also includes event data icons 318. [NB This is the wording according to the patent as maintained (B2). In the description of the patent as originally granted, the text of this sentence read: " *In certain embodiments, timeline graph 400 may also include event data icons 318*."] The event data icons 318 are placed at locations on the graph according to the time at which the event took place and/or in conjunction with the monitored glucose level depicted by the graph line 310. Such events may include alarms or alerts, discrete blood glucose measurements, insulin dosing, exercise periods, meal times, state of health, and the like. In certain embodiments, particular event data icons, such as blood glucose reading icons, and custom event icons, may be placed on the graph according to continuous glucose monitoring levels and/or times in which the events took place without simultaneously showing a graph line, such as shown in FIG. 4E. (…)
(…)
[0092] [paragraph number changed to [0093] in the B2 text] FIG. 4B illustrates a display screen showing a timeline graph 460 according to certain embodiments of the present disclosure. As with timeline graph 400, timeline graph 460 includes a graph line 310 that represents continuous glucose readings received over a user selectable period of time 410. The graph line 310 may also include a plurality of analyte data icons 465 to indicate the actual analyte level data values measured by sensor 101 and transmitted to analyte monitoring device 200 (FIG. 2A) over the displayed period of time. In addition to analyte data icons 465, one or more alarm notification cons 470 and/or event notification icons 4-18 (FIG. 4A) may also be displayed on or near the graph line 310 to indicate that an alarm notification was issued over the measured period of time or that the user participated in a particular event. (…)

II. PROVISIONAL MEASURES SOUGHT, SUBMISSIONS OF THE PARTIES AND PROCEDURE

18. With an Application for provisional measures dated 27 June 2025, arguing that Defendants individually and jointly (directly or indirectly) infringe claims 1-10, 13, 14 and 16 of the patent in the Contracting Member States, Abbott, requests, inter alia, that the Court, for the Contracting Member States, grants an immediately enforceable injunction and corrective measures (including delivering up of the products and the provision of information), with penalties, ordering Defendants to pay the costs of the proceedings as well as an interim award of costs of EUR 11,000 to Abbott.

19. On 1 August 2025, the Court issued a procedural order in both these proceedings and in the parallel case UPC_CFI_624/2025 between the same parties, in response to an application of Menarini to postpone the oral hearing date. The Court confirmed that the oral hearing is

scheduled for 3 September 2025 and gave the Defendants the opportunity to file an objection on or before 18 August 2025.

20. With the objection, Defendants request the Court to dismiss the application for provisional measures, asserting that they do not infringe the patent with the Glucomen iCan (and the corresponding App) because (i) at least features 1.10 and 1.13 (c) of claim 1 are not reproduced and (ii) the patent is more likely than not to be invalid for lack of inventive step and because of added matter in (feature 1.10 of) claim 1. If an injunction would be granted, a security bond of EUR 400,000 should be provided. In any case, Abbott should be ordered to pay the legal costs and expenses incurred by the Defendants in these proceedings and it should be ordered to pay to Defendants an amount of EUR 400,000 in total by way of interim award for legal costs.

21. The Applicant was given the opportunity to reply to the invalidity defences raised in the objection, which reply was filed on 25 August 2025.

22. The oral hearing took place on 3 September 2025, together with the hearing in the parallel case mentioned at 18 above.

III. GROUNDS FOR THE ORDER

III.A – SUMMARY AND POINTS AT ISSUE

Summary

23. The proceedings concern a request for a provisional injunction and additional measures based on alleged infringement of the patent. In its submissions Abbott mentions the "GlucoMen iCan" as the infringing product. The Court understands that what is meant therewith in this case is infringement by Defendants with a glucose monitoring system comprising not only the GlucomMen iCan, but also the corresponding iCan App. The iCan App, together with a mobile device on which it is downloaded, function as a receiver unit that cooperates with the GlucoMen iCan on-body unit (OBU with built-in transmitter) to display the data retrieved by the (sensor of the) OBU.

24. The Court finds below (in part III.B) that it has jurisdiction and is competent to hear the case. After interpretation of the relevant feature of claim 1 in part III.C, the Court will conclude (in part III.D) that not all features of claim 1 are reproduced in Defendants' system and therefore it is more likely than not that there is no infringement. The consequences thereof for the outcome, are addressed in part III.E.

III.B – JURISDICTION AND OTHER PRELIMINARY ISSUES

Jurisdiction and competence

25. The patent is a European patent with unitary effect. Accordingly, this Court has exclusive competence to hear actions for actual or threatened infringement of the patent within UPCA territory (Art. 1 and 32(1)(a) and (c) UPCA). In its application, Abbott provided evidence of alleged infringement within UPCA territory in any case by Menarini by selling the OBU, in particular also in the Netherlands, which creates internal competence for the LD The Hague pursuant to Art. 33 (1)(a) UPCA.

26. Regarding Sinocare, the jurisdiction of the Court is contested. If a defendant is not domiciled in an EU member state, jurisdiction over that defendant by a court common to several member states, like the UPC, is governed by Chapter II of the Brussels Regulation ("BR") regardless of the defendant's domicile, pursuant to Art. 71b(2) BR. This paragraph also specifies that an application may be made [to the UPC] for provisional measures even if the court of a third state has jurisdiction as to the substance of the matter. Sinocare argues that (threatened) infringement by Sinocare in the UPCA territory has not been substantiated. This defence is rejected. Not in dispute is that Sinocare makes the iCan CGM App available on its website, specifically also for countries within UPCA territory, and that it is the manufacturer of the GlucoMen iCan and named as such in the Eudamed entry for the GlucoMen iCan and in the user guide. Furthermore, Menarini and Sinocare announced that they would cooperate in bringing the Glucomen iCan to the European market. At least there is then combined/joint threatened infringement in UPCA territory. Furthermore, this concerns alleged (threatened) infringement of the same patent in the same territory with the same product. Jurisdiction vis-à-vis Sinocare can therefore be based on Art. 7(2) BR.

Urgency/unreasonable delay

27. Defendants argue that the application is not admissible or should be dismissed because of unreasonable delay in seeking provisional measures under R. 211.4 RoP. It asserts that is should have been clear to Abbott that the GlucoMen iCan was to be launched in Europe from December 2024 based on publicly available information and announcements on trade fairs. As the GlucoMen iCan is technically identical to the Sinocare iCan i3, which was already available on the cash pay market in Europe longer, Abbott could have technically assessed the product already. Abbott – even if it can be assumed that it knew that the GlucoMen iCan is technically identical to an earlier product, which cannot be established from the submissions – convincingly argued that it needed time to assess the interaction of the GlucoMen iCan with the iCan GMS App to establish infringement and to compare it with the subject-matter of the claims in the version maintained by the EPO Opposition Division during oral proceedings on 20 March 2025 (see 14. above). The GlucoMen iCan samples were only obtained on 24 April 2025 and the latest version of the iCan GMS App only became available on 21 April 2025. The Court finds it reasonable that Abbott then needed some time to assess infringement, before starting these proceedings on 27 June 2025. It is not considered that there is any unreasonable delay in seeking these provisional measures.

III.C – THE PATENT, BACKGROUND AND CLAIM CONSTRUCTION

The patent

28. The patent relates to the displays of medical devices, in particular of glucose monitoring systems, comprising a glucose sensor, a transmitter and a receiver unit. The display and / or user interface of the receiver unit provides information to assist a user in diabetes management and glycaemic control by providing comprehensive and easily understandable output to improve patient safety and overall health (description [0003] and [0004]). The claim is in particular also directed to a display that is configured to show a so-called timeline graph screen (400). In this timeline graph, certain events (following input by a user) may be displayed. Such events may include discrete blood glucose measurements, insulin dosing, exercise periods, meal times, state of health, and the like ([0056] and [0088]).[1] Thus, a user may readily

[1] In the remainder of this order, following the parties in these proceedings, references are to paragraph numbers of the "old" numbering according to B1 version, not to the B2 version in case there is a difference, see 17. above, comment at para numbers [0085] and up.

identify a glucose level at the time the event took place and how the event affected the user's glucose level.

29. Claim 1 as maintained discloses a glucose monitoring system comprising a glucose sensor, a transmitter unit and a receiver unit with a display. It is divided into features as follows (emphasis added):

1.1 A glucose monitoring system, comprising:

1.2 **a glucose sensor (101)** configured to be positioned at least in part in contact with interstitial fluid in a body of a user;

1.3 **a transmitter unit (102)** configured to process data indicative of a plurality of monitored glucose levels from the glucose sensor (101); and

1.4 **a receiver unit (104, 200)** comprising a processor, and a user interface having a display (210) and a plurality of actuators,

1.5 wherein the receiver unit (104, 200) is configured to receive the processed data from the transmitter unit (102),

1.6 **wherein the display (210)** is configured to render a plurality of display screens, including at least a home screen (300, 390), an alert screen (1900, 2000, 2100), and **a timeline graph screen (400),**

1.7 wherein the home screen (300, 390) is divided into a plurality of simultaneously displayed panels,

1.7(a) wherein a first panel (302, 303) of the plurality of panels is configured to display the plurality of monitored glucose levels,

1.7(b) wherein a second panel (320, 360) of the plurality of panels is configured to simultaneously display a current glucose level icon (322) and a glucose trend indicator (324),

1.7(c) and wherein a third panel (370) of the plurality of panels is configured to display status information (330, 332, 334, 336) of a plurality of components of the receiver unit (104, 200);

1.7(d) wherein the home screen (300, 390) comprises a softkey label (342),

1.8 wherein the processor is configured to detect an alarm condition in response to the current glucose level being outside predetermined threshold levels,

1.9 wherein the display (210) is configured to render the alert screen (1900) on the display (210) when the alarm condition is detected, the alert screen (1900) having information (1920) corresponding to the detected alarm condition,

1.10 wherein the display (210) is further configured to affect a further output of the glucose monitoring system corresponding to the detected alarm condition in response to user actuation of at least one of the plurality of actuators of the receiver unit (104, 200) to acknowledge the displayed alert screen (1900),
wherein the user actuation of the at least one actuator comprises actuating an input button that corresponds to a softkey label on the alert screen or touching a touch sensitive area of the display that corresponds to a softkey label on the alert screen, and
wherein the further output comprises returning to the home screen (300, 390) on the display (210);

1.11 wherein the processor is configured to cause the display (210) to render the plurality of display screens;

1.12 wherein the display (210) is configured to display the current glucose level icon (322) of the second panel (320, 360) of the home screen (300, 390) in a colour coded format based on whether the current glucose level is within or outside the predetermined threshold levels,

1.13 and wherein in response to the user actuating an input button that corresponds to the softkey label (342) on the home screen (300, 390) or touching a sensitive area of the display (210) that corresponds to the softkey label (342) on the home screen (300, 390), the display (210) is configured to render **the timeline graph screen (400)** on the display (210),

1.13(a) wherein the timeline graph screen (400) comprises a timeline graph comprising the plurality of monitored glucose levels,

1.13(b) wherein the timeline graph comprises a lower glucose target indicator (312) and upper glucose level target indicator (314) that can be changed by the user,

1.13(c) wherein the timeline graph includes event data icons (318),

1.13(d) and wherein, in response to user selection of a particular even data icon (318) by using an input button or touching the event data icon on the display (210), the display (210) is configured to display details of the selected event.

30. Method claim 14 can be divided into features as follows:

14.1 A method, comprising:
receiving glucose level information data from a transmitter (102), the transmitter (102) having a sensor (101) in fluid contact with interstitial fluid;

14.2(a) displaying a graphical representation (305) of a plurality of glucose levels monitored over a predetermined amount of time in a first panel (302, 303) of a home screen (300, 390) on a display screen (210) of a user interface of a display device (104, 200);

14.2(b) simultaneously displaying a current glucose level icon (322) and a glucose trend indicator (324) in a second panel (320, 360) of the home screen (300, 390) on the display screen (210) of the display device (104, 200),

14.2(c) displaying a plurality of iconic status representations (330, 332, 334, 336) of a plurality of components of the display device (104, 200), wherein the plurality of iconic status representations (330, 332, 334, 336) are simultaneously displayed on a third panel (370) of the home screen (300, 390) on the display screen (210) of the display device (104, 200);

14.3 displaying a softkey label (342) on the home screen (300, 390);

14.4 detecting an alarm condition in response to the current glucose level being outside predetermined threshold levels;

14.5 displaying an alert screen (1900) on the display screen (210) of the display device (104, 200) in response to the detected alarm condition, the alert screen (1900) having information (1920) corresponding to the detected alarm condition;

14.6 controlling further output of the display device (104, 200) based on user actuation of at least one of a plurality of actuators of the user interface of the display device (104, 200) to acknowledge the displayed alert screen (1900),

wherein

14.7 the user actuation of the at least one actuator comprises actuating an input button that corresponds to a softkey label on the alert screen or touching a touch sensitive area of the display that corresponds to a softkey label on the alert screen, and

wherein

14.8 the further output comprises returning to the home screen (300, 390) on the display (210); and

14.9 displaying the current glucose level icon (322) of the second panel (320, 360) of the home screen (300, 390) in a colour coded format based on whether the current glucose level is within or outside the predetermined threshold levels; and

14.10 in response to the user actuating an input button that corresponds to the softkey label (342) on the home screen (300,390) or touching a touch sensitive area of the display (210) that corresponds to the softkey label (342) on the home screen (300, 390), rendering the timeline graph screen (400) on the display screen (210) of the display device (104, 200),

wherein

14.10(a) the timeline graph screen (400) comprises a timeline graph comprising the plurality of monitored glucose levels, wherein

14.10(b) the timeline graph comprises a lower glucose target indicator (312) and an upper glucose level target indicator (314) that can be changed by the user,

wherein

14.10(c) the timeline graph includes event data icons (318),

and wherein,

14.10(d) in response to user selection of a particular event data icon (318) by using an input button or touching the event data icon on the display screen (210), the display screen (210) is configured to display details of the selected event.

31. Accordingly, the receiver unit of the claimed invention comprises a hardware display, which is configured to render several display screens, including at least a home screen, an alert screen and a time graph screen (feature 1.6), between which the user may navigate ([0030]). A screen can comprise a plurality of panels displayed simultaneously, covering different portions / sections of the screen (feature 1.7 and [0048]). According to claim 1 (feature 1.7), the home screen is arranged to render a plurality of panels displayed simultaneously (features 1.7(a) – 1.7.(c)). The three panels mentioned can be distinguished in the home screens of both Fig. 3A and Fig. 3C shown above. The first panel of the home screen is configured to display '*the plurality of monitored glucose levels'*. From this description and the figures, the skilled person (defined in 34. below) will understand that this is actually a timeline graph (feature 1.7(a); [0052]; Fig.3A and 3C). This is not in dispute.

Claim interpretation

32. The parties disagree on the interpretation of several features. Relevant for this case is the construction of feature 1.13 of claim 1 of the patent, which corresponds to feature 14.10 of claim 14.

33. The Court of Appeal of the UPC ("CoA") has set out the following principles regarding the interpretation of a patent claim according to Art. 69 of the European Patent Convention ("EPC"):[2] The patent claim is not only the starting point, but the decisive basis for determining the protective scope of a European patent. The interpretation of a patent claim does not depend solely on the strict, literal meaning of the wording used (…). Rather, the description and the drawings must always be used as explanatory aids for the interpretation of the patent claim and not only to resolve any ambiguities in the patent claim. However, this does not mean that the patent claim merely serves as a guideline and that its subject-matter also extends to what, after examination of the description and drawings, appears to be the subject-matter for which the patent proprietor seeks protection.
The CoA also clarified (i) that the principles for interpreting a patent claim apply equally to the assessment of the infringement and to the validity of a European patent and (ii) that a patent must be interpreted from the point of view of the average person skilled in the art (the "skilled person").

34. According to Defendants, the skilled person is a software engineer or user interface designer, especially for medical devices, preferably CGM devices, with common general knowledge in user interfaces for medical devices, and more generally in the field of display of information. The Court will adopt this skilled person for the assessment; the Applicant 'broadly agreed' to the definition.

35. Feature 1.13 relates to the timeline graph screen. The skilled person learns from feature 1.13(a) that this screen comprises a timeline graph that comprises a plurality of monitored glucose levels:

[2] Order CoA UPC, NanoString Technologies -v- 10x Genomics, UPC_CoA_335/2023, App_576355/2023 of 26 February 2024, as rectified by the order of 11 March 2024. See also G1/24, Enlarged Board of Appeal EPO.

wherein the timeline graph screen (400) comprises a timeline graph comprising the plurality of monitored glucose levels,

In all described embodiments of the invention, the timeline graph defines an area with time on the x-axis and glucose levels on the y-axis, which can be connected by a line (shown in Figs 4A and 4B), but not necessarily (see Fig. 4E).

36. Feature 1.13(c) requires that '*(...)the timeline graph includes event data icons (318)*'. Abbott argues that the skilled person will understand this feature to be fulfilled if event data icons are displayed on the timeline graph screen, but not necessarily on the timeline graph. The Defendants disagree, asserting that this feature requires the event data icons to be displayed on the timeline graph itself, i.e. in case the timeline graph screen has several panels, this feature teaches that the data icons must be displayed on the panel showing the timeline graph.

37. The Court considers that the interpretation provided by Defendants is (more likely than not) correct, for the following reasons. Firstly, it is important to note that UP 471 focuses specifically on the layout of the display for the receiver unit of a glucose monitoring system. In fact, the layout of the display is the main teaching of the patent, describing and claiming the layout of the display with/in great detail. A difference in the layout of the display is therefore meaningful and can be a key point, even though another layout may have the same function.

38. Furthermore, the patent consistently distinguishes between a screen and panels, the latter corresponding to dedicated areas/portions of a screen, as mentioned above in relation to feature 1.7. In this context, the skilled person understands from the wording of feature 1.13 – 1.13(c) that the timeline graph must be distinguished from the timeline graph *screen*. The timeline graph screen comprises a timeline graph, but the claim wording does not require that the timeline graph screen is necessarily limited thereto, i.e. to a panel with a timeline graph. In the examples of timeline graph screens shown in Fig. 4, the (panel of the) timeline graph takes up most of the screen, but this does not exclude that the timeline graph screen might also be divided into several areas or panels (like the home screen).

39. From the requirement of feature 1.13(c) that the timeline graph (NOT the timeline graph *screen*) 'includes event data icons 318', the skilled person derives that the event data icons are included in or on the graph, similar to the monitored glucose levels of feature 1.13(a) and glucose target indicators 312 and 314 of feature1.13(b). 'Comprise' and 'include' are considered synonyms here. This is confirmed by the description and figures of the patent. According to[0088] second sentence, when a graph line is presented in the graph as in Fig. 4A, the icons 318 are displayed on the graph line*: 'The event data icons 318 are placed at locations on the graph according to the time at which the event took place and/or in conjunction with the monitored glucose level depicted by the graph line 310.'* (emphasis added). This is not only illustrated in Fig.4A but also on the timeline graph shown as a panel of the home screen in Fig. 3C. When the graph *line* is absent, as illustrated in Fig 4E, event data icons are still presented on the graph, in this case close to the glucose levels and/or times in which the events took place (as also described in [0088]). Thus, in all cases, the icons are represented within the same area/panel as the timeline graph of the monitored glucose levels.

40. Therefore, feature 1.13(c) must be interpreted in such a way that the event data icons are displayed on or near the graph line of the timeline graph, or in any case on the graph. A timeline graph screen wherein the timeline graph is displayed in one panel/dedicated area of the screen

and event data icons are displayed in a different panel/section, do not fall within the scope of protection of claim 1 as such icons are not included in the timeline graph within the meaning of feature 1.13(c).

III.D - INFRINGEMENT

41. Defendants assert that the glucose monitoring system formed by the GlucoMen iCan and the corresponding iCan CGM App do not use inter alia feature 1.13(c) of the patent. This is so because the timeline graph screen of the iCan CGM App displays two separate panels, as shown below in a picture of the display from the GlucoMen iCan user guide (page 41), reproduced from Defendants' objection, in which green and red lines were added by Defendants:

42. In one panel, outlined in green, the 'Trend Graph' of the iCan CGM App is displayed. This shows a line displaying monitored glucose levels over time, in a similar way as claimed in the patent. The Trend Graph can thus be considered to disclose the timeline graph of feature 1.13 of the patent. The icons displayed below the graph in the area outlined in red, qualify as event data icons. In view of the claim interpretation above, the event data icons are thus not included in the timeline graph. Defendants' glucose monitoring system therefore does not infringe claim 1 of the patent. The same applies to independent method claim 14, which has a feature (14.10.(c)) that is identical to feature 1.13.(c).

III.E – OUTCOME AND COSTS

43. It is not necessary to discuss the validity arguments in the context of these proceedings as this cannot change the outcome. The same holds for the other non-infringement arguments raised. Even assuming the patent is valid, the Court in any case finds more likely than not that claims 1 and 14 are not infringed. All measures requested by Abbott are thus dismissed.

44. Defendants request that Abbott shall be ordered to bear reasonable and proportionate legal costs and other expenses incurred by them in these proceedings. Defendants also request that

Abbott be ordered to pay to Defendants as an interim award of costs the amount of EUR 400,000.

45. The Court considers that also the applicant in a case concerning the application for provisional measures, may be ordered to pay an interim award of costs, should this not be considered clear from R. 211.1(d). Such interpretation follows the principle of proper and fair administration of justice.

46. The value of this case is set at EUR. 4.000.000, as requested by Abbott and not objected to. This means that the ceiling for recoverable costs of representation in this case is EUR 400,000.[3] Neither party objected that this was either too high or too low, and this amount is therefore deemed reasonable and proportionate.

47. The Court fruitlessly asked the parties to reach an agreement on costs,. Defendants did submit detailed overviews of costs incurred. These costs exceed the ceiling (which equals the requested amount). The overviews, that were requested by the Court before the oral hearing and that were discussed there, were not objected to by Abbott. Abbott did not submit cost overviews but declared that the legal costs it incurred are in a similar range (i.e. more than EUR 400,000).

48. In these circumstances, the Court finds the amount requested by way of interim award of costs sufficiently founded. Abbott will be ordered to pay to the Defendants as an interim award of costs, an amount of EUR 400,000.00.

IV. ORDER

Having heard the parties, the court by way of provisional measures:

a) Dismisses the application;

b) Orders Abbott to bear the legal costs incurred by Defendants in the proceedings;

c) Sets the value of the dispute at EUR 4,0000.000;

d) Orders Abbott to pay to Defendants by way of an interim award of costs the sum of EUR 400,000.00 (R. 211.1(d) RoP).

Edger Brinkman Presiding judge	Edger Frank BRINKMAN Digitally signed by Edger Frank BRINKMAN Date: 2025.10.22 18:09:56 +02'00'
Camille Lignieres Legally qualified judge	Camille Lignières Date : 2025.10.22 16:15:10 +02'00'

[3] Decision of the Administrative Committee of 24 April 2023 on the scale of recoverable cost ceilings and Annex

Alain Dumont Technically qualified judge	Alain Marie J Dumont 2025.10.22 16:07:53 +02'00'
Margot Kokke Judge rapporteur	Margot Elsa KOKKE Digitally signed by Margot Elsa KOKKE Date: 2025.10.22 19:11:17 +02'00'
On behalf to the registry	Larissa Donata Hageman Digitally signed by Larissa Donata Hageman Date: 2025.10.22 16:24:57 +02'00'

INFORMATION ABOUT APPEAL

An appeal to this order may be brought in accordance with Art. 73 (2) (a) UPCA and R. 220.1 (c) and 224.1(b) RoP within 15 calendar days of the service of this order.

INFORMATION ON ENFORCEMENT (ART. 82 UPCA, ART. 37(2) STATUTE, 158.2, 354, 355.4 ROP)

An authentic copy of the enforceable order will be issued by the Deputy Registrar upon request of the enforcing party (R. 69 Rules governing the Registry of the Unified Patent Court).