

**Procedural Order
of the Court of First Instance of the Unified Patent Court
delivered on 28/11/2025
concerning R.302**

CLAIMANT/S

- 1) **GlaxoSmithKline Biologicals SA**
 (“Claimant”) - Rue de l'Institut 89 - 1330 -
Rixensart - BE
- Represented by Tjibbe
Douma

DEFENDANT/S

- 1) **Moderna Netherlands B.V.**
(Defendant) - Claude Debussylaan 7 - 1082 MC
- Amsterdam - NL
- 2) **Moderna Biotech Spain, S.L.**
(Defendant) - C/Julián Camarillo 31 - 28037 -
Madrid - ES
- 3) **Moderna Biotech UK Limited**
(Defendant) - 54 Portland Place - W1B 1DY -
London - GB
- 4) **Moderna Biotech Distributor UK Ltd**
(Defendant) - MYO, 123 Victoria Street - SW1E
6DE - London - GB

- 5) **Moderna Switzerland GmbH**
(Defendant) - Peter Merian-Weg 10 - 4052 -
Basel - CH

- 6) **Moderna Poland SP. Z.O.O.**
(Defendant) - Rondo Ignacego Daszynskiego 1
- 00-843 - Warsaw - PL

- 7) **Moderna Inc.**
(Defendant) - 325 Binney Street - MA 02142 -
Cambridge - US

- 8) **ModernaTX, Inc.**
(Defendant) - 325 Binney Street - MA 02142 -
Cambridge - US

- 9) **Moderna Belgium S.R.L.**
(Defendant) - Avenue Marnix 23 - 1000 -
Brussels - BE

- 10) **Moderna France SASU**
(Defendant) - 19 Rue Cognacq-Jay - 75007 -
Paris - FR

- 11) **Moderna Germany GmbH**
(Defendant) - Brienner Strasse 45 a-d c/o
Design Offices, Campus Königsplatz - 80333 -
Munich - DE

- 12) **Moderna Italy S.R.L.**
(Defendant) - Via Vittorio Veneto 54/B - CAP
00187 - Rome - IT

13) **Moderna Portugal Unipessoal LDA**
(Defendant) - Rua João Chagas, 10-B Direito -
1500-493 - Lisbon - PT

14) **Moderna Sweden AB**
(Defendant) - c/o Scandinavian Trust AB,
Birder Jarlsgatan 12 - 114 34 - Stockholm - SE

15) **Moderna Norway A/S**
(Defendant) - C/o CSC (Norway) AS,
Wergelandsveien 7 - 0167 - Oslo – NO

Defendants 1-15, collectively “**Defendants**”
are represented by Gerjan Kuipers

PATENTS AT ISSUE

<i>Patent no.</i>	<i>Proprietor/s</i>
EP4066856	GlaxoSmithKline Biologicals SA
EP4226941	GlaxoSmithKline Biologicals SA

DECIDING JUDGE

The Panel of the LD The Hague, consisting of:
Edger Brinkman - presiding judge
Stefan Schilling - legally qualified judge
Martin Schmidt - technically qualified judge
Margot Kokke - judge rapporteur

LANGUAGE OF PROCEEDINGS: English

POINTS AT ISSUE / GROUND

1. The Defendants submitted a statement of defence (“SoD”) and a counterclaim for revocation on 11 November 2025.
2. The counterclaim for revocation, registered as case number UPC_CFI_1526/2025, concerns the two patents at issue in the infringement actions.
3. For practical, procedural reasons, the court uses its discretionary power pursuant to R.302.1 RoP to order Defendants, the claimants in the counterclaim for revocation action to separate/split the proceedings into two counterclaims, one concerning each patent. In the present circumstances, also in view of the different stages of opposition proceedings pending before the EPO for both patents, and possible different outcomes for each patent, it is procedurally impractical to combine the two counterclaims for invalidity in one action.
4. Furthermore, in this case which the Court qualifies as complex and large, the payment of court fees also warrants separation of the action into two separate actions for each patent. Whereas in an infringement action concerning several related patents, the fact that two (or more) patents are involved can be taken into account for the determination of the value of the action for applying the Rules on Court fees. This is not the case for counterclaims for revocation where the court fee per counterclaim action is capped at EUR 20,000. This is confirmed in the Guidelines for the determination of the court fees and the ceiling of recoverable costs of the Administrative Committee, at II.2.a) (both in the original version of 2 April 2023 and as recently amended):

2. Counterclaim for revocation and revocation actions

a) Determining the value for applying the Rules on Court fees:

There is no need to determine the value of revocation counterclaims or revocation actions since for both actions there is only a fixed fee to be paid

It should be noted that for the determination of the value of the action for applying the Rules on recoverable costs, this is different; this is dealt with in II.2.b) of the aforementioned Guidelines.

5. The only way to reflect the complexity and size of the counterclaim action in view of court fees, is therefore to split the case. For the new counterclaim action, new court fees are due of EUR 20,000.
6. For a case that is split, the date of service of the original counterclaim is considered to be the service date for both counterclaim actions for the purpose of R.29 RoP. In this case, that is the day on which the checks were completed, and the Claimant was given access to the SoD-submission. This is 12 November 2025.
7. At this point in time, it is sufficient to upload the SoD-submission containing the counterclaims, in a new action, together with only the exhibits that are relevant for the separated CC action, clearly indicating to which patent the new counterclaim applies. The registry of the Court will

try to amend the CMS to reflect that the original counterclaim action 1526/2025 related to the other patent only.

ORDER

The Court

1. Orders Defendants, claimants in the counterclaim action, to separate the counterclaim action UPC_CFI_1526/2025 concerning two patents into two actions, one for each patent, as set out above;
2. Orders that new court fees have to paid for the new counterclaim action to be created;
3. Confirms that the date of service for the SoD and both counterclaims is **12 November 2025**;
4. Instructs the registry to assist with the adjustment mentioned at 7. above.

Brinkman	
Schilling	
Schmidt	
Kokke	
On behalf of the registry	