



Nordic-Baltic Regional Division

UPC_CFI_775/2025

UPC_CFI_776/2025

UPC_CFI_777/2025

Order
of the Court of First Instance of the Unified Patent Court
issued on 5 December 2025
(on confidentiality and stay of proceedings)

APPLICANT in CFI 775/2025

RESPONDENT in CFI 776/2025 & CFI 777/2025

- 1) **EDWARDS LIFESCIENCES CORPORATION** - One Edwards Way - 92614 - Irvine, California – US

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APPLICANTS in CFI 776/2025 & CFI 777/2025

RESPONDENTS in CFI 775/2025

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- 2) **MERIL GMBH** - Bornheimer Strasse 135 – 137 - D – 53119 - Bonn – DE
- 3) **SMIS INTERNATIONAL OÜ** - Harju maakond, Tallinn, Kesklinna linnaosa, Kaarli pst 9-1a - 10119 - Tallinn – EE
- 4) **SORMEDICA, UAB** - V. Kuzmos str. 28 - LT-08431 - Vilnius – LT
- 5) **INTERLUX, UAB** - Aviečių g. 16 - LT-08418 - Vilnius – LT
- 6) **VAB-LOGISTIK, UAB** - Laisvės pr. 60 - LT-05120 - Vilnius – LT

Represented by Andreas von Falck, Alexander Klicznik, Kerstin Jonen, Roman Würtenberger, Lars-Fabian Blume, Beatrice Wilden & Friederike Hermes (Hogan Lovells International LLP), Karin Westerberg & Julia Ericsson (Sandart & Partners Advokatbyrå)

PATENT AT ISSUE

EP 3 769 722

DIVISION

Nordic-Baltic Regional Division

DECIDING JUDGE/S

This order has been issued by presiding judge Stefan Johansson, acting as judge-rapporteur

LANGUAGE OF THE PROCEEDINGS

English

SUBJECT-MATTER

Cost decisions – Requests for confidentiality and stay of proceedings

SUMMARY OF FACTS AND REQUESTS

On 21 July 2025, the Court of first instance (Nordic-Baltic Regional Division) issued its decision on the merits in case CFI 380/2023, which included an infringement action and counterclaims for revocation. In the decision, the Court decided in principle on the obligation to bear legal costs and other expenses.

On 21 August, the parties submitted, inter alia, applications for cost decisions and applications for the protection of confidential information.

On 30 September 2025, the parties submitted requests for the stay of the proceedings for a cost decision pending the outcome of the opposition proceedings against EP 3 769 722 B1 currently pending before the Boards of Appeal of the European Patent Office (case no. T-241/25-3.2.02).

Following orders from the Court, the parties have clarified their respective requests for confidentiality and confirmed that the requests are based on R. 262.2 and/or 262A RoP and/or a mutual agreement between the parties. They request that the Court's order on stay of proceedings include provisional protection against the other party or its representatives disclosing alleged confidential information to third parties. The parties have also agreed to keep the alleged confidential information confidential pending this order by the Court.

This order deals with the requests for stay of the proceedings and – provisionally – the requests for confidentiality.

GROUND

The parties have agreed that these cases should be stayed pending a decision from the EPO Technical Board of Appeal in the parallel opposition proceedings relating to the patent-in-suit (EP 3 769 722). They have also agreed to the confidentiality obligations specified in this order.

According to Rule 295 (d) RoP, the Court may stay proceedings at the joint request of the parties. There is no reason for the Court to refuse the requested stay in this case.

According to Rule 262 RoP, alleged confidential information may be kept confidential pending a request from the public in accordance with Rule 262.3 RoP. Furthermore, the Court may – in accordance with Rule 262A RoP – restrict the use of certain information, which may include protection against the other party or its representatives disclosing the information to third parties (see e.g. UPC_CoA_70/2025 and UPC_CoA_001/2025, order of 1 August 2025). The Court may also order such restrictions pending the Court’s final decision on a request pursuant to Rule 262A RoP.

The provisional confidentiality requests specified in this order are justified and should be granted. A culpable breach of the order may result in the imposition of a penalty payment.

The parties should be ordered to inform the Court about the outcome at the Boards of Appeal. They should also be given the possibility to submit any last comments on the confidentially requests, after having been given access to the unredacted versions of certain documents.

ORDER

- 1) The proceedings (CFI_775/2025, CFI_776/2025 and CFI_777/2025) are stayed pending the decision from the EPO Technical Board of Appeal in the parallel opposition proceedings (case no. T-241/25-3.2.02) relating to the patent-in-suit (EP 3 769 722 B1).
- 2) Access to the unredacted version of the Cost Application dated 21 August 2025 in case CFI_775/2025 and the unredacted versions of Exhibits EDW-Costs-2 and EDW-Costs-3, submitted on the same date in the same case, containing the following (alleged) confidential Information
 - a. the information marked in grey under paragraphs 10, 14, 15, 16, 17, 21, 23, 24, 25, 26, 27, 28, 30 and 32 in the Cost Application; and
 - b. Exhibits EDW-Costs-2 and EDW-Costs-3 to the Cost Application;

shall, *pending a final decision upon the confidentiality request*, be restricted to the Defendants and their representatives in these proceedings. The Defendants and their representatives shall treat this alleged confidential Information as confidential and may not, until further notice, disclose the information to any third party outside of these Court proceedings or use the information for purposes unrelated to these proceedings.

- 3) Access to the unredacted version of the Cost Applications dated 21 August 2025 in case CFI_776/2025 and case CFI_777/2025 as well as the unredacted versions of Exhibits HL Costs 1 to 6, submitted on the same date in the same cases, containing the following (alleged) confidential Information
 - the information marked in grey in the Application for a Cost Decision; and
 - Exhibits HL Costs 1 to 6 submitted with the Application for a Cost Decision;

shall, *pending a final decision upon the confidentiality requests*, be restricted to the Claimant and its representatives in these proceedings. The Claimant and its representatives shall treat this alleged confidential Information as confidential and may not, until further notice, disclose the information to any third party outside of these Court proceedings or use the information for purposes unrelated to these proceedings.

- 4) The unredacted versions of the documents mentioned in paragraphs 2) and 3) shall, to the extent they currently are marked as “HC” (Highly Confidential) in the CMS, be made available for the opposing party and its representatives in the CMS, subject to the restrictions specified in paragraphs 2) and 3).
- 5) In the event of a culpable breach of this order, the Court may impose a periodic penalty payment for each violation, which will be determined having regard to the circumstances of the individual breach.
- 6) The parties shall, as soon as possible, inform the Court of the outcome of the decision from the EPO Technical Board of Appeal in the parallel opposition proceedings (case no. T-241/25-3.2.02) relating to the patent-in-suit (EP 3 769 722 B1).
- 7) If the parties wish to submit further comments on the requests for confidentiality, before the Court takes its final decision pursuant to Rule 262A RoP, they shall do so at the latest when informing the Court about the outcome at the EPO in accordance with paragraph 6).

Issued in Stockholm on 5 December 2025

Stefan Johansson
Presiding judge and judge-rapporteur