



Düsseldorf Local Division
UPC_CFI_657/2025

Decision
of the Court of First Instance of the Unified Patent Court
issued on 2 February 2026
concerning EP 2 697 391 B1

Claimant:

10x Genomics, Inc., 6230 Stoneridge Mall Road, 94588-3260 Pleasanton, CA, USA, legally represented by the Board of Directors, this represented by the CEO Serge Saxonov, *ibid*,

represented by: Attorney-at-law Prof Dr Tilman Müller-Stoy, Attorney-at-law Dr Martin Drews, Patent attorney Dr Axel Berger, Prinzregentenplatz 7, 81675 Munich, Germany

electronic address for service: mueller-stoy@bardehle.de

DEFENDANT:

Curio Bioscience Inc., 4030 Fabian Way, Palo Alto, CA 94303, USA, represented by its CEO Dr Stephen Fodor, *ibid*,

represented by: Attorney-at-law Agathe Michel-de Cazotte, European Patent attorney Cameron Marschall, 1 Southampton Row WC1B 5HA London, United Kingdom,

electronic address for service: U010318UC@carpmaels.com

PATENT AT ISSUE:

European patent n° EP 2 697 391 B1

PANEL/DIVISION:

Panel of the Local Division in Düsseldorf

DECIDING JUDGES:

This decision was issued by Presiding Judge Thomas acting as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: English

SUMMARY OF THE FACTS:

1. The Claimant has brought an action against the Defendant for infringing European patent EP 2 697 391 B1 (hereinafter: “patent in suit”), with proceedings being conducted under file number UPC_CFI_140/2024 (ACT_15774/2024). The proceedings on the merits were preceded by proceedings for the order of provisional measures (UPC_CFI_463/2023, ACT_590953/2023, hereinafter: “PI proceedings”).
2. In its decision dated 16 June 2025, the Court found an infringement of claim 14 of the patent in suit, issued an injunction on that basis and ordered the Defendant to recall and destroy the infringing products, provide information and to compensate the Claimant for damages. The action was dismissed in all other aspects. Regarding costs, the Court ordered that the costs of the PI proceedings and the proceedings on the merits shall be borne by the Claimant in an amount of 30 % and by the Defendant in an amount of 70 %. The value in dispute of the PI proceedings was set at € 2,000,000 and the value of the infringement action at € 3,000,000. No appeal against this decision is pending.
3. On 16 July 2025, the Defendant filed an application for a cost decision.
4. The claimed costs are composed as follows:

[...]
5. For further details of the calculation, reference is made to Defendant’s written pleadings dated 16 July 2025 and 27 August 2025.

INDICATION OF THE PARTIES REQUESTS:

6. The Defendant requests that the Court orders
 - I. the Claimant to pay Defendant’s recoverable costs for the PI proceedings (UPC_CFI_463/2023) in the amount of € 200,000, namely € 60,000.00;
 - and
 - II. the Claimant to pay Defendant’s recoverable costs for the infringement action (UPC_CFI_140/2024) in the amount of 30 % of € 400,000, namely € 120,000.
7. The Claimant requests

to dismiss Defendant’s application for a cost decision.

POINTS AT ISSUE:

8. According to the Claimant, Defendant initially did not provide sufficient detail to enable a meaningful assessment. Following the principles of proportionality and equity, the information provided must make clear and obvious what specific amounts are being claimed. Moreover, the Claimant criticises that travel costs are not allocated separately for UPC representatives and for the party.

9. Insofar as the Defendant has submitted additional information in its further pleadings, the Claimant criticises that the Defendant requests the reimbursement of costs for a Swedish and a German lawyer in the PI proceedings. Neither these attorneys nor their firms were ever named as representatives of the Defendant in these proceedings. Therefore, according to the Claimant, their fees are not reasonable and proportionate costs for representation and are therefore not reimbursable.
10. Furthermore, the Claimant argues that the costs for the paralegals are not reimbursable representation costs, because paralegals are not representatives of the Defendant. They have no full legal qualifications. Therefore, the full responsibility lies with the attorneys as legal representatives.
11. Finally, the Claimant is of the opinion that the number of the Defendant's representatives and co-representatives (for the main proceedings) and the number of persons (23 attorneys, one patent attorney candidate and three paralegals) working on the case is astounding. In Claimant's opinion it is at least highly doubtful that certain persons working on the case only to a very small extent actually contributed substantially to the proceedings, especially if they only worked either in the PI proceedings or in the main proceedings. According to the Claimant, the Defendant failed to specify their contributions. With regard to the names of the persons concerned, reference is made to Claimant's brief dated 19 January 2026.
12. The Defendant disagrees and asserts that in respect of the PI proceedings, the Claimant was provided with detailed information on individual time entries for each member of Defendant's legal team as an interim estimate of Defendant's costs during the oral hearing was filed. Nevertheless, the Claimant did not dispute the necessity and proportionality of these costs. With regard to the proceedings on the merits, the Defendant subsequently provided such a detailed breakdown by brief of 27 August 2025. Furthermore, the Defendant clarified that it is only requesting reimbursement for travel costs as part of representation costs.
13. According to the Defendants, there is no rule that attorneys or firms that provided advice on a distinct point must be named as representatives. Even if Claimant's objection is followed, the costs would in any case specify as "other expenses" in relation to obtaining advice on local law of relevance to the dispute.
14. In the Defendant's view, paralegals ensure that costs are reduced. The work of paralegals includes the preparation of filings, bundling of documents for representatives, preparation of exhibits and other tasks that are non-secretarial in nature.
15. Furthermore, Defendants point out that the number of persons or law firms involved per se has no bearing on the reasonableness and proportionality of the amount of costs incurred. As the Claimant has raised concerns about the contributions of several individuals, the Defendant provided more detailed information about each person's contribution in its pleading dated 26 January 2026.

GROUND FOR THE DECISION:

16. The Defendant's application for a cost decision is justified.

I. Admissibility of the Application for a cost decision

17. There are no concerns regarding the admissibility of the application for a cost decision. In

particular, the application was lodged within one month of the decision on the merits being served, in accordance with R. 151 RoP. It was therefore submitted on time.

II. Decision on the merits

1. Principles

18. According to Art. 69(1) UPCA, reasonable and proportionate legal costs and other expenses incurred by the successful party shall, as a general rule, be borne by the unsuccessful party, unless equity requires otherwise, up to a ceiling in accordance with the Rules of Procedure.
19. For representation costs, this principle is specified in R. 152.1 and .2 RoP to the effect that the applicant shall be entitled to recover reasonable and proportionate costs for representation, whereby the Administrative Committee shall adopt a scale of ceilings for recoverable costs by reference to the value in dispute. Regarding expert costs, R. 153 RoP stipulates that the compensation for costs of experts of the parties exceeding the expenses referred to in R. 180.1 RoP shall be based on the rates that are customary in the respective sector, with due regard to the required expertise, the complexity of the issue and the time spent by the expert for the services.
20. The costs of the legal dispute are those that have actually been incurred in the specific pending or disputed proceedings. These include the costs listed in R. 151(d) RoP, in particular. Other costs are those that have not been incurred in the pending proceedings, but which are directly and closely related to them (see UPC_CFI_696/2024 (LD Munich, Panel 2), Decision of 19 March 2025 – MSG Maschinenbau v EJP Maschinenbau; UPC_CFI_363/2023 (LD Düsseldorf, Decision of 14 April 2025 – Seoul Viosys v expert; UPC_CFI_16/2024, Decision of 22 April 2025, mn. 16 – Ortovox v Mammut; UPC_CFI_355/2023 (LD Düsseldorf), Decision of 9 July 2025, mn. 21 – Fujifilm v Kodak).
21. To be eligible for reimbursement, the costs in question must be cumulative reasonable and appropriate, which is always a matter of individual assessment. These criteria are intended to safeguard the objectives set out in Art. 3 and 14 of the Directive 2004/28, namely to ensure a high level of protection for European patents and to prevent an injured party from being deterred from taking legal action to enforce its rights. They also aim to ensure that the measures, procedures and remedies necessary for the enforcement of intellectual property rights are not unnecessarily costly (ECJU, 28 April 2022 – C-531/200 – NovaText/Ruprecht-Karls-Universität Heidelberg; ECJU, 28 April 2022 – 559/20 – Koch Media/Funke; ECJW, 28 July 2016 – C-57/15 – United Video Properties/Telenet; UPC_CFI_16/2024 (LD Düsseldorf), Decision of 22 April 2025, mn. 17 – Ortovox v Mammut; UPC_CFI_355/2023 (LD Düsseldorf), Decision of 9 July 2025, mn. 22 – Fujifilm v Kodak). This also applies for the legal defence.
22. Taking this into account, “reasonable” essentially means “necessary”. From the perspective of a reasonable and rational party, the decisive factor is whether the measure that incurred the costs was objectively necessary and appropriate for achieving the legitimate object of the proceedings. Therefore, the measure must be relevant to the pursuit or defence of legal rights (UPC_CFI_16/2024 (LD Düsseldorf), Decision of 22 April 2025, mn. 18 – Ortovox v Mammut; UPC_CFI_355/2023 (LD Düsseldorf), Decision of 9 July 2025, mn. 22 – Fujifilm v Kodak).

23. The focus of appropriateness is primarily on the amount of costs incurred. The costs incurred by the necessary measure must not be disproportionate. In particular, they must not exceed the value in dispute, the significance of the case, the difficulty and complexity of the relevant legal and factual issues, and the measure's prospects of success. An ex ante assessment is also appropriate here (UPC_CFI_696/2024 (LD Munich, Panel 2), Decision of 19 March 2025, mn. 18 - 22 – MSG Maschinenbau v EJP Maschinenbau; see also UPC_CFI_363/2023 (LD Düsseldorf), Decision of 14 April 2025 – Seoul Viosys v expert; UPC_CFI_16/2024 (LD Düsseldorf), Decision of 22 April 2025, mn. 19 – Ortovox v Mammut; UPC_CFI_355/2023 (LD Düsseldorf), Decision of 9 July 2025, mn. 21 – Fujifilm v Kodak).

2. Reimbursability in the present case

24. Based on these principles, the Claimant has to reimburse the Defendant a total of € 180.000.
25. There is no indication that the costs claimed by the Defendant were unnecessary.
26. As the Defendant has now supplemented its application with further information, the Claimant's objection that Defendant's application is unsubstantiated is no longer valid.
27. To the extent that the Claimant has questioned the necessity of involving a Swedish and a German attorney-at-law, it is not necessary to make a decision on this matter. In this context, it can be assumed in favour of the Claimant that these costs are not reimbursable, without further assessment. In any case, the claimed other costs exceed the ceiling, meaning the costs claimed by the Defendant remain recoverable.
28. The same applies to the costs of the paralegals. In this respect, too, the lack of reimbursability can be assumed in favour of the Claimant. Apart from that, the Defendant rightly pointed out that the use of such paralegals can save costs due to the usually lower hourly rate.
29. With regard to the large number of representatives and co-representatives on Defendants side, the Düsseldorf Local Division has already decided that dividing the tasks among several attorneys and patent attorneys is acceptable, provided that it does not result in additional costs (UPC_CFI_16/2024, Decision of 22 April 2025, mn. 41 – Ortovox v Mammut). In the case at hand, the Claimant does not assert that such additional costs have been incurred. Therefore, its objection in this regard does not substantially call into question the eligibility for reimbursement.

For the same reasons, it is ultimately irrelevant whether the travel expenses in question relate to the representatives or of the parties. In any case, the Defendant is not claiming these expenses in excess of the ceiling.

30. According to R. 156.2 RoP, the costs shall be paid within the period ordered by the judge-rapporteur. This is reflected in Section 2 of the operative part of this decision.

DECISION AND ORDER:

1. For the provisional measures proceedings (UPC_CFI_463/2023) and the subsequent proceedings on the merits (UPC_CFI_140/2024), the Claimant shall reimburse the Defendant for costs **totalling € 180,000.**

2. The payment of the costs stipulated in Section 1 shall be made **by 16 February 2026.**

Issued in Düsseldorf on 2 February 2026

NAMES AND SIGNATURES

Presiding Judge Thomas	
For the Sub-Registrar	

INFORMATION ON APPEAL:

A party adversely affected by a decision referred to in R. 157 RoP may lodge an application for leave to appeal to the Court of Appeal within 15 days of service of the decision (R. 221.1 RoP).

INFORMATION ABOUT ENFORCEMENT (ART. 82 UPCA, ART. 37(2) UPCS, R. 118.8, 158.2, 354, 355.4 ROP):

An authentic copy of the enforceable decision or order will be issued by the Deputy-Registrar upon request of the enforcing party, R. 69 RegR.