



UPC Court of Appeal
UPC_CoA_744/2025
UPC_CoA_750/2025

DECISION
of the Court of Appeal of the Unified Patent Court
issued on 18 February 2026
concerning a withdrawal pursuant to R. 265.1 RoP

APPELLANT (AND DEFENDANT BEFORE THE COURT OF FIRST INSTANCE)

Samsung Bioepis NL B.V., Delft, The Netherlands

(hereinafter referred to as: “Samsung”)

represented by Dr. Peter Meyer, attorney at law, Simmons & Simmons LLP, Munich, Germany

RESPONDENT (AND CLAIMANT BEFORE THE COURT OF FIRST INSTANCE)

Alexion Pharmaceuticals, Inc., Boston, United States

(hereinafter referred to as: “Alexion”)

represented by Elena Hennecke, attorney at law, Freshfields Bruckhaus Deringer Rechtsanwälte Steuerberater PartG mbB, Düsseldorf, Germany

PATENT AT ISSUE

EP 3 167 888

LANGUAGE OF THE PROCEEDINGS

English

DECIDING JUDGE

Rian Kalden, legally qualified judge and standing judge

IMPUGNED ORDERS OF THE COURT OF FIRST INSTANCE

ORD_11300/2025 / ORD_34130/2025 in ACT_3177/2025 UPC_CFI_40/2025, issued by the Hamburg Local Division on 1 August 2025.

ORD_46711/2025, in App_43786/2024 UPC_CFI_123/2024 in ACT_13849/2024 UPC_CFI_123/2024, issued by the Hamburg Local Division on 1 August 2025.

SUMMARY OF FACTS AND PARTIES' REQUESTS

1. Alexion's application for provisional measures was dismissed and it was ordered to bear the costs of the proceedings. Alexion's appeal was rejected, and it was again ordered to bear the costs of the proceedings. Samsung applied for a cost decision under R. 150 RoP. The Hamburg Local Division has found the application for a cost decision admissible but only partially justified.
2. Samsung applied for leave to appeal the impugned decisions under R. 221.1 RoP. The Court has given the opportunity to comment on this application to Alexion. After granting extensions on requests by Alexion with Samsung's agreement, the proceedings were stayed with the order that the parties shall inform the Court whether the proceedings need to be resumed, or if a further stay is requested.
3. On 30 January 2026, the Appellant filed a withdrawal of the applications for leave to appeal a cost decision pursuant to R. 265.1 RoP, stating that no costs will be claimed.
4. On 4 February 2026, the Respondent consented to the withdrawal of the applications for leave to appeal and stated that it will not claim any costs.

FOUNDATIONS

Conditions for permitting withdrawal

5. As long as there is no final decision in an action, a claimant may, pursuant to R. 265.1 RoP, apply to withdraw his action. The application to withdraw shall not be permitted if the other party has a legitimate interest in the action being decided by the Court.
6. R. 265.1 RoP also applies mutatis mutandis to the withdrawal of an application for leave to appeal under R. 221 RoP.
7. In view of Alexion's consent, Alexion cannot be considered to have a legitimate interest in the appeals being decided by the Court. The applications to withdraw can thus be permitted.

Costs

8. No decision on costs is required here, since both parties have declared that no costs will be claimed.

DECISION

The Court of Appeal:

- permits the withdrawal of the appeals and declares the proceedings closed;
- orders that this decision shall be entered on the Register;
- declares that there is no need for a cost decision.

Issued on 18 February 2026

Rian Kalden

Standing judge