



Court of Appeal  
UPC\_CoA\_934/2025

**Decision**  
**of the Court of Appeal of the Unified Patent Court**  
**of 11 March 2026**  
**Withdrawal pursuant to Rule 265 RoP**

APPELLANTS AND RESPONDENTS BEFORE THE COURT OF FIRST INSTANCE

1. **A. Menarini Diagnostics S.r.l.**, Via Sette Santi 3, 50131 Florence, Italy
2. **Berlin-Chemie AG**, trading as A. Menarini Diagnostics Deutschland, Glienicke Weg 125, 12489 Berlin, Germany
3. **A. Menarini Diagnostics France SASU**, 3-5 Rue du Jura, BP 70531, 94633 Rungis Cedex, France

hereinafter referred to as the "defendants"

represented by Attorney-at-law Dr Christopher Maierhöfer, Bird & Bird LLP, Munich, Germany

APPELLANTS AND APPLICANTS BEFORE THE COURT OF FIRST INSTANCE

1. **F. Hoffmann- La Roche AG**, Grenzacherstr. 124, 4058 Basel, Switzerland
2. **Roche Diabetes Care GmbH**, Sandhofer Strasse 116, 68305 Mannheim, Germany

hereinafter referred to as the "Applicants"

represented by Attorney-at-law Dr Christof Augenstein, Kather Augenstein Rechtsanwälte PartGmbH, Düsseldorf, Germany

PATENT AT ISSUE

EP 1 962 668

LANGUAGE OF THE PROCEEDINGS

German

PANEL / DECIDING JUDGES

Panel 3:

Ulrike Voß, presiding judge and judge-rapporteur  
Nathalie Sabotier, legally qualified judge  
Bart van den Broek, legally qualified judge  
Kerstin Roselinger, technically qualified judge  
Stefanie Philipps, technically qualified judge

ORDER OF THE COURT OF FIRST INSTANCE COMPLAINED OF

- Order of the Court of First Instance of the Unified Patent Court, Düsseldorf local division, 5 December 2025
- Action number of the Court of First Instance: UPC\_CFI\_712/2025

FACTS OF THE CASE AND APPLICATIONS OF THE PARTIES

1. The applicants applied to the Düsseldorf local division for an order for provisional measures against the defendants for infringement of the patent at issue. The Düsseldorf local division largely granted the application by Order dated 5 December 2025.
2. The defendants lodged an appeal against the Order in a pleading dated 22 December 2025 and substantiated their appeal. The applicants replied in a document dated 23 January 2026 in reply. By procedural order dated 2 February 2026, the written procedure was closed and the parties were summoned to an oral hearing on 18 June 2026.
3. By pleadings dated 5 March 2026, the applicants informed the court that the parties had reached an out-of-court settlement. In accordance with this agreement, they withdrew the application for provisional measures and requested that the withdrawal of the action for provisional measures be allowed and that the proceedings be declared terminated. The applicants have also stated that the parties have agreed that each party will bear its own costs and that there will be no reimbursement of costs between the parties. There was therefore no need for a decision on costs.
4. By pleadings dated 9 March 2026, the defendants agreed to the withdrawal of the application for an order for provisional measures and stated that no application for costs would be made.

REASONS

5. Withdrawal of the application for provisional measures is permitted pursuant to Rule 265.1 RoP. An application within the meaning of Rule 265.1 RoP is also an application for an Order for interim measures.

Measures. Rule 265.1 RoP also applies in appeal proceedings. The withdrawal was declared by the applicants before a final decision was issued in the pending appeal proceedings. Legitimate interests of the respondents within the meaning of Rule 265.1, sentence 3 RoP, which could oppose the admission of the withdrawal, have neither been submitted nor are otherwise apparent. On the contrary, the parties have declared that they have reached an out-of-court settlement.

6. If the withdrawal is admitted, the court will issue (a) a decision declaring the proceedings terminated, (b) an order that the decision be entered in the register and (c) a decision on costs pursuant to Part 1 Chapter 5 in accordance with Rule 265.2 RoP. Since the parties agree that each party will bear its own costs and that there will be no reimbursement of costs between the parties, no decision on costs pursuant to Rule 265.2 (c) RoP is required.

## ORDER

1. The withdrawal of the application for provisional measures is allowed.
2. The proceedings are declared terminated.
3. This decision shall be entered in the Register.
4. The date set for the oral hearing on 18 June 2026 is cancelled.

**Ulrike Voß** Digitally signed by Ulrike  
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Ulrike Voß, presiding judge and judge-rapporteur

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