



Appeal n°:
UPC_CoA_528/2024
UPC_CoA_529/2024

DECISION

of the Court of Appeal of the Unified Patent Court

issued on 25 March 2026

concerning an application for withdrawal (R. 265 RoP) regarding an application for rehearing (R. 245 RoP) and an application for reimbursement of Court fees (R. 370.9 RoP)

APPLICANTS (RESPONDENTS BEFORE THE COURT OF APPEAL AND CLAIMANTS BEFORE THE COURT OF FIRST INSTANCE)

1. **SANOFI-AVENTIS DEUTSCHLAND GMBH**, Brüningstrasse 50, 65926, Frankfurt am Main, Germany
2. **SANOFI-AVENTIS GROUPE S.A.**, 82 Avenue Raspail, 94250 Gentilly, France
3. **SANOFI WINTHROP INDUSTRIE S.A.**, 82 Avenue Raspail, 94250 Gentilly, France

hereinafter: ("**Sanofi**")

represented by Daniel Wise, attorney-at-law, Carpmaels & Ransford, London, The United Kingdom and other representatives from that law firm

and

Regeneron Pharmaceuticals Inc., 777 Old Saw Mill River Road, Tarrytown, NY 10591, USA

hereinafter: ("**Regeneron**")

represented by Niels Hölder, attorney-at-law, Carpmaels & Ransford, London, United Kingdom, and other representatives from that law firm

RESPONDENT (APPELLANT BEFORE THE COURT OF APPEAL AND DEFENDANT BEFORE THE COURT OF FIRST INSTANCE)

AMGEN, INC, One Amgen Center Drive, CA 91320-1799, Thousand Oaks, USA

hereinafter: ("**Amgen**")

represented by represented by Koen Bijvank, attorney-at-law, Brinkhof N.V., Amsterdam, The Netherlands and representatives from Bardehle Pagenberg, Munich, Germany

PATENT AT ISSUE

EP 3 666 797

DECIDING JUDGES

Klaus Grabinski, President of the Court of Appeal

Nathalie Sabotier, legally qualified judge and judge-rapporteur

Peter Blok, legally qualified judge

LANGUAGE OF THE PROCEEDINGS

English

DECISION UNDER REVIEW

- Decision of the Court of Appeal of the Unified Patent Court dated 25 November 2025
- Numbers attributed by the Court of Appeal:
UPC_CoA_528/2024
UPC_CoA_529/2024

FACTS, REQUESTS AND SUBMISSIONS

1. On 1 June 2023, Sanofi brought a revocation action against the patent at issue before the Central Division, section Munich. On the same day, Amgen brought an infringement action based on the same patent before the Local Division Munich against Sanofi and Regeneron. Regeneron filed a counterclaim for revocation, which was subsequently, with the agreement of the parties, referred to the Central Division Munich, where it was joined to the pending revocation action lodged by Sanofi. The infringement action has been stayed.
2. On 16 July 2024, the Central Division Munich revoked the patent in its entirety and ordered Amgen to bear Respondents' legal costs.
3. Amgen timely lodged two appeals against this decision respectively regarding the counterclaim for revocation (UPC_CoA_529/2024) and the revocation action (UPC_CoA_528/2024).
4. On 25 November 2025, the Court of Appeal set aside the impugned decision, rejected the request for revocation of the patent at issue.
5. On 26 January 2026, Sanofi and Regeneron filed an application for rehearing. Together with this application for rehearing, Sanofi and Regeneron requested the Court of Appeal to order that the lodging of the application for rehearing has suspensive effect.
6. The application for suspensive effect was rejected by an Order dated 18 February 2026.
7. On 25 February 2026, Amgen filed its reply to the application for rehearing.

8. On 11 March 2026, Sanofi and Regeneron filed an application to withdraw the Application for rehearing and a request for reimbursement of Court fees. The applicants request that the Court of Appeal:
 - a. permit the withdrawal of the Application for Rehearing dated 26 January 2026;
 - b. reimburse Claimants 50% of the Court Fees; and
 - c. close the Application for Rehearing.
9. On 13 March 2026, Amgen, in response to the application for withdrawal, consented to the withdrawal of the application for rehearing and indicated that no decision on costs is necessary.

GROUNDINGS FOR THE DECISION

Conditions for permitting withdrawal

10. Pursuant to R.265.1 RoP, 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 Court shall decide upon the application after hearing the other party. The application to withdraw shall not be permitted if the other party has a legitimate interest in the action being decided by the Court.
11. This provision equally applies to withdrawals of appeals (CoA, 5 July 2024, CoA_234/2024, *10x Genomics vs Curio Bioscience*, para 9 and CoA, 23 December 2025, CoA_691/2025, *Lindal Dispenser v Rocep*, para 5) and applications for rehearing.
12. In view of Sanofi and Regeneron's request and given the consent from Amgen, the Court of appeal permits the withdrawal of the application for rehearing.

Costs

13. R. 265.2 (c) RoP provides that the Court shall issue a cost decision in accordance with Part 1, Chapter 5 (R.150 to 152 RoP).
14. Before the Court of Appeal seised of the application for rehearing, none of the parties requests such a decision. Therefore, there is no need for a cost decision.

Reimbursement of Court fees

15. In the present case, it appears that Sanofi and Regeneron paid only one fee when lodging their two applications for the rehearing of the two cases (528 and 529/2024), although two fees were due. It follows that there is no reason for a reimbursement of Court fees by virtue of R. 370.9 (b) RoP.

DECISION

The Court of Appeal

16. permits the withdrawal of the applications for rehearing UPC_CoA_528/2024, and UPC_CoA_529/2024, and declares the proceedings closed;
17. orders that the decision be entered on the register;
18. Rejects the request for a reimbursement of the Court fees.

This decision was issued on 25 March 2026.

Klaus Grabinski, President of the Court of Appeal

Nathalie Sabotier, legally qualified judge and judge-rapporteur

Peter Blok, legally qualified judge