



UPC - Court of Appeal
UPC_CoA_60/2026

DECISION

of the Court of Appeal of the Unified Patent Court

issued on 27 April 2026

concerning an application for the assessment of costs, Rule 151 of the RoP:

withdrawal pursuant to Rule 265 of the RoP

APPLICANT (APPELLANT BEFORE THE COURT OF APPEAL AND RESPONDENT IN THE PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

Niche Biomedical, Inc., 10940 Wilshire Blvd. Suite 2030, Los Angeles, CA 90024, USA, hereinafter
'the Applicant',

represented by: Dr Jan Zecher, Attorney-at-law, of the law firm Fish & Richardson P.C.

RESPONDENT (APPELLANT BEFORE THE COURT OF APPEAL AND APPLICANT IN THE PROCEEDINGS BEFORE THE COURT OF FIRST INSTANCE)

ONWARD Medical N.V., Schimmelt 2-16, 5611 ZX Eindhoven, Netherlands, hereinafter
'the defendant',

represented by: Dr Matthias Traut, Attorney-at-law, of the law firm Peterreins Schley Patent- und Rechtsanwälte PartG mbB.

PATENT AT ISSUE

EP 3 421 081

DECIDING JUDGES

This order was issued by Ulrike Voß, presiding judge and judge-rapporteur

LANGUAGE OF THE PROCEEDINGS

German

SUBJECT

Application for the assessment of costs, withdrawn pursuant to Rule 265 of the RoP

FACTS

1. By order of 27 March 2026, the Court of Appeal of the Unified Patent Court ordered that the respondent should bear the costs of the appeal proceedings.
2. By a document dated 27 April 2026, the applicant filed an application for the assessment of costs with the Court of Appeal pursuant to Rule 151 of the RoP. On the same day, the applicant declared the withdrawal of this application for the assessment of costs and stated that the application for the assessment of costs had been refiled with the Munich local division.

REASONS

3. The withdrawal of the application for the assessment of costs dated 27 April 2026 is to be permitted in accordance with Rule 265(1) of the RoP, without the need for a hearing of the respondent.
4. The application for the assessment of costs filed with the Court of Appeal has not yet been served on the respondent. Any interest the respondent may have in a decision on the merits is not prejudiced by the admission of the withdrawal, as the Court of First Instance has jurisdiction over applications for the assessment of costs (UPC_CoA_1/2024, Order of 29 July 2025 – Hanshow v VisionGroup; UPC_CoA_845/2024 UPC_CoA_603/2025, Order of 2 July 2025 – Philips v Belkin).
5. A decision on costs regarding the application for the assessment of costs is not necessary. As a rule, even the successful party bears the costs of the proceedings for the assessment of costs (UPC_CoA_618/2024, Order of 6 June 2025 – Hanshow v Vusion; UPC_CoA_845/2024 UPC_CoA_603/2025, Order of 2 July 2025 – Philips/Belkin).

ORDER

- I. The withdrawal of the application for the assessment of costs dated 27 April 2026 is granted.
- II. The proceedings are declared closed.
- III. The decision is entered in the register.

Issued on 27 April 2026

Ulrike Voß, Presiding Judge and Judge-Rapporteur