



**Procedural Order
of the Court of First Instance of the Unified Patent Court
delivered on 07/05/2026**

CLAIMANT/S

- 1) **GlaxoSmithKline Biologicals SA**
(Claimant) - Rue de l'Institut 89 - 1330 -
Rixensart - BE
- Represented by Tjibbe Douma,
Carlos van Staveren and Nicole
Jadeja of Bird & Bird LLP

DEFENDANT/S

- 1) **Moderna Netherlands B.V.**
(Defendant) - Claude Debussylaan 7 - 1082 MC
- Amsterdam - NL
- 2) **Moderna Biotech Spain, S.L.**
(Defendant) - C/Julián Camarillo 31 - 28037 -
Madrid - ES
- 3) **Moderna Biotech UK Limited**
(Defendant) - 54 Portland Place - W1B 1DY -
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- 4) **Moderna Biotech Distributor UK Ltd**
(Defendant) - MYO, 123 Victoria Street - SW1E
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- 5) **Moderna Switzerland GmbH**
(Defendant) - Peter Merian-Weg 10 - 4052 -
Basel - CH

- 6) **Moderna Poland SP. Z.O.O.**
(Defendant) - Rondo Ignacego Daszynskiego 1
- 00-843 - Warsaw - PL

- 7) **Moderna, Inc.**
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- 8) **ModernaTX, Inc.**
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- 9) **Moderna Belgium S.R.L.**
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- 10) **Moderna France SASU**
(Defendant) - 19 Rue Cognacq-Jay - 75007 -
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- 11) **Moderna Germany GmbH**
(Defendant) - Brienner Strasse 45 a-d c/o
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- 12) **Moderna Italy S.R.L.**
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13) **Moderna Portugal Unipessoal LDA**
(Defendant) - Rua João Chagas, 10-B Direito -
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14) **Moderna Sweden AB**
(Defendant) - c/o Scandinavian Trust AB,
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15) **Moderna Norway A/S**
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Defendants 1-15 are represented by Gertjan
Kuipers, Andreas von Falck, Rik Zagers, Lukas
Sievers, Roman Wuertenberger and Floris
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PATENT AT ISSUE

<i>Patent no.</i>	<i>Proprietor/s</i>
EP2590626 B1	GlaxoSmithKline Biologicals SA

DECIDING JUDGE

Judge-rapporteur

LANGUAGE OF PROCEEDINGS: English

POINTS AT ISSUE AND GROUNDS

1. In this procedural order, several applications are addressed, as well as the preparation of the interim conference (“IC”, to be held on 11 June 2026).

A. R. 176 request GSK

2. According to R. 176 RoP, a party seeking to offer oral witness evidence shall make an application for the hearing of a witness in person which shall set out: (a) the reasons why the witness should be heard in person; (b) the facts which the party expects the witness to confirm; and (c) the language in which the witness shall give evidence.

3. Pursuant to R. 177.1, RoP, the court may order that a witness be heard in person: (a) of its own motion; (b) where a written witness statement is challenged by the other party; or (c) on an Application for the hearing of a witness in person [Rule 176].
4. On 10 April 2026, GSK filed a R. 176 RoP application (the “R. 176 Application”), requesting that the Court orders the hearing of five party experts (two experts of GSK and three experts of Moderna) in person, preferably on the day before the oral hearing. Of each expert, at least one written statement was submitted. According to GSK, the purpose of such hearing of experts in person is *‘to enable each expert to elaborate on the evidence contained in their written statements including inter alia on the challenged facts’*.
5. Moderna request the Court to dismiss the R. 176 Application, submitting that whether the Court requires further expert evidence through R. 176 RoP is at the discretion of the Court. The (very extensive) written reports are already sufficient to provide the Court with the technical background it requires, according to Moderna. Furthermore, the R. 176 Application is argued to be inadmissible, as GSK does not submit any *“facts that the experts are expected to confirm”* as required by R. 176 RoP. GSK’s attempt to introduce a UK-style ‘cross-examination’ lacks basis and does not fit within the UPC framework
6. The Court agrees with Moderna that the procedural rules of the UPC do not provide for a general hearing of all experts as witnesses on their entire written statements, as requested. GSK did not specify which specific fact(s) it expects each expert to confirm. The R.176 Application is therefore dismissed. In case the Court finds at a later stage that specific disputed facts need further confirmation or clarification, experts can be questioned with respect to those specific facts. This is, for now, envisioned to take place as part of the – one day - oral hearing. The (at least online) presence of the party experts at the oral hearing is consequently advisable. Whether specific disputed facts need further clarification, can be discussed at the IC, including, in this context, whether an agreed technical primer might be appropriate in this case.

B. Third R.9.3 application Moderna

7. With a (third) R.9.3 Rules of Procedure (“RoP”) application, dated 22 April 2026 (the “R. 9.3 Application”), Moderna again request an extension of one week for the filing of its next submission, the rejoinder to the application to amend (the “Rejoinder”). The Rejoinder is due on 13 May 2026, one month after the service of the reply to the application to amend (the “Reply”). In support of the Application, Moderna mentions procedural fairness and the objective complexity of the issues to be addressed, including 40 ARs.
8. Asserting that there are no exceptional circumstances, GSK requests that the court dismiss the Application. It points out that the Rejoinder is limited in scope, as it only concerns the application to amend.
9. Given the UPC’s objective of resolving cases in the first instance within 12-14 months from the start of an action, the Rules of Procedure provide for a front-loaded system and for strict and balanced deadlines for filing submissions. Extensions of procedural deadlines at the UPC are only granted in justified exceptional circumstances. It is settled case law that the court should exercise its discretionary power to deviate from the periods provided for in the Rules of Procedure with caution, considering the specific circumstances of the proceedings and the

interests of the parties, as also pointed out in the orders in response to Moderna's previous extension requests in these proceedings, to which orders the Court refers for further substantiation.

10. By order of 27 October 2025, an extension of deadline request of Moderna was rejected. The alleged unusual complexity of the case was addressed therein. A one week extension was granted by order of 1 March 2026, in response to Moderna's second extension request, based solely on the unusually high number of ARs introduced with GSK's Application to Amend. The fact that Moderna now must file a rejoinder concerning the Application to Amend, again addressing the same number of ARs, is not considered an exceptional circumstance that justifies an extension. Procedural fairness does not require an extension. GSK was able to reply to all (also lengthy) submissions of Moderna within the set time limits without (applying for) extensions. The R.9.3 Application is thus dismissed.

C. Topics Interim Conference

11. Parties are invited to suggest topics for the IC. Topics scheduled to be discussed already include the value of the cases and focussing the counterclaim for the oral hearing (in particular: the number of validity attacks and the number of ARs).

ORDER

- A. The R. 176 Application is dismissed.
- B. The R. 9.3 Application is dismissed.
- C. Parties can suggest (further) topics for the IC within one week from today.