

**Case Management Order
of the Court of First Instance of the Unified Patent Court
issued on 11/09/2026
regarding: rules 262A, 20, 37 and 361**

Claimant/Applicant

- 1) **CureVac Manufacturing GmbH**
Friedrich-Miescher-Straße 15
72076 Tübingen, Germany
“CureVac”

Represented by Judith Krens

Defendants

- 1) **Moderna Inc.**
325 Binney Street, MA 02142 Cambridge, United States of America
- 2) **Moderna Netherlands B.V.**
Claude Debussylaan 7, 1082 MC Amsterdam, The Netherlands
- 3) **Moderna Switzerland GmbH**
Peter Merian Weg 10, 4052 Basel, Switzerland
- 4) **Moderna Biotech Spain SL**
C/ Julián Camarillo 31, 28037 Madrid, Spain
- 5) **ModernaTX, Inc.**
325 Binney Street, MA 02142 Cambridge, United States of America
- 6) **Moderna Poland Sp. Z o.o.**
Rondo Ignacego Daszyńskiego 1, 00843 Warsaw, Poland
- 7) **Moderna Biotech UK Ltd**
54 Portland Place, W1B 1DY London, United-Kingdom
- 8) **SAS Moderna France**
19 Rue Cognacq-Jay, 75007 Paris, France
- 9) **Moderna Germany GmbH**
Brienner Straße 45 a-d. c/o Design Offices Campusm, Königsplatz 80333 Munich, Germany
- 10) **Moderna Italy S.r.l.**
Via Vittorio Veneto 54/B, CAP 00187 Rome, Italy
- 11) **Moderna Norway AS**
Wergelandsveien 7 c/o Intertrust AS, 0167 Oslo, Norway
- 12) **Moderna Sweden AB**
Birger Jarlsgatan 12 c/o Scandinavian Trust AB, 11434 Stockholm, Sweden
- 13) **Moderna Portugal Unipessoal LDA**

Defendants 1-13 are represented by Rutger Kleemans and collectively referred to as “**Moderna**”.

PATENT AT ISSUE

<i>Patent no.</i>	<i>Proprietor/s</i>
EP4108769	CureVac Manufacturing GmbH

DECIDING JUDGE

The panel consists of:

Presiding judge	Edger Brinkman
Judge-rapporteur	Margot Kokke
Legally qualified judge	Francois Thomas

This order is issued by the judge-rapporteur.

LANGUAGE OF PROCEEDINGS: English

Subject-matter of the proceedings: Infringement proceedings and counterclaim for revocation

FACTS AND PROCEDURE

1. CureVac is the registered proprietor of EP4108769 (“the patent”) which relates to methods of producing and purifying ribonucleic acid (“RNA”), in particular using tangential flow filtration (“TFF”). It asserts that Moderna infringes the patent.
2. On 24 April 2026, CureVac initiated infringement proceedings against Moderna, pending as case UPC_CFI_1407/2026.
3. Moderna filed a preliminary objection (**PO**) in accordance with R.19 RoP on 1 July 2026. CureVac responded on 16 July 2026.
4. On 1 September 2026, Moderna filed redacted and confidential versions of its statement of defence, together with a counterclaim for revocation (case UPC_CFI_3154/2026) and a R.262A RoP (and R.262.1 RoP) application (the **Confidentiality Application**).

REQUEST AND SUBMISSIONS

R.19 PO

5. With the PO, Moderna request that the Court:

1. Dismiss international jurisdiction under Rule 19.1(a) RoP over:

- Defendants 1, 5, 6, 7 and 11 for claims in relation to both the UPC territory and all Non-UPC States;
- Defendants 3 and 4 for claims in relation to all Non-UPC States.

2. Dismiss the claims against all Defendants for acts in the Non-UPC States as manifestly bound to fail under Rule 361 RoP, in view of CureVac's failure to provide any infringement analysis under the applicable national laws of those states.

Alternatively, to the extent that the Court finds that it has jurisdiction in respect of any specific Defendant and/or territory listed above, Moderna requests that jurisdiction in respect of the remaining Defendants and/or territories be declined accordingly.

5. CureVac requests that the Court dismiss:

- i. all Moderna's preliminary objections pursuant to Rule 19.1(a) RoP; and
- ii. the request pursuant to Rule 361 RoP.

In the alternative, CureVac refers to its submission to the Court dated 3 July 2026 and respectfully requests that the preliminary objections pursuant to Rule 19.1(a) RoP should be dealt with in the main proceedings pursuant to Rule 20.2 RoP.

in the further alternative, CureVac respectfully requests that the parties be heard at an oral hearing should the Court consider granting Moderna any of its requests, including the partial granting of any request.

The Confidentiality Application

6. Moderna request

1. to classify the information listed in more detail in the following table (which is highlighted in grey in the pleading or marked as confidential) as confidential and access-restricted vis-à-vis the Claimant (Rule 262A RoP UPC) and as confidential vis-à-vis third parties and the public (Rule 262.2 RoP UPC);

Confidential Information	Description
Margin numbers: 21; 484-486; 488; 490; 495-496; 500; 504-505; 510; 515-520. Footnotes: 258-261 Exhibits: Exhibit DP 30, Exhibit DP 31, Exhibit DP 32.	Information on the commercial manufacturing processes for the mRNA in accused products and on the filtration equipment used therein.

2. to restrict access to the information subject to confidentiality under Item 1. of this Application exclusively to

- a) the Claimant's authorised representatives and their assistants;
- b) any private expert upon request;
- c) maximum two employees of the Claimant as designated by the Claimant, provided that the Claimant may not designate any person who is involved in applying for patent applications or in deciding upon or permitting the filing of patent applications;

3. to order that the information subject to confidentiality under Item 1. of this Application shall be treated as confidential by the Claimant's representatives and their assistants, any private experts and the employees referred to in Item 2. of this Application; that such

information shall not be used or disclosed outside of these court proceedings, except to the extent that it has come to the knowledge of the receiving party outside of these proceedings, provided that the receiving party has obtained it on a non-confidential basis from a source other than the Defendants or their affiliates, provided that such source is not bound by a confidentiality agreement with or other obligation of secrecy with the Defendants or their affiliates; that this obligation shall also apply to the Claimant; that the persons referred to in Item 2. shall also be under an obligation to the Claimant to maintain the confidentiality of the information contained in the unredacted versions of the foregoing documents and that this obligation of confidentiality shall continue to apply after the termination of these proceedings;

4. to order that in the event of a culpable breach of the confidentiality provisions, the Court may impose a penalty payment for each violation which will be determined having regard to the circumstances of the individual breach;
5. to order, pursuant to Rule 262.2 RoP UPC, that the information subject to confidentiality under Item 1. of this Application shall be kept confidential vis-à-vis third parties and the public, that it shall be excluded from any inspection under Rule 262.1(b) RoP UPC, and that only the redacted versions of the Statement of Defence and of the Exhibits listed in Item 1. shall be made available to any third party;
6. to order that any person who becomes aware of the information subject to confidentiality under Item 1. as a result of their involvement in the present proceedings (whether as a party, intervener, representative, witness, expert, employee of the Court or in any other way) shall treat that information as confidential and shall not use or disclose it outside of these court proceedings, subject to the same exception as set out in Item 3. above;
7. to order that the information subject to confidentiality under Item 1. shall be redacted prior to any entry in or publication of the register and prior to any publication of the decisions, orders or the reasons for judgment in these proceedings, and that the public shall be excluded from the oral hearing insofar as that information is discussed directly or indirectly.

GROUND

The PO

7. The PO cannot lead to the complete dismissal of the action on the grounds of jurisdiction, nor can it lead to the LD The Hague being incompetent to hear the entire case. Furthermore, case law regarding the interpretation of certain jurisdiction and competence rules in the context of the UPC is evolving rapidly. In these circumstances, the JR defers the decision on jurisdiction and competence to the main proceedings pursuant to R.20.2 RoP. This will enable the parties and the Court to consider new developments.
8. Insofar as the PO should be considered to contain a R.361 application and such application is admissible in the context of a PO¹, such application is reserved for clear-cut situations only², which is, also in view of claimant's response and submissions in the statement of claim, not the case here. The R.361 application is therefore dismissed.

¹ see CoA order of 3 September 2024, UPC_CoA_188/2024, Aylo v Dish

² See CoA order of 15 October 2024, UPC_CoA_570/2024, Mocrosoft v Suinno

The Confidentiality Application

9. CureVac is herewith given the opportunity to respond to the Confidentiality Application pursuant to R.262A.4 (and R.262.5) RoP. Parties are urged to discuss and reach agreement on the members of the confidentiality club and on the terms/wording of a confidentiality order.
10. Pending a final R.262A order, the Confidentiality Application is provisionally granted as requested apart from the confidentiality club: the unredacted version of Moderna's statement(s) of defence/counterclaim shall be made available to the representatives of CureVac and their assistants only, for the time being. The confidential information shall be made available by setting the confidentiality status of the documents marked as confidential, which were submitted with status HC, to status R (representatives only).

Other case management issues

11. Now that a counterclaim for revocation has been filed, the panel intends to take a decision pursuant to Art. 33(3) (a) UPCA not to bifurcate, and to ask for the allocation of a technically qualified judge. Parties are herewith given the opportunity to be heard with respect thereto (R.37.2 RoP).

ORDER

The Court, having heard the parties:

- I. Informs the parties that the Preliminary Objection is to be dealt with in the main proceedings (R.20.2 RoP);
- II. Dismisses the R.361 application;
- III. The Confidentiality Application is provisionally granted as set out in 10. above.
- IV. CureVac can upload a response to the Confidentiality Application on or before 18 September 2026.
- V. Parties given the opportunity to give their views on the application of Art. 33(3) UPCA within three working days from the date of this order.

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Kokke Margot
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Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

INFORMATION ABOUT PANEL REVIEW

Any party may request that this Order be referred to the panel for a review pursuant to R. 333 RoP. Pending review, the Order shall be effective (R. 102.2 RoP)

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