



UPC_CFI_1901/2026
& UPC_CFI_3259/2026
Order

of the Court of First Instance of the Unified Patent Court
delivered on 15/10/2026

Concerning stay and bifurcation

APPLICANT – (DEFENDANT)

Viatrix Santé
1 rue de Turin,
69007, Lyon, FR

Represented by Marc LAUZERAL

RESPONDENTS – (CLAIMANTS)

Merz Pharma France
Tour EQHO, 2 Avenue Gambetta,
92400, Courbevoie, FR

Merz Therapeutics GmbH
Eckenheimer Landstraße 100,
60318, Frankfurt am Main, DE

Merz Pharmaceuticals LLC
Unit 35/36, 6601 Six Forks Road, 4th Floor,
North Carolina 27615, Raleigh, US

Represented by Laëtitia BÉNARD

PATENT AT ISSUE

<i>Patent no.</i>	<i>Proprietor</i>
EP2377536	Merz Pharmaceuticals LLC

COMPOSITION OF PANEL – FULL PANEL

Presiding judge & Judge-rapporteur	Camille Lignières
Legally qualified judge	Carine Gillet
Legally qualified judge	Samuel Granata
Technically qualified judge	Rainer Friedrich

LANGUAGE OF PROCEEDINGS: English

ORDER

Summary of facts and procedure:

MERZ filed an infringement action against VIATRIS before the UPC Paris Local Division on 28 May 2026, after the UPC CoA order granted a PI injunction against VIATRIS.

The judge-rapporteur, seized by VIATRIS, issued an order on 30 July 2026, rejecting the preliminary objection (PO) and the stay requests.

On 11 September 2026, VIATRIS lodged its Statement of Defence with a counterclaim for revocation.

On the same day, VIATRIS filed a procedural application requesting the Court:

- To stay its proceedings on Viatris' counterclaim in action UPC_CFI_3259/2026 until the final and irrevocable decision of the French courts on their jurisdiction regarding the claim for invalidity of SPC No. 13C0033;
- To refer Viatris Santé's counterclaim to the Paris Central Division and proceed with the infringement action UPC_CFI_1901/2026 pursuant to Article 33(3)(b) UPCA and Rule 37.5 RoP;
- To decide on this request immediately after hearing the parties pursuant to Rule 37.2 and 264 RoP.

To this end, Viatris respectfully requests the Judge-Rapporteur to refer this request to the Panel in accordance with Rule 102 RoP.

In its reply on 28 September 2026, MERZ requests the Court to:

- A. Dismiss the Defendant's request for referral of the matter to the Panel under Rule 102 RoP;
- B. Refer the Defendant's counterclaim for revocation to the Paris Central Division;

C. Should the Paris Local Division not refer the Defendant's counterclaim for revocation to the Paris Central Division, or should the Paris Local Division consider that such a referral does not prevent it to rule on the stay of proceedings of the Defendant's counterclaim for revocation, stay the proceedings on the Defendant's counterclaim for revocation (UPC_CFI_3259/2026) pending the final and irrevocable decision of the French courts on their jurisdiction;

D. Order that the infringement proceedings (UPC_CFI_1901/2026) continue before the Paris Local Division (even in a situation where a stay of proceedings of the Defendant's counterclaim for revocation would be ordered);

E. Order Defendant to bear the costs caused by the Application pursuant to Article 69 UPCA;

F. Grant any further relief the Court considers appropriate.

GROUPS

Regarding the referral to the panel (R.102 RoP)

As this application relates to the issue of bifurcation governed by Article 33.3 of the UPCA and Rule 37.2 RoP, this application will be dealt with by the full panel.

Regarding the stay request and the bifurcation issue

A previous request from VIATRIS seeking a stay pending the decision of the Paris Court of First Instance (Tribunal Judiciaire)(hereafter referred to as "Paris TJ") on the basis of Rules 295(b) and (m) RoP has already been dismissed by the JR in her PO order dated 30 July 2026. It has already been stated in the PO order that the legal framework for stating on this type of stay request within the UPC, which is a common court, is provided by Art. 31 UPCA, referring notably to Art. 29 and Art. 30 of Regulation (EU) n° 2015/2012 ("Brussels I recast Regulation" or "BR I recast"). The new element in support of the present application for a stay of proceedings is the fact that VIATRIS has filed its defence statement together with a counterclaim for revocation (UPC_CFI_3259/2026).

VIATRIS argues that at this stage of the proceedings, due to this new revocation action (UPC_CFI_3259/2026) there is a "lis pendens" regarding the Paris TJ first seized with a stand-alone revocation action based on the same SPC and with the same parties. MERZ does not expressly contest this point.

The panel will first examine the bifurcation request in order to decide if it is in light of proper administration of justice in the present case to refer, or not, to the Central Division the matter of the revocation of the SPC at issue.

Regarding the bifurcation of the counterclaim for revocation

The legal framework:

Article 33.3(b) UPCA and Rule 37.2 RoP

The present case:

VIATRIS requests that a ruling be made immediately, in accordance with Rule 37.2 RoP, on the possible bifurcation of its counterclaim and application for revocation filed as part of its statement of defence.

MERZ does not object, provided that this does not delay the proceedings.

Given that the referral is requested by VIATRIS and that the other party, MERZ, does not object to it, the question of the validity of the SPC – which falls within the jurisdiction of the Paris Central Division (in accordance with Annex II on the Distribution of cases within the Central Division of the UPC) – will be referred to the latter. It is therefore logical that the question of a stay of proceedings in the context of the parallel proceedings pending before the Paris TJ should be dealt with by the Paris Central Division, which is responsible for ruling on the validity of the SPC in dispute.

For reasons of procedural efficiency (point 7 of the Preamble RoP) and as permitted by Article 33(3)(b) UPCA, and given the parties' agreement on this point, the infringement proceedings (CFI_1901/2026) shall continue before this Division, which retains jurisdiction over the matter.

On these grounds, the panel orders that:

- the counterclaim for revocation (UPC_CFI_3259/2026) is referred to the Paris Central Division, which shall deal with the stay question;
- the infringement action (UPC_CFI_1901/2026) continues before the present Local Division.

Issued in Paris, on 15 October 2026

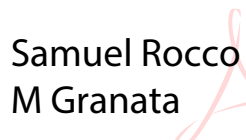
Camille Lignières, Judge rapporteur

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Carine Gillet, Legally qualified judge

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Samuel Granata, Legally qualified judge

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Rainer Friedrich, Technically qualified judge

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Information about appeal: the present order may be appealed in accordance with R. 220.2 RoP

ORDER DETAILS

Date of issue: 15/10/2026

UPC number: UPC-CFI-0001901/2026 & UPC_CFI_3259/2026

Action type: Infringement Action & counterclaim for revocation

Order type: Concerning stay and bifurcation