Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Local Division The Hague
UPC_CFI_0001615/2026

ORDER
of the Court of First Instance of the Unified Patent Court
issued on 20 October 2026
concerning EP 2 753 187 B2 (R. 353 rectification of order)

Claimant

1. **CAELUS LIFESCIENCES IP B.V.**
Thijsseweg 11
2629 JA Delft
The Netherlands
("Caelus")

Represented by D.F. de Lange, B.B. van der Wansem and R. Rijpkema

Defendants

1. **PENDULUM THERAPEUTICS INC.**
933 20th St.
94107 San Francisco, California
United States of America
("Pendulum")

Represented by S.M.M. Versaevel and W.J.G. Maas

3. **IHERB NETHERLANDS B.V.**
Schiphol Boulevard 359
1118 BJ Schiphol
The Netherlands
("iHerb")

Represented by S.M.M. Versaevel and W.J.G. Maas

PATENT AT ISSUE

Patent no.	*Proprietor/s*
EP 2 753 187 B2	Caelus Lifesciences IP B.V. and Stichting Amsterdam UMC

DECIDING JUDGE

Single judge
(all parties consented)

Edger Brinkman

LANGUAGE OF PROCEEDINGS: English

SUBJECT-MATTER OF THE PROCEEDINGS: Provisional measures (R. 211 RoP)

PROCEDURE

1. The following submissions are before the Court:

- Request for rectification (dated 13 October 2026) of the Order of 8 October 2026;
- Reply to Defendants' request for rectification (dated 16 October 2026).

SUMMARY OF FACTS

2. **The application is based on the following facts:**

2.1. This Court handed down an order on 8 October 2026 in the preliminary measures proceedings (the Order), in which the Court allowed the measures requested. After a finding of competence for both Defendants regarding the UPCA territory as well as Switzerland in chapter 4.2, likely infringement of a likely valid patent as well as all other conditions of R. 211 being met, the Order contains the following passages (underlining added by the Court):

(…)

4.8.6. The requested order to deliver up any product in stock and / or otherwise held or owned by Defendants in the Contracting Member States where the patent is in force and Switzerland, is also considered proportionate to prevent further infringement. A term of two weeks is applied. Defendants did not sufficiently substantiate why this additional measure is not proportionate. The same applies to publication on the websites, however limited to the websites under control by Defendants 1 and 3. As noted above, it is assumed that iHerb NL has enough control over the website to arrange this.

(…)

5.1. orders Defendants 1 and 3, within one week after service of this order, to refrain from infringing EP 2 753 187 B2 in any way, in particular by making, offering, placing on the market and/or using and/or importing or storing for those purposes products containing Eubacterium hallii (nowadays: Anaerobutyricum hallii) and/or Alcaligenes faecalis for use in the prevention or treatment of insulin resistance and/or related complications, including the products Glucose Control and Metabolic Daily, in Belgium, Denmark, Germany, France, Italy, the Netherlands, Sweden and Switzerland;

5.2. orders Defendants 1 and 3 to deliver up infringing products owned by, held by or for Defendants 1 and 3 in Belgium, Denmark, Germany, France, Italy, the Netherlands, Sweden and Switzerland within two weeks after service of this order, to prevent their entry into or movement within the channels of commerce in those countries;

5.3. orders Defendants 1 and 3, within four weeks after service of this order, to provide to Caelus (p/a of Brinkhof N.V.), a written account with information on:

(1) the origin and distribution channels of Glucose Control, Metabolic Daily, or any other product that falls within the scope of protection of EP 2 753 187 B2 within Belgium, Denmark, Germany, France, Italy, the Netherlands, Sweden and Switzerland;

(2) quantities produced, manufactured, delivered, received or ordered of Glucose Control, Metabolic Daily, or any other product that falls within the scope of protection of EP 2 753 187 B2 within Belgium, Denmark, Germany, France, Italy, the Netherlands, Sweden and Switzerland; and

(3) the identity, including full names and address details, of distributors, resellers, retailers and other legal entities involved in the sale, supply or distribution of Glucose Control, Metabolic Daily, or any other product that falls within the scope of protection of EP 2 753 187 B2 within Belgium, Denmark, Germany, France, Italy, the Netherlands, Sweden and Switzerland;

5.4. orders Defendants 1 and 3, at their own expense and within one week after service of the decision, to publish the following text

"*We inform you that the Unified Patent Court on 8 October 2026 in a preliminary measure ordered us to refrain from infringing EP 2 753 187 B2 in any way, in particular by making, offering, placing on the market and/or using and/or importing or storing for those purposes products containing Eubacterium hallii (nowadays: Anaerobutyricum hallii) and/or Alcaligenes faecalis for use in the prevention or treatment of insulin resistance and/or related complications, including the products Glucose Control and Metabolic Daily, in Belgium, Denmark, Germany, France, Italy, the Netherlands, Sweden and Switzerland;*

in English or respective local languages, without any additions or commentary, and to keep such publication available and clearly visible for a period of 4 weeks on the homepages of their respective websites (Art. 80 UPCA):

(1) https://pendulumlife.com/

(2) the country-specific domains of iherb.com, of the UPC and EPC member states where the Patent is in force;

(…)

RELIEF SOUGHT

3. **The relief sought is as follows**

3.1. The Defendants request the Court to rectify the Order under paragraph 5.4 as follows (*deletions struck through; additions underlined*):

5.4. orders Defendants 1 and 3, at their own expense and within one week after service of the decision, to publish the following text
"We inform you that the Unified Patent Court on 8 October 2026 in a preliminary measure ordered us to refrain from infringing EP 2 753 187 B2 in any way, in particular by making, offering, placing on the market and/or using and/or importing or storing for those purposes products containing Eubacterium hallii (nowadays: Anaerobutyricum hallii) and/or Alcaligenes faecalis for use in the prevention or treatment of insulin resistance and/or related complications, including the products Glucose Control and Metabolic Daily, in Belgium, Denmark, Germany, France, Italy, the Netherlands, Sweden and Switzerland;

in English or respective local languages, without any additions or commentary, and to keep such publication available and clearly visible for a period of 4 weeks on the homepages of their respective websites (Art. 80 UPCA):

(1) https://pendulumlife.com/
(2) the country-specific domains of iherb.com, of the UPC ~~and EPC~~ member states where the Patent is in force and Switzerland;

GROUNDS

4. **The grounds for the order are as follows**

4.1. It is correct as Caelus indicates that the Court copied the relief from the application, including order 5.4. However, 5.4 was clearly intended to cover the designated UPCA member states as well as Switzerland. Nothing in the order, nor in the application in fact, indicates that any relief would be extended to the other EPC member states apart from Switzerland (in the case at hand these include Turkey, Spain, the UK and Poland). To extend it to those countries would further be inconsistent with the text to be published in 5.4, the other orders rendered in the proceedings, the reasoning on competence as well as on the specific order at issue in paragraph 4.8.6.

4.2. While it may be true, as Caelus asserts, that the geographical reach of a publication measure under Article 80 UPCA need not necessarily coincide with the territorial scope of an injunction against patent infringement. However, if this would have been intended – which it was not – then reasoning to that effect would have been appropriate.

4.3. In fact, two scenarios are likely: Caelus intentionally buried this extension in geographical reach of one of the supplementary requests, in the hope the Defendants (and the Court) would not notice it, or Caelus itself did not see it (possibly copying it from an application in a different case entirely) until the Defendants now noticed it during enforcement. Either way, it should not be rewarded.

ORDER

5. **The order is as follows**

Having heard the parties, the Court:

- rectifies 5.4 of the order of 8 October 2026 as follows:

5.4. orders Defendants 1 and 3, at their own expense and within one week after service of the decision, to publish the following text
"We inform you that the Unified Patent Court on 8 October 2026 in a preliminary measure ordered us to refrain from infringing EP 2 753 187 B2 in any way, in particular by making, offering, placing on the market and/or using and/or importing or storing for those purposes products containing Eubacterium hallii (nowadays: Anaerobutyricum hallii) and/or Alcaligenes faecalis for use in the prevention or treatment of insulin resistance and/or related complications, including the products Glucose Control and Metabolic Daily, in Belgium,

Denmark, Germany, France, Italy, the Netherlands, Sweden and Switzerland;

in English or respective local languages, without any additions or commentary, and to keep such publication available and clearly visible for a period of 4 weeks on the homepages of their respective websites (Art. 80 UPCA):

(1) https://pendulumlife.com/
(2) the country-specific domains of iherb.com, of the UPC member states where the Patent is in force and Switzerland;

INFORMATION ABOUT APPEAL

An appeal to this order may be brought in accordance with Art. 73 (2) (a) UPCA and R. 220.1 (c) and 224.1(b) RoP within 15 calendar days of the service of this order.

INFORMATION ON ENFORCEMENT (ART. 82 UPCA, ART. 37(2) STATUTE, R. 118.8, 158.2, 354, 355.4 ROP)

An authentic copy of the enforceable order will be issued by the Deputy Registrar upon request of the enforcing party (R. 69 Rules governing the Registry of the Unified Patent Court).

Brinkman	Brinkman Edger Frank Digitally signed by Brinkman Edger Frank Date: 2026.10.20 00:39:48 +02'00'
On behalf of the Deputy Registrar	Digitally signed Hageman Larissa Donata 2026-10-20 09:46:27 +0200 Unified Patent Court Einheitliches Patentgericht Juridiction unifiée du brevet