



Paris Local Division

UPC_CFI_230/2023
Procedural Order
of the Court of First Instance of the Unified Patent Court
delivered on *24/01/2024*

APPLICANTS

- 1) Abbott NV / SA
(Applicant) - Avenue Einstein 14 - B1300 -
Wavre - BE

- 2) Abbott GmbH
(Applicant) - Max-Planck-Ring 2 - 65205 -
Wiesbaden - DE

- 3) Abbott Laboratories
(Applicant) - 100 Abbott Park Road - 60064 -
Abbott Park, IL - US

- 4) Abbott S.r.l.
(Applicant) - Viale Giorgio Ribotta 9 - 00144 -
Rome - IT

- 5) Abbott Scandinavia Aktiebolag
(Applicant) - Hemvärnsgatan 9 - 17129 - Solna -
SE

- 6) Abbott B.V.
(Applicant) - Postbus 727 - 2130AS - Hoofddorp
- NL

- 7) Abbott France
(Applicant) - c/o Abbott France, 40/48 rue
d'Arcueil - 94593 - Rungis - FR

- 8) Abbott Logistics B.V.
(Applicant) - Postbus 365 - 8000AJ - Zwolle - NL

- 9) Abbott Diagnostics GmbH
(Applicant) - Max-Planck-Ring 2 - 65205 -
Wiesbaden - DE

- 10) Abbott Diabetes Care Inc.
(Applicant) - 1360 South Loop Road - 94502 -
Alameda, CA - US

RELEVANT PROCEEDING PARTIES

- 1) DexCom, Inc.
6340 Sequoia Drive - 92121 - San Diego,
CA - US

PATENT AT ISSUE

Patent no.

Proprietor

EP3435866

DexCom, Inc.

DECIDING JUDGE

FULL PANEL

Presiding judge and Judge-rapporteur	Camille Lignieres
Legally qualified judge	Carine Gillet
Legally qualified judge	Rute Lopes

LANGUAGE OF PROCEEDINGS: English

POINTS AT ISSUE: *Request for Leave to Appeal*

GROUND FOR THE ORDER

A confidentiality order has been ruled by the judge-rapporteur on 19/12/2023.

On 3/01/2024, the Abbott entities filed a request for leave to appeal pursuant Rule 220.2 of the Rules of Procedure (RoP) concerning the said confidentiality order.

In parallel, on the same day, the Abbott entities filed a request for review by the panel the confidentiality order ruled on 19/12/2023.

The request for leave to appeal filed by the Abbott entities on 3/01/2024 relates to a case management order issued by the judge-rapporteur which falls under Rule 333 RoP.

The UPC Court of Appeal ruled in its order of 11/01/2024 (n°486/2023, §6) that: "As a general principle, unless provided otherwise, a case management decision or order made by the judge-rapporteur or the presiding judge can only be appealed if such decision or order has first been reviewed by the panel pursuant to Rule 333.1. This follows from the fact that it is only possible to make a request for discretionary review to the Court of Appeal under Rule 220.3 RoP in the event leave to appeal of an order of a panel is refused. Therefore, in such a situation, first a request pursuant to Rule 333.1 must be made in order to obtain a panel decision, which can then – if necessary – subsequently be the subject of an appeal under Rule 220.2 RoP if leave to appeal is granted by the panel, or be the subject of a request for discretionary review under Rule 220.3 RoP if such leave is not granted."

In the present case, the review procedure under Rule 333 RoP, concerning the confidentiality order of 19 December 2023, is still pending.

Therefore, the requested leave to appeal under Rule 220.2 RoP is not admissible until it has been reviewed by the panel pursuant to Rule 333.1 RoP.

ORDER

The Court does not allow the applicant to appeal the 19 December 2023 order.

Issued in Paris, on 24/01/2024.

Camille Lignières, Presiding judge and judge rapporteur,

Carine Gillet, Legally qualified judge

Rute Lopes, Legally qualified judge

ORDER DETAILS

Procedural Order in ACTION NUMBER: ACT_546446/2023

UPC number: UPC_CFI_230/2023

Action type: Infringement Action

Related proceeding no. Application No.: 251/2024

Application Type: Generic procedural Application