



Action number:  
UPC\_CoA\_335/2023  
APL\_576355/2023

**Order  
of the Court of Appeal of the Unified Patent Court  
issued on 11/03/2024  
in the proceedings for provisional measures  
concerning EP 4 108 782**

DEFENDANTS and APPELLANTS

1. **NanoString Technologies Inc**  
530 Fairview Ave N - 98109 - Seattle (WA) - US
2. **NanoString Technologies Germany GmbH**  
Birketweg 31 - 80639 - München - DE
3. **NanoString Technologies Netherlands B.V.**  
Paasheuvelweg 25 - 1105BP - Amsterdam - NL

Represented by: Oliver Jan Jüngst, Attorney at Law (Bird & Bird LLP)

APPLICANTS and RESPONDENTS

1. **10x Genomics, Inc.**  
6230 Stoneridge Mall Road - 94588-3260 - Pleasanton (CA) - US
2. **President and Fellows of Harvard College**  
Suite 727E, 1350 Massachusetts Avenue - 02138 - Cambridge (MA) - US

Represented by: Prof. Dr. Tilman Müller-Stoy, Attorney at Law (Bardehle Pagenberg Partnerschaft mbB)

PATENT AT ISSUE

EP 4108782

PANEL AND DECIDING JUDGES

First panel

Klaus Grabinski	President of the Court of Appeal and judge-rapporteur
Françoise Barutel	legally qualified judge
Peter Blok	legally qualified judge
Rainer Friedrich	technically qualified judge
Cornelis Schüller	technically qualified judge

LANGUAGE OF PROCEEDINGS

German

IMPUGNED ORDER

Order (“Decision and orders”) of the Court of First Instance (Munich Local Division) of  
19/09/2023 – UPC CFI 2/2023

ORAL HEARING OF:

18/12/2023

With regard to an obvious slip in Headnote 2, paragraph 3 and in accordance with the reasons of the order of 26 February 2024, Headnote 2 of the order is rectified as follows after having heard the parties:

“2. The patent claim is not only the starting point, but the decisive basis for determining the protective scope of a European patent under Art. 69 EPC in conjunction with the Protocol on the Interpretation of Art. 69 EPC.

The interpretation of a patent claim does not depend solely on the strict, literal meaning of the wording used. Rather, the description and the drawings must always be used as explanatory aids for the interpretation of the patent claim and not only to resolve any ambiguities in the patent claim.

However, this does not mean that the patent claim merely serves as a guideline and that its subject-matter also extends to what, after examination of the description and drawings, appears to be the subject-matter for which the patent proprietor seeks protection.

The patent claim is to be interpreted from the point of view of a person skilled in the art.

In applying these principles, the aim is to combine adequate protection for the patent proprietor with sufficient legal certainty for third parties.

These principles for the interpretation of a patent claim apply equally to the assessment of the infringement and the validity of a European patent.”

Luxembourg, 11 March 2024

Klaus Grabinski President of the Court of Appeal and judge-rapporteur	
Françoise Barutel legally qualified judge	
Peter Blok legally qualified judge	
Rainer Friedrich technically qualified judge	
Cornelis Schüler technically qualified judge	
Eurico Igreja Employee of the Registry	