



**Procedural Order**  
**of the Court of First Instance of the Unified Patent Court**  
**issued on 20 February 2025**  
**concerning EP 2 697 391 B1**

APPLICANT:

**10x Genomics, Inc.**, 6230 Stoneridge Mall Road, 94588-3260 Pleasanton, CA, USA, legally represented by the Board of Directors, this represented by the CEO Serge Saxonov, *ibid*,

represented by: Attorney-at-law Prof. Dr. Tilman Müller-Stoy, Attorney-at-law Dr. Martin Drews, Patent attorney Dr. Axel Berger, Prinzregentenplatz 7, 81675 Munich, Germany

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DEFENDANT:

**Curio Bioscience Inc.**, 4030 Fabian Way, Palo Alto, CA 94303, USA, represented by its CEO Stephen Fodor, *ibid*,

represented by: Attorney-at-law Agathe Michel-de Cazotte, European Patent attorney Cameron Marshall, 1 Southampton Row WC1B 5HA London, United Kingdom,

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PATENT AT ISSUE:

European patent n° EP 2 697 391 B1

PANEL/DIVISION:

Panel of the Local Division in Düsseldorf

DECIDING JUDGES:

This order was issued by Presiding Judge Thomas acting as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT OF THE PROCEEDINGS: Rules 354.1, 352 RoP – Enforcement security

SUMMARY OF FACTS AND STATEMENT OF FORMS OF ORDER SOUGHT BY THE PARTIES:

On 30 April 2024 the Court granted a preliminary injunction against the Defendant and ordered the Applicant to provide an enforcement security in the amount of EUR 2,000,000, either as a deposit or as a bank guarantee, at the Applicant's choice.

The enforcement security has been deposited by the Applicant with the UPC on 10 May 2024. Proof of payment of the deposit was filed with the Court on 14 May 2024 (Exhibit BP 40, App\_27382/2024).

The Applicant now intends to exchange this deposit of the enforcement security with a bank guarantee. Therefore, on 19 December 2024, the Applicant delivered to the Defendant the original bank guarantee certificate for a bank guarantee in the ordered amount of the enforcement security to the Defendant. For further details, reference is made to Exhibit BP 41. The Applicant has filed the declaration of release of the deposit as Exhibit BP 42.

The Court has given the Defendant the opportunity to comment on the Applicant's request. However, the Defendant has not submitted any observations.

GROUNDS OF THE ORDER:

The application is admissible and well-founded.

I.

In its order of 5 August 2024 (UPC\_CFI\_452/2023, App\_28993/2024 - Ortovox v. Mammüt), the Düsseldorf Local Division ruled that if the Court grants the applicant the right to choose between a security deposit and a bank guarantee as to the type of security to be provided, and the applicant provides a bank guarantee in addition to the security deposit, the resulting double security can be grounds for a corresponding release of the security.

This does not mean that such an exchange of security is at the discretion of the applicant in the sense that the applicant may exercise the right of choice granted to him as to the provision of security as often as it wishes with the consequence that the security originally provided will be released upon the provision of another security.

In using its discretion, the Court has to take into account the interests of the applicant in such an exchange of security, as well as the interests of the opposing party and the Court. The Applicant may be deemed to have an interest in the exchange of security if, in the interest of a prompt execution of a preliminary injunction, he initially opted for the deposit, which he considered more expeditious, but has since obtained a bank guarantee and provided it as security.

II.

Based on these principles, the Applicant has a legitimate interest in the exchange of the security.

As the Applicant has explained, it originally decided to deposit the enforcement security in order to ensure a prompt enforcement of the preliminary injunction. According to the Applicant, the purpose of initiating preliminary injunction proceedings was to receive and enforce a preliminary injunction as soon as possible in order to prevent further infringements of the patent in suit by the Defendants. It would not have been possible for the Applicant to procure a bank guarantee within the same timeframe as depositing the enforcement security. Since the Applicant is a U.S. company, its principal bank is a U.S. bank which is not directly supervised by the European Central Bank, and

which is therefore not itself in a position to provide a bank guarantee for the purposes of an enforcement security ordered by the UPC. The principal bank of the Applicant therefore had to reach out to a European bank which then in turn provided the bank guarantee. This process required close coordination between the different entities – the Applicant, the two different banks, and the legal representatives of the Applicant – across different time zones. As a result, the bank guarantee could not have been provided as quickly as the deposit.

On this basis, it is understandable that the Applicant initially decided to provide security in the form of a deposit.

### III.

As the Applicant has further explained, a deposit is economically disadvantageous for it. Its request for an exchange of securities is therefore justified.

Since the Applicant has duly lodged a bank guarantee as security, it may now, in view of its interest in the exchange of the security lodged, request repayment of the deposit.

Pursuant to R. 352.2 RoP in conjunction with R. 45.3 of the Registry Rules, the Court shall order an appropriate repayment to the Registrar. The present order takes account of this.

### ORDER:

- I. The Registrar is ordered to pay the Applicant the security of EUR 2,000,000 deposited with the Unified Patent Court.
- II. The amount should only be paid if the time limit for the Defendants to file a request for review of this Order by the Panel (R. 333.2 RoP) has expired without such a request has been filed.

### DETAILS OF THE ORDER

App\_2588/2025 related to the main proceeding ACT\_590953/2023

UPC-Number: UPC\_CFI\_463/2023

Subject of the Proceedings: Application for provisional measures

Issued in Düsseldorf on 20 February 2025

NAMES AND SIGNATURES

Presiding Judge Thomas