



Local Division Munich
UPC_CFI_501/2023
UPC_CFI_676/2024

Procedural Order
of the Court of First Instance of the Unified Patent Court
Local Division Munich
issued on 9 April 2025

CLAIMANT

Edwards Lifesciences Corporation, 1 Edwards Way - 92614 - Irvine - US

represented by: Boris Kreye, Elsa Tzschope (Bird & Bird)

assisted by: Bernhard Thum, Dr. Jonas Weickert (Thum & Partner); Siddharth Kusumakar, Tessa Waldron and Bryce Matthewson (Powell Gilbert)

DEFENDANTS (APPLICANT)

Meril Life Sciences Pvt Ltd.

M1-M2, Meril Park, Survey No 135/2/B & 174/2 Muktanand Marg, Chala, Vapi - 396 191
Gujara- Vapi – IN

represented by: Dr. Andreas von Falck, Dr. Roman Würtenberger, Dr. Lukas Wollenschlaeger, Beatrice Wilden, Dr. Alexander Klicznik, Dr. Felipe Zilly (Hogan Lovells)

THIRD PARTY (RESPONDENT)

Erik Krahbichler , c/o KIPA AB, Drottninggatan 11, 25221 Helsingborg, Sweden

represented by: Mr Erik Krahbichler, KIPA AB, Drottninggatan 11, 25221 Helsingborg, Sweden

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PATENT AT ISSUE

European patent n° 3669828

PANEL/DIVISION

Panel 1 of the Local Division Munich

DECIDING JUDGE/S

This order has been issued by the Presiding Judge Matthias Zigann acting as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS

English

SUBJECT-MATTER OF THE PROCEEDINGS

Withdrawal of a generic procedural Application - RoP 262.1.b.
Applications for a cost decision – RoP 151 (ACT_60270/2024 and App_59832/2024)
Applications for protection of confidential information - RoP 262A (App_4795/2025 and APP_4792/2025)
Withdrawal of applications for a cost decision and for protection of confidential information (App_14059/2025)

PROCEDURAL BACKGROUND

Krahbichler applied for access to the file. Edwards and Meril objected. Krahbichler withdrew the applications. Meril filed applications for a decision on costs (ACT_60270/2024 UPC_CFI_676/2024 and App_59832/2024 UPC_CFI_501/2023) with briefs dated 7 November 2024.

REQUESTS

Meril requests:

- I. Applicant be ordered to bear the costs of proceedings;*
- II. a cost decision be issued (R. 156.2, 265.2(c) RoP);*
- III. Applicant be ordered to reimburse costs incurred in the proceedings concerning the request for access to written pleadings and evidence filed on 4 June 2024 (App_33377/2024) in the amount of EUR 8,379.00 (see below, Section II.);*
- IV. Applicant be ordered to pay said costs within a time period to be ordered by the judge-rapporteur (R. 156.3 RoP).*

Krahbichler requested:

The present application is a General procedural application under RoP 9 and thus to be dismissed of this reason alone.

Re-imbusement of reasonable costs of the respondent is requested in this case, and an order for a cost decision is requested correspondingly.

Should the present application be deemed admissible, the following requests are made:

- Further details and evidence of the costs is requested pursuant to RoP 156*
- Applicants shall be given an opportunity to comment on any future additional arguments and evidence provided by applicants*
- A reasonable amount in the particular case shall be ultimately be determined by the court*
- Cost assistance is requested by the court in case of a decision of costs over 0 €.*

The JR ordered with order dated 30 December 2024:

Meril is ordered to provide written evidence of all costs requested and is invited to further comment within 30 days.

Meril filed an additional brief dated 29 January 2025.

Meril requested in App_4795/2025:

I. the following sections contained in and Exhibits submitted with the Further Comments filed in workflow App_59832/2024 and in workflow ACT_60270/2024 (UPC_CFI_676/2024) be classified as "confidential information" pursuant to Art. 58 UPCA, Rule 262A RoP and Rule 262.2 RoP:

1. the information contained in the table in Section B.1. of the Further Comments Comments that are marked in grey,

2. Set of Exhibits HL C submitted with the Further Comments;

II. access to the confidential information be restricted to Mr Erik Krahbichler, being the Applicant and acting as his "representative" (Mr Erik Krahbichler, KIPA AB) in the present proceedings;

III. it be ordered that the person authorized to access the confidential information pursuant to Request II. must treat the confidential information confidential, must not disclose the confidential information to any third party outside the present proceedings and must not use the confidential information outside the present proceedings;

IV. it be ordered that, in the event of a culpable breach of the order pursuant to Request III., an appropriate penalty, to be determined by the Court having regard to the circumstances of each case, be paid to the Court for each violation of that order;

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V. it be ordered that the obligation to maintain secrecy pursuant to Request I.-IV. shall continue to apply after the present proceedings have been concluded;

VI. it be ordered that, when publishing an order or decision (or any other announcement) in the present proceedings, all confidential information pursuant to Request I. must be redacted to prevent disclosure.

Meril requested in APP_4792/2025:

I. the following sections contained in and Exhibits submitted with the Further Comments filed in workflow App_59832/2024 and in workflow ACT_60270/2024 (UPC_CFI_676/2024) be classified as "confidential information" pursuant to Art. 58 UPCA, Rule 262A RoP and Rule 262.2 RoP:

1. the information contained in the table in Section B.1. of the Further Comments Comments that are marked in grey,

2. Set of Exhibits HL C submitted with the Further Comments;

II. access to the confidential information be restricted to Mr Erik Krahbichler, being the Applicant and acting as his "representative" (Mr Erik Krahbichler, KIPA AB) in the present proceedings;

III. it be ordered that the person authorized to access the confidential information pursuant to Request II. must treat the confidential information confidential, must not disclose the confidential information to any third party outside the present proceedings and must not use the confidential information outside the present proceedings;

IV. it be ordered that, in the event of a culpable breach of the order pursuant to Request III., an appropriate penalty, to be determined by the Court having regard to the circumstances of each case, be paid to the Court for each violation of that order;

V. it be ordered that the obligation to maintain secrecy pursuant to Request I.-IV. shall continue to apply after the present proceedings have been concluded;

VI. it be ordered that, when publishing an order or decision (or any other announcement) in the present proceedings, all confidential information pursuant to Request I. must be redacted to prevent disclosure.

Meril argued that the confidential information according to Request I. comprises narratives, i.e. descriptions of the specific tasks performed by Defendants' representatives, information on the hours worked by Defendants' representatives, rates (specific attorney fees). The information in the table in the Further Comments also allow to draw direct conclusions on the hourly rates and discounts. The detailed descriptions of the specific legal services provided, the hours worked, and the corresponding fees incurred are in principle only of significance in the specific relationship between Defendants and their representatives and within the scope of their contractual agreements. The information enjoys special protection within the confidential attorney-client relationship which is fundamentally important for the functioning legal representation. Furthermore, the information discloses concrete details on the work performed for the client (i.e. by Defendants' representatives for them), on how this work was performed, on how much time was spent on individual tasks and on what was charged for this work. In particular, the narratives contain sensitive and detailed information especially about the individual steps of (and time spent on) the legal and preparatory work as well as on client communication. The specific invoiced attorney fees (and discounts) are the result of the

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individual negotiations between the parties and are not accessible to third parties or the general public.

On 8 January 2025 the Central Division Paris Seat issued an order in APP_ 56782/2024 UPC_CFI_189/2024 dismissing an application for a cost decision in the context of an R 262.2 application. Meril and Krahbichler are also party to these proceedings.

With order dated 17 March 2025 the JR gave the following guidance:

Regarding the application for protection of confidential information pursuant to R. 262A RoP reference is made to today's order in App_66581/2024. Consequently, an implied application pursuant to R. 262.2 RoP could be granted. It is suggested to withdraw the remaining application.

Regarding the applications for a cost decision reference is made to the order by the Central Division Paris Seat dated 8 January 2025 (APP_ 56782/2024 UPC_CFI_189/2024). Consequently, no cost reimbursement is warranted in the context of an application pursuant to R. 262 RoP or the withdrawal thereof.

It is suggested to withdraw the applications.

With brief dated 21 March 2025 Meril requested (App_14059/2025):

In the interest of procedural economy, we hereby – in the name and on behalf Defendant 2)

– withdraw

I. the applications for cost reimbursement of 7 November 2024 (ACT_60270/2024, App_59832/2024),

and

II. subject to the below, the confidentiality applications of 29 January 2025 (App_4792/2025, App_4795/2025).

Meril explained that if the unredacted versions of the submissions filed on 29 January 2025 in workflows ACT_60270/2024 and App_59832/2024 and/or the unredacted version of Exhibits HL C submitted therewith have meanwhile been made available to Applicant, the application for confidentiality is maintained to the extent it was requested that confidentiality be ordered in accordance with Rule 262.2 RoP which, in accordance with the presiding judge and judge-rapporteur's order, can be granted.

Krahbichler had been invited to file observations. He did not.

GROUNDS FOR THE ORDER

Reference is made to the above-mentioned guidance dated 17 March 2025. Regarding the confidentiality concerns it is sufficient to order that parties must not disclose information marked by Meril as confidential to third parties or the public as it would be in case of a successful Rule-262.2-application. In case another third party files an application pursuant to Rule 262 RoP parties will be invited to file observations.

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ORDER

1. The applications for withdrawal are permitted.
2. The workflows mentioned above are closed.
3. This decision is to be entered on the register.
4. Each party must bear its own costs incurred.
5. Edwards and Krahbichler must not disclose information marked by Meril as confidential to third parties or the public.

INFORMATION ABOUT REVIEW BY PANEL

Any party may request that this Order be referred to the panel for a review pursuant to R. 333 RoP. Pending review, the Order shall be effective (R. 102.2 RoP)

Dr. Zigann
Presiding Judge

DETAILS OF THE ORDER

Order no. ORD_60824/2024 in ACTION NUMBER: ACT_597277/2023
UPC number: UPC_CFI_501/2023
Action type: Infringement Action
Related proceeding no. Application No.: 59832/2024
Application Type: Generic procedural Application

Order no. ORD_68647/2024 in ACTION NUMBER: ACT_597277/2023
UPC number: UPC_CFI_676/2024
Action type: Infringement Action

Order no. ORD_17245/2025 in ACTION NUMBER: ACT_597277/2023
UPC number: UPC_CFI_676/2024
Action type: Infringement Action
Related proceeding no. Application No.: 14059/2025
Application Type: Application for leave to withdraw an action (RoP265)

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Order no. ORD_13185/2025 in ACTION NUMBER: ACT_597277/2023
UPC number: UPC_CFI_501/2023
Action type: Infringement Action
Related proceeding no. Application No.: 4792/2025
Application Type: APPLICATION_ROP262A

Order no. ORD_13187/2025 in ACTION NUMBER: ACT_597277/2023
UPC number: UPC_CFI_676/2024
Action type: Infringement Action
Related proceeding no. Application No.: 4795/2025
Application Type: APPLICATION_ROP262A