



Decision
of the Court of First Instance of the Unified Patent Court
issued on 7 January 2025
concerning EP 4 026 488

CLAIMANT:

DexCom, Inc., represented by its CEO Kevin Sayer, 6340 Sequence Drive, San Diego, California 92121, USA,

represented by: Dr Markus Grosch, Dr Johannes Bukow, Dr Jan Axtmann, Paul Lehmann, Quinn Emanuel Urquhart & Sullivan LLP, Mollstraße 42, 68165 Mannheim, Germany,

electronic address for service: marcusgrosch@quinnemanuel.com

DEFENDANTS:

1. **Abbott Laboratories**, represented by its board of directors which is represented by the CEO Robert Ford, 100 Abbott Park Road, Abbott Park, Illinois 60064-6400, USA,
2. **Abbott Diabetes Care Inc.**, represented by its president Jared Watkin, 1360 South Loop Road, Alameda, California 94502, USA,
3. **Abbott GmbH**, represented by its managing director Konstantinos Varlas, Max-Planck-Ring 2, 65205 Wiesbaden, Germany,
4. **Abbott Diagnostics GmbH**, represented by its managing directors Philip Boudreau and Konstantinos Varlas, Max-Planck-Ring 2, 65205 Wiesbaden, Germany,
5. **Abbott Laboratories GmbH**, represented by its managing directors Gregor Benning, Bradley Slater and Frank Weitekämper, Freundallee 9A, 30173 Hanover, Germany,
6. **Abbott Logistics B.V.**, represented by its directors Hendrikus Lueb and Philip Boudreau, Meeuwenlaan 4, 8011BZ Zwolle, The Netherlands,
7. **Abbott France (S.A.S.)**, represented by its president Philippe Emery, 40/48 rue d’Arcueil, 94593 Rungis, France,
8. **Abbott s.r.l.**, represented by the chairman of its boards of directors Massi-miliano Bindi, Viale Giorgio Ribotta 9, 00144 Rome, Italy,

9. **Abbott Gesellschaft m.b.H.**, represented by its directors Martin Hochstöger, Gerhard Wiesinger and Bradley Slater, Perfektastraße 84A, 1230 Vienna, Austria,
10. **Abbott B.V.**, represented by its directors Hendrikus Lueb and Bradley Slater, Wegalaan 9, 2132JD Hoofddorp, The Netherlands,
11. **Abbott (S.A./N.V.)**, represented by its directors Hendrikus Lueb, Hasna Nadir and Bradley Slater, Avenue Einstein 14, 1300 Wavre, Belgium,
12. **Abbott Scandinavia Aktiebolag**, represented by its board of directors which is represented by the chairman of the board Karl Almroth, Hemvärnsgatan 9, 171 54 Solna, Sweden,
13. **Abbott Oy**, represented by its chairman of the board and chief executive officer Karl Almroth, Karvaamokuja 2 A, 00380 Helsinki, Finland,

all Defendants represented by: Dr Dietrich Kamlah, Dr Christian Lederer, Dr Gisbert Hohagen, Taylor Wessing Partnerschaftsgesellschaft mbB, Isartorplatz 8, 80331 München, Germany

electronic address for service: d.kamlah@taylorwessing.com

PATENT AT ISSUE:

European patent n° EP 4 026 488

PANEL/DIVISION:

Panel of the Local Division in Düsseldorf

DECIDING JUDGES:

This decision was issued by Presiding Judge Thomas acting as judge-rapporteur, legally qualified judge Dr Thom, legally qualified judge Rinkinen and technically qualified judge Elmeros.

LANGUAGE OF THE PROCEEDINGS: English

SUBJECT OF THE PROCEEDINGS: R. 265 RoP – Application for leave to withdraw an action
R. 370.11 RoP – Application for a partial reimbursement of court fees

SUMMARY OF THE FACTS:

On 27 December 2023, the Claimant filed a patent infringement action against the Defendants. The Defendants' counterclaim for revocation is dated 3 June 2024. Along with its reply to the counterclaim for revocation, the Claimant has filed a conditionally application to amend the patent in suit (App_45165/2024).

Prior to the closure of the written procedure, the Claimant, by brief dated 27 December 2024, withdrew the infringement action (App_67755/2024), including its previously filed application for an amendment of the patent in suit (App_67756/2024), applied for a partial reimbursement of court fees (App_67758/2024) and informed the Court that a cost decision is not requested.

On the same day, the Defendants agreed to all of these withdrawals and also stated that no cost decision is requested. In addition, the Defendants applied to the Court to permit the withdrawal of the counterclaim for revocation and to issue a decision declaring the proceedings closed (App_683363/2024), requested a partial withdrawal of the court fees (App_68365/2024) and informed the Court that a cost decision is not requested.

By brief dated 2 January 2025, the Claimant agreed to the withdrawal of the counterclaim for revocation and the application for a partial reimbursement of court fees and informed the Court, that a cost decision is also not requested.

GROUNDS FOR THE DECISION:

The decision follows the parties' jointly expressed will.

Insofar as R. 265.2 (c) RoP requires a decision on costs in accordance with Part 1, Chapter 5 RoP, the decision takes into account the agreement reached between the parties.

The orders for a partial reimbursement of court fees are based on R. 370.11 RoP in conjunction with R. 370.9 (b) (i) RoP.

DECISION:

1. The withdrawal of the infringement action, including the application for amendment of the patent in suit, is allowed at the application of the Claimant and with the consent of the Defendants.
2. The withdrawal of the counterclaim for revocation is allowed at the application of the Defendants and with the consent of the Claimant.
3. The oral hearing scheduled for 8 May 2025 is cancelled.
4. All proceedings referred to in points 1. and 2. are declared closed.
5. This decision shall be entered in the register.
6. The court fees relating the infringement action shall be borne by the Claimant.

The court fees relating the counterclaim for revocation shall be borne by the Defendants.

7. The Registrar is directed to reimburse the Claimant as soon as possible 60 % of the Court fees paid by it in these court proceedings in relation to the infringement action, namely EUR 22,200.
8. The Registrar is directed to reimburse the Defendants as soon as possible 60 % of the Court fees paid by them in these court proceedings in relation to the counterclaim for revocation, namely EUR 12,000.
9. The value in dispute for the infringement action and the counterclaim for revocation is set at EUR 4,000,000 each.

DETAILS OF THE ORDER:

App_67755/2024, App_67556/2024, App_67758/2024, App_68365/2024 and App_68380/2024 related to the main proceedings ACT_596853/2023, CC_33181/2024 and App_45165/2024

UPC-Number: UPC_CFI_499/2023

Subject of the Proceedings: Patent infringement action and Counterclaim for revocation

Issued in Düsseldorf on 7 January 2025

NAMES AND SIGNATURES

Presiding Judge Thomas	
Legally Qualified Judge Dr Thom	
Legally Qualified Judge Rinkinen	
Technically Qualified Judge Elmeros	
for the Sub-Registrar Boudra-Seddiki	