



**UPC\_CFI\_14/2023**  
**ACT\_459916/2023**  
**CC\_586764/2023**  
**ORD\_597730/2023**

**Order in the action before the  
Court of First Instance of the Unified Patent Court  
concerning European Patent 3 666 797  
delivered on 02/01/2024**

Date of receipt of Statement of claim : 01/06/2023

CLAIMANT/S

- |    |  |  |
|----|--|--|
| 1) | <b>Amgen Inc.</b><br>One Amgen Center Drive, Mail-Stop 28-2-C -<br>91320-1799 - Thousand Oaks - US | Represented by<br>Johannes Heselberger |
|----|--|--|

DEFENDANT/S

- |    |  |                                |
|----|--|--------------------------------|
| 1) | <b>Sanofi-Aventis Deutschland GmbH</b><br>Industriepark Höchst, Brüningstraße 50 -<br>65926 - Frankfurt am Main - DE | Represented by<br>Niels Hölder |
| 2) | <b>Sanofi-Aventis Groupe S.A.</b><br>54 rue La Boétie - 75008 - Paris - FR   | Represented by<br>Niels Hölder |

- 3) **Sanofi Winthrop Industrie S.A.** Represented by  
82 avenue Raspail - 94250 - Gentilly - FR Niels Hölder
- 4) **Regeneron Pharmaceuticals Inc.** Represented by  
81 Columbia Turnpike - 12144 - Rensselaer - Niels Hölder  
US

#### PATENT AT ISSUE

<i>Patent no.</i>	<i>Proprietor/s</i>
<b>EP3666797</b>	Amgen Inc.

#### DECIDING JUDGE

##### COMPOSITION OF PANEL – FULL PANEL

Presiding judge and  
Judge-rapporteur **Matthias Zigann**  
Legally qualified judge **Tobias Pichlmaier**  
Legally qualified judge **Samuel Granata**  
Technically qualified judge **Xavier Dorland-Galliot**

This order had been issued by the Presiding Judge and Judge-rapporteur Matthias Zigann.

LANGUAGE OF PROCEEDINGS: English

##### SUBJECT-MATTER OF THE PROCEEDINGS

Patent infringement;  
here: provisional dates for interim conference and main oral hearing; application for time extension by defendant until 08.01.2024.

##### SUMMARY OF FACTS

The plaintiff claims infringement of European Patent 3 666 797.

Defendants 1-3 have filed a stand-alone nullity action with the Central Division (ACT\_459505/2023 UPC\_CFI\_1/2023). Preliminary objections by the patent owner were not

successful. The interim conference will be held on 07/02/2024. The main oral hearing is scheduled for 04/06/2024.

Defendant 4 filed a counterclaim for revocation with the Local Division Munich (CC\_586764/2023).

The provisional dates have been confirmed by the panel members. The panel members will discuss how to proceed with the counterclaim (Rule 37 RoP) on 09/02/2024.

With order of 18.12.2023 the Judge-rapporteur has set provisional dates and invited the parties to comment within 6 days (until 27.12.2023).

Plaintiff has indicated that provisional dates are OK.

Defendants have requested an extension of the time limit until 08.01.2024. Due to the holiday season not all of those involved could be reached to confirm the provisional dates. Counsel for defendants used the main workflow for this request. This was wrong. He should have used a Rule 9 workflow (Rule 4.1 RoP). Consequence is that defendants can no longer comment on the provisional dates within the main workflow. The judge-rapporteur has therefore started this workflow.

With order of 28.12.2023 plaintiff has been invited to comment on the defendant's application. Plaintiff answered with brief of 29.12.2023. Plaintiff argues that it should not take 21 days to agree on dates for oral hearings, not even during holiday seasons. Therefore, the plaintiff does not see a justification for the request of defendants. However, plaintiff leaves it to the discretion of the Court, as to how to proceed.

### GROUNDS

This court exercises its discretion and grants the extension. Plaintiff rightfully pointed out that it should not take 21 days to agree on dates for an oral hearing, not even during holiday season. And defendant did not provide any details on the names and functions of those who should participate during the oral hearing but could not yet comment on the dates.

However, it would be awkward not to grant the desired extension or to grant a shorter extension as the overall handling of the case will not be affected at all or not much by granting the desired extension.

### ORDER

1. The deadline for commenting on the provisional dates is extended until 08.01.2024.
2. The comments are to be filed in the 597730/2023 workflow.

DR. ZIGANN  
PRESIDING JUDGE AND JUDGE-RAPPORTEUR

Matthias ZIGANN Digital unterschrieben von Matthias  
ZIGANN  
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ORDER DETAILS

Order in ACTION NUMBER: ACT\_459916/2023

UPC number: UPC\_CFI\_14/2023

Action type: Infringement Action