

UPC CFI, Central Division Paris, 16 June 2023, Astellas v Healios

PATENT LAW – PROCEDURAL LAW

Action referred to Central Division, Munich Section

- *The first classification mentioned by the patent at issue is C 12N 5/079 (Rule 17 RoP)*

By decision No. PR/08052023 dated 8 May 2023, the Presidium of the UPC as being responsible for the management of the court pursuant [art 15\(3\) UPCS](#), determined provisionally the distribution of actions related to patents in IPC sections (A) and (C) pending before the central division in the context of the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union as follows:

- actions pending before the central division related to patents in IPC section (A) shall be assigned to the seat in Paris (art.1).

- actions pending before the central division related to patents in IPC section (C) shall be assigned to the section in Munich (art.2).

Source: [Unified Patent Court](#)

UPC Court of First Instance, Central Division Paris, 16 June 2023

(Butin)

ORDER (Rule 17.3 RoP)

Of the Court of First Instance of the Unified Patent Court Central Division (Paris Seat)

Issued on 16 June 2023 concerning EP No. EP 3056564 B1

CLAIMANT:

ASTELLAS INSTITUTE FOR REGENERATIVE MEDICINE 251 Little Falls Drive, Wilmington, Delaware, US 19808

Represented by Potter Clarkson LLP.

DEFENDANTS:

HEALIOS K.K– 4-1, Hamamatsu-cho 2-chome Minato-ku Tokyo 105-6115, Japan

OSAKA UNIVERSITY– 1-1 Yamadaoka Suita-shi, Osaka 565- 0871, Japan.

PATENT AT ISSUE:

No. EP 3056564 B1

PANEL/DIVISION:

Panel 1 of the Central Division (Paris Seat) This order has been issued by the presiding judge of panel 1

SUMMARY OF FACTS

On 1 June 2023, ASTELLAS INSTITUTE FOR REGENERATIVE MEDICINE lodged a statement of revocation of the European Patent No. EP 3056564 B1 entitled “method for purification of retinal pigment epithelial cells” before the Central Division of the UPC against the concerned registered proprietors, namely HEALIOS KK and OSAKA UNIVERSITY.

GROUNDINGS FOR THE ORDER

Pursuant [R.17.3 RoP](#), “the following shall determine the distribution of actions between the seat of the central division and its sections.

(a) Where an action involves a single patent having a single classification, the Registry shall allocate the action to the seat or the section of the central division appropriate to the classification of the patent according to Annex II of the Agreement. The Registry shall assign the action to a panel in accordance with Rule 345.3.

(b) Where an action involves more than one patent and a majority of the patents have a single classification appropriate to the seat or a single section of the central division according to Annex II of the Agreement, the Registry shall allocate the action to the seat or that section of the central division. The Registry shall assign the action to a panel in accordance with Rule 345.3.

(c) Where neither paragraph (a) nor (b) applies, especially where

(i) **the action involves a single patent having more than one classification or**

(ii) **where the action involves more than one patent and no majority of the patents have a single classification corresponding to the seat or to one of the sections of the central division, the Registry shall assign the action in accordance with Rule 345.3 to the panel at the seat or the section appropriate to the first classification of either the single patent or, where the action involves more than one patent, the patent first listed in the Statement of claim, according to Annex II of the Agreement. If the presiding judge of the respective panel considers that the reference of the action is appropriate, he shall accept it. If he considers otherwise, he shall instruct the Registry to refer the action in accordance with Rule 345.3 to the presiding judge of a panel of either the seat or the other section of the central division he considers appropriate, who shall likewise consider whether the re- allocation of the action is appropriate. If that presiding judge considers otherwise, he shall inform the President of the Court of First Instance, who shall allocate the action to the seat or the section of the central division he considers appropriate”.**

Pursuant [R.47 RoP](#), [R.16](#) to [R.18](#) shall apply mutatis mutandis to the statement for Revocation.

By decision No. PR/08052023 dated 8 May 2023, the Presidium of the UPC as being responsible for the management of the court pursuant [art 15\(3\) UPCS](#), determined provisionally the distribution of actions related to patents in IPC sections (A) and (C) pending before the central division in the context of the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union as follows :

- actions pending before the central division related to patents in IPC section (A) shall be assigned to the seat in Paris (art.1).

- actions pending before the central division related to patents in IPC section (C) shall be assigned to the section in Munich (art.2).

This decision entered into force on 1 June 2023 is applicable until the establishment of a further section of the Central Division of the Unified Patent Court.

The first classification mentioned by the patent at issue is C 12N 5/079.

Pursuant R.17.3 abovementioned, the action shall therefore be re-allocated to the Central Division – Munich section.

FOR THESE GROUNDS

The Registry is instructed to refer the action in accordance with [R.345.3 RoP](#) to the Presiding Judge of the relevant panel of the Central Division-Munich Section.

ORDER

Issued on 16 June 2023

Presiding Judge of Panel 1 Central Division (Paris seat)

Florence Butin
