

UPC CFI, Local Division Düsseldorf, 14 December 2023, Nutricia v Nestlé



PATENT LAW – PROCEDURAL LAW

The provisions of the Brussels 1-bis Regulation that apply to the service of a Statement of claim ([Rule 270 RoP](#)) do not apply to a counterclaim for revocation, which is to be included in the Statement of defence ([Rule 25\(1\) RoP](#))

- At the request of the claimant, the Court clarifies that the time limit for filing the Defence to the Counterclaim for revocation and any Application for the amendment of the patent is 20 December 2023.

Source: [Unified Patent Court](#)

**UPC Court of First Instance,
Local Division Düsseldorf, 14 December 2023**
(Thom)

**Düsseldorf Local Division
UPC_CFI_201/2023
Procedural Order
of the Court of First Instance of the Unified Patent
Court
issued on 14 December 2023
concerning EP 2 359 858**

CLAIMANT:

N.V. Nutricia, Eerste Stationsstraat 186, 2712 HM Zoetermeer, Netherlands, represented by the Managing Director ...

represented by: Prof. Dr. Nils Heide, Dr. Jan Wohlfahrt, Angelika Link, Gleiss Große Schrell und Partner mbB, Leitzstraße 45, 70469 Stuttgart, Germany
electronic address for service: ...

DEFENDANT:

Nestlé Health Science (Deutschland) GmbH, Lyoner Straße 23, 60528 Frankfurt/Main, Germany, represented by the Managing Directors ... and ... , Germany
represented by: Dr. Matthias Meyer, Dr. Daniel Misch as well as patent attorneys Dr. Daniela Kinkeldey, Dr. Anne Halbach, Bird & Bird LLP, Carl-Theodor-Straße 6, 40213 Düsseldorf
electronic address for service: ...

PATENT AT ISSUE:

European patent n° EP 2 359 858

PANEL/DIVISION:

Panel of the Local Division in Düsseldorf

DECIDING JUDGES:

This Order was issued by Judge Dr Bérénice Thom acting as judge-rapporteur.

LANGUAGE OF THE PROCEEDINGS:

English

SUBJECT OF THE PROCEEDINGS:

Patent infringement action – [R. 9, R. 29 \(a\) RoP](#)

GROUND(S) FOR THE ORDER:

According to [R. 29.1 RoP](#), the claimant must file a Defence to the Counterclaim for revocation and any Application to amend the patent pursuant to [R. 30 RoP](#) within two months of service of a Statement of defence containing a Counterclaim for revocation. Since such a Statement of defence was served on 20 October 2023, the Defence to the counterclaim as well as any Application to amend the patent have to be filed by 20 December 2023.

[R. 270.6 \(b\) RoP](#) applies only for the Statement of claim, not to the Counterclaim for revocation, which must be included in the Statement of defence (see [R. 25.1 RoP](#)).

ORDER:

At the request of the claimant, the Court clarifies that the time limit for filing the Defence to the Counterclaim for revocation and any Application for the amendment of the patent is 20 December 2023.

DETAILS OF THE ORDER:

APP_594633/2023 related to the main proceeding ACT_576843/2023

UPC-Number: UPC_CFI_201/2023

Subject of the Proceedings: Patent infringement action – R. 9-application

Issued in Düsseldorf on 14 December 2023

Judge Dr Thom
