

UPC CFI, Local Division Munich, 2 January 2024,
Amgen v Sanofi-Aventis



PATENT LAW – PROCEDURAL LAW

Deadline for commenting on provisional dates for interim conference extended from 24 December 2023 until 8 January 2024

- **as the overall handling of the case will not be affected at all or not much by granting 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.

Rule 9 RoP workflow to be used

- **for request to extend time period**

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.

Source: [Unified Patent Court](#)

**UPC Court of First Instance,
Local Division Munich, 2 January 2024**

(Zigann)

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

CLAIMANT/S

1) **Amgen Inc.** (Kläger) - One Amgen Center Drive,
MailStop 28-2-C - 91320-1799 - Thousand Oaks - US
Represented by Johannes Heselberger

DEFENDANT/S

1) Sanofi-Aventis Deutschland GmbH
Industriepark Höchst, Brünigstraße 50 -

65926 - Frankfurt am Main - DE

Represented by Niels Hölder

2) **Sanofi-Aventis Groupe S.A.**

54 rue La Boétie - 75008 - Paris - FR

Represented by Niels Hölder

3) **Sanofi Winthrop Industrie S.A.** 82 avenue Raspail

- 94250 - Gentilly - FR

Represented by Niels Hölder

4) **Regeneron Pharmaceuticals Inc.** 81 Columbia

Turnpike - 12144 - Rensselaer - US

Represented by Niels Hölder

PATENT AT ISSUE

Patent no. Proprietor/s

EP3666797 ` 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.

GROUND

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

ORDER DETAILS

Order in ACTION NUMBER: ACT_459916/2023

UPC number: UPC_CFI_14/2023

Action type: Infringement Action
