

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, Brüningstraße 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

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