

UPC CFI, Local Division Dusseldorf, 7 January 2025, DexCom v Abbott

transcutaneous analyte sensor systems and methods

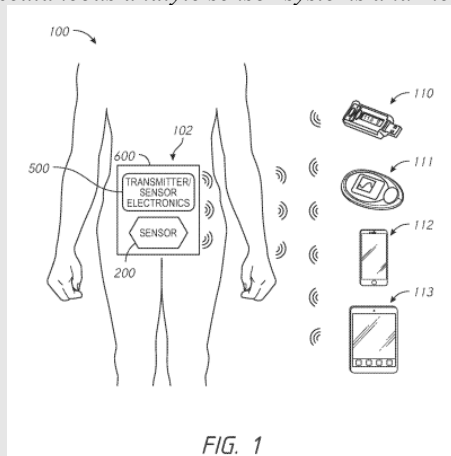


FIG. 1

PATENT LAW – PROCEDURAL LAW

Withdrawal of infringement and revocation actions, no cost decision, 60% reimbursement of court fees (R. 265 RoP, R. 370 RoP)

- [the decision takes into account the agreement reached between the parties.](#)

Source: [Unified Patent Court](#)

UPC Court of First Instance, Local Division Dusseldorf, 7 January 2025

(Thomas, Thom, Rinkinen, Elmeros)

UPC_CFI_499/2023

Decision

of the Court of First Instance of the Unified Patent Court issued on 7 January 2025 concerning [EP 4 026 488](#)

CLAIMANT:

DexCom, Inc., 6340 Sequence Drive, San Diego, California 92121, USA, represented by its CEO Kevin Sayer,

represented by: Dr. Markus Grosch, Dr. Johannes Bukow, Dr. Jan Axtmann, Paul Lehmann, Quinn Emanuel Urquhart & Sullivan LLP, Mollstraße 42, 68165 Mannheim, Germany, electronic address for service: marcusgrosch@quinnemanuel.com

DEFENDANTS:

1. **Abbott Laboratories**, 100 Abbott Park Road, Abbott Park, Illinois 60064-6400, USA, represented by its board of directors which is represented by the CEO Robert Ford,

2. **Abbott Diabetes Care Inc.**, 1360 South Loop Road, Ala-medea, California 94502, USA, represented by its president Jared Watkin,

3. **Abbott GmbH**, Max-Planck-Ring 2, 65205 Wiesbaden, Germany, represented by its managing director Konstantinos Varlas,

4. **Abbott Diagnostics GmbH**, Max-Planck-Ring 2, 65205 Wiesbaden, Germany, represented by its

managing directors Philip Boudreau and Konstantinos Varlas,

5. **Abbott Laboratories GmbH**, Freundallee 9A, 30173 Han-over, Germany, represented by its managing directors Gregor Benning, Bradley Slater and Frank Weitekämper,

6. **Abbott Logistics B.V.**, Meeuwenlaan 4, 8011BZ Zwolle, The Netherlands, represented by its directors Hendrikus Lueb and Philip Boudreau,

7. **Abbott France (S.A.S.)**, 40/48 rue d'Arcueil, 94593 Rungis, France, represented by its president Philippe Emery,

8. **Abbott s.r.l.**, Viale Giorgio Ribotta 9, 00144 Rome, Italy, represented by the chairman of its boards of directors Massi-milano Bindi

9. **Abbott Gesellschaft m.b.H.**, Perfektastraße 84A, 1230 Vienna, Austria, represented by its directors Martin Hochstätger, Gerhard Wiesinger and Bradley Slater,

10. **Abbott B.V.**, Wegalaan 9, 2132JD Hoofddorp, The Netherlands, represented by its directors Hendrikus Lueb and Bradley Slater,

11. **Abbott (S.A./N.V.)**, Avenue Einstein 14, 1300 Wavre, Belgium, represented by its directors Hendrikus Lueb, Hasna Nadir and Bradley Slater

12. **Abbott Scandinavia Aktiebolag**, Hemvärnsgatan 9, 171 54 Solna, Sweden, represented by its board of directors which is represented by the chairman of the board Karl Almroth

13. **Abbott Oy**, Karvaamokuja 2 A, 00380 Helsinki, Finland, represented by its chairman of the board and chief executive officer Karl Almroth

all Defendants represented by: Dr. Dietrich Kamlah, Dr. Christian Lederer, Dr. Gisbert Hohagen, Taylor Wessing Partnerschaftsgesellschaft mbB, Isartorplatz 8, 80331 München, Germany

electronic address for service: d.kamlah@taylorwessing.com

PATENT AT ISSUE:

European patent n° [EP 4 026 488](#)

PANEL/DIVISION:

Panel of the Local Division in Düsseldorf

DECIDING JUDGES:

This decision was issued by Presiding Judge Thomas acting as judge-rapporteur, legally qualified judge Dr Thom, legally qualified judge Rinkinen and technically qualified judge Elmeros.

LANGUAGE OF THE PROCEEDINGS:

English

SUBJECT OF THE PROCEEDINGS:

[R. 265 RoP](#) – Application for leave to withdraw an action

[R. 370.11 RoP](#) – Application for a partial reimbursement of court fees

SUMMARY OF THE FACTS:

On 27 December 2023, the Claimant filed a patent infringement action against the Defendants. The Defendants' counterclaim for revocation is dated 3 June 2024. Along with its reply to the counterclaim for revocation, the Claimant has filed a conditionally

application to amend the patent in suit (App_45165/2024).

Prior to the closure of the written procedure, the Claimant, by brief dated 27 December 2024, withdrew the infringement action (App_67755/2024), including its previously filed application for an amendment of the patent in suit (App_67756/2024), applied for a partial reimbursement of court fees (App_67758/2024) and informed the Court that a cost decision is not requested. On the same day, the Defendants agreed to all of these withdrawals and also stated that no cost decision is requested. In addition, the Defendants applied to the Court to permit the withdrawal of the counterclaim for revocation and to issue a decision declaring the proceedings closed (App_683363/2024), requested a partial withdrawal of the court fees (App_68365/2024) and informed the Court that a cost decision is not requested.

By brief dated 2 January 2025, the Claimant agreed to the withdrawal of the counterclaim for revocation and the application for a partial reimbursement of court fees and informed the Court, that a cost decision is also not requested.

GROUND FOR THE DECISION:

The decision follows the parties' jointly expressed will. Insofar as [R. 265.2 \(c\) RoP](#) requires a decision on costs in accordance with Part 1, Chapter 5 RoP, the decision takes into account the agreement reached between the parties.

The orders for a partial reimbursement of court fees are based on [R. 370.11 RoP](#) in conjunction with [R. 370.9 \(b\) \(i\) RoP](#).

DECISION:

1. The withdrawal of the infringement action, including the application for amendment of the patent in suit, is allowed at the application of the Claimant and with the consent of the Defendants.
2. The withdrawal of the counterclaim for revocation is allowed at the application of the Defendants and with the consent of the Claimant.
3. The oral hearing scheduled for 8 May 2025 is cancelled.
4. All proceedings referred to in points 1. and 2. are declared closed.
5. This decision shall be entered in the register.
6. The court fees relating the infringement action shall be borne by the Claimant. The court fees relating the counterclaim for revocation shall be borne by the Defendants.
7. The Registrar is directed to reimburse the Claimant as soon as possible 60 % of the Court fees paid by it in these court proceedings in relation to the infringement action, namely EUR 22,200.
8. The Registrar is directed to reimburse the Defendants as soon as possible 60 % of the Court fees paid by them in these court proceedings in relation to the counterclaim for revocation, namely EUR 12,000.
9. The value in dispute for the infringement action and the counterclaim for revocation is set at EUR 4,000,000 each.

DETAILS OF THE ORDER:

App_67755/2024, App_67556/2024, App_67758/2024, App_68365/2024 and App_68380/2024 related to the main proceedings ACT_596853/2023, CC_33181/2024 and App_45165/2024

UPC-Number: UPC_CFI_499/2023

Subject of the Proceedings: Patent infringement action and Counterclaim for revocation

Issued in Düsseldorf on 7 January 2025
