

**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

GROUNDS 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