



Local Division Düsseldorf

UPC_CFI_463/2023

Procedural order
of the Court of First Instance of the Unified Patent Court Local Division
Düsseldorf
issued on 29 January 2024
concerning EP 2 697 391 B1

APPLICANT:

10x Genomics, Inc, 6230 Stoneridge Mall Road, 94588-3260 Pleasanton, CA, USA, legally represented by the Board of Directors, which is represented by the CEO ..., *ibid*,

represented by: Lawyer Prof. Dr. Tilman Müller-Stoy,
Attorney at Law
Dr Martin Drews, Patent Attorney Dr Axel Berger, Prinzregentenplatz 7, 81675 Munich,

Electronic delivery address: ...

APPLICANT:

Curio Bioscience Inc, 4030 Fabian Way, Palo Alto, CA 94303, USA, represented by its CEO ..., *ibid*,

represented by: Attorney at Law Agathe Michel-de Cazotte, European
Patent Attorney Cameron Marschall, 1 Southampton Row WC1B
5HA London, United Kingdom,

electronic delivery address: ...

PUBLISHING PATENT:

EUROPEAN PATENT NO. EP 2 697 391 B1

DECISION-MAKING BODY/CHAMBER:

Judges of the Düsseldorf Local Court Co-Judges:

This order was issued by the presiding judge Thomas as rapporteur.

LANGUAGE OF PROCEDURE: German

SUBJECT: Art. 8(5) p. 2 UPCA, R. 34 RP

REASONS FOR THE ORDER:

The ordering of provisional measures can only be considered if the legal validity of the patent in dispute is sufficiently secured, Art. 62 (4) UPCA in conjunction with R. 211.2 RP. R. 211.2 RP. It is therefore incumbent on the panel to obtain a sufficient picture of the legal validity on the basis of the parties' submissions and, in particular, to examine whether any objections raised against the validity of the patent in suit are likely to give rise to reasonable doubts as to the validity of the patent in suit (UPC_CFI_452/2023 (LK Düsseldorf), order of 11 December 2023).

Although the involvement of a technically qualified judge ex officio is only mentioned in the Rules of Procedure in R. 34 of the Rules of Procedure and thus in the provisions on the main proceedings, Art. 8(5) sentence 2 UPCA grants the panel in general and thus also in summary proceedings the right, after hearing the parties, to involve such a judge on its own initiative if it considers this appropriate (see also UPC_CFI_2/2023 (LK Munich), UPC_CFI_214/2023 (LK Helsinki)).

This is the case here.

The patent in dispute protects a "method for the localised detection of nucleic acids in a tissue sample comprising cells" and an "array for use in such a method". It therefore relates to the field of genetic engineering and is therefore a technically demanding field from the outset. The involvement of a technically qualified judge is already sensible and necessary at this point in time. Such an addition of a technically qualified judge to the bench ensures, on the one hand, that this judge can familiarise himself with the case at an early stage and can therefore advise the judge-rapporteur at any time if necessary. On the other hand, this offers the possibility of coordinating a possible hearing date with the technically qualified judge in advance in the event of an objection, thus considerably speeding up the proceedings overall.

ARRANGEMENT:

The President of the Court of First Instance is requested, with the consent of the parties, to assign an additional technically qualified judge to the panel in accordance with Art. 18(3) UPCA, who has appropriate qualifications and experience in the field of technology relating to the patent in suit (classification IPC: C12Q).

DETAILS OF THE ARRANGEMENT:

ORD_3015/2024 for main file reference ACT_590953/2023

UPC number: UPC_CFI_463/2023

Type of proceedings: Application for interim measures - Consultation of a technically qualified judge

Issued in Düsseldorf on 29 January 2024 NAMES

AND SIGNATURES

Presiding Judge Thomas