Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

The Hague Local Division
UPC_CFI_620/2025
UPC_CFI_1509/2025
UPC_CFI_1511/2025

Procedural Order
of the Court of First Instance of the Unified Patent Court
delivered on 25/02/2026
R.9

CLAIMANT

GlaxoSmithKline Biologicals SA,Rue de l'Institut 89, 1330 Rixensart, Belgium

Represented by Carlos Andres van Staveren, Tjibbe Douma, Nicole Jadeja (Bird & Bird)

DEFENDANTS

1. **C.P. Pharmaceuticals International C.V**., Rivium Westlaan 142, 2909LD Capelle aan den Ijssel, the Netherlands
2. **Pfizer Export B.V.,** Rivium Westlaan 142, 2909 LD Capelle aan den IJssel, the Netherlands
3. **Pfizer B.V.,** Rivium Westlaan 142, 2909 LD Capelle aan den IJssel, the Netherlands
4. **Pfizer Manufacturing Belgium N.V.,** Rijksweg 12, 2870 Puurs-Sint-Amands, Belgium
5. **Pfizer Service Company B.V./S.r.l.,** Hoge Wei 10, 1930 Zaventem, Belgium
6. **Pfizer S.A./N.V.,** Boulevard de la Plaine 17, 1050 Brussels, Belgium
7. **Pfizer Luxembourg SARL,** Rond-Point du Kirchberg 51, Avenue J.F. Kennedy, L-1855 Luxembourg, Luxembourg
8. **Pfizer Inc.,** 66 Hudson Boulevard East, New York, 10001-2192, the United States of America
9. **Pfizer Corporation Austria Gesellschaft m.b.H,** Floridsdorfer Hauptstraße 1, 1210 Vienna, Austria
10. **Pfizer ApS,** Lautrupvang 8, 2750 Ballerup, Denmark
11. **Pfizer Oy,** Tietokuja 4, 00330 Helsinki, Finland
12. **Pfizer S.A.S.,** 23-25 avenue du Docteur Lannelongue, 75014 Paris, France
13. **Pfizer Pharma GmbH,** Friedrichstraße 110, 10117 Berlin, Germany
14. **Pfizer S.r.l.,** Via Isonzo 71, 04100 Latina LT, Italy
15. **Laboratórios Pfizer, Lda.,** Lagoas Park – Building 10, 2740 271 Porto Salvo, Portugal
16. **Pfizer Romania S.R.L.,** Șoseaua București-Ploiești 172-176 (Willbrook Platinum Business and Convention Center), 013697 Bucharest, Romania
17. **Pfizer AB,** Solnavägen 3H, 113 63 Stockholm, Sweden
18. **Pfizer, spol. S.r.o.,** Stroupežnického 3191/17, 150 00 Prague 5, Czech Republic
19. **Pfizer Hellas A.E.,** Mesoghion Ave 243, Neo Psychiko 154 51, Athens, Greece
20. **Pfizer, S.L.,** Avenida de Europa, 20-B, Parque empresarial, La Moraleja, 28108 Alcobendas Madrid, Spain
21. **Pfizer Croatia d.o.o.,** Slavonska avenija 6, 10 000 Zagreb, Croatia

22. **Pfizer Gyógyszerkereskedelmi Kft**., Alkotás utca 53, H-1123 Budapest, Hungary
23. **Pfizer Polska Sp. Z.o.o.,** ul. Żwirki I Wigury 16b, Warsaw 02-092, Poland
24. **Pfizer Trading Polska Sp. Z.o.o.,** ul. Żwirki I Wigury 16b, Warsaw 02-092, Poland
25. **Pfizer AG,** Schärenmoosstrasse 99, 8052 Zurich, Switzerland
26. **Pfizer AS,** Drammensveien 288, 0283 Oslo, Norway
27. **BioNTech SE,** An der Goldgrube 12, 55131 Mainz, Germany
28. **BioNTech Europe GmbH,** An der Goldgrube 12, 55131 Mainz, Germany
29. **BioNTech Manufacturing GmbH,** Emil-von-Behring-Straße 76, 35041 Marburg, Germany
30. **BioNTech Manufacturing Marburg GmbH,** Emil-von-Behring-Straße 76, 35041 Marburg, Germany

Defendants 1-26, collectively also "**Pfizer**", are represented by Christian Dekoninck, Geert Theuws, Faziel Abdul, Thomas Witte, Simon Cohen, Ed Vickers, Paul England (Taylor Wessing)

Defendants 27-30, together also "**BioNTech**" are represented by Tess Waldron, Dr. Penny Gilbert, Dr. Joel Coles, Peter FitzPatrick, Daniel Down, Gabriella Simon & Abraham Darby-Zaier and Charlotte Malley (Powell Gilbert)

Defendants 1-30 are collectively referred to as "defendants"or as "**PBNT**".

PATENT AT ISSUE

Patent no.	*Proprietor/s*
EP2590626	GlaxoSmithKline Biologicals SA

DECIDING JUDGE

The panel of the local division ("LD") The Hague.

LANGUAGE OF PROCEEDINGS: English

POINTS AT ISSUE /GROUNDS

1. With a submission of 29 January 2026, PBNT request that the court
   (a) order GSK to limit the number of Auxiliary Requests ("**ARs**") to ten, the "**AR Request**" and
   (b) grant an extension of deadline for filing of PBNT's Rejoinder to the Statement of Defence, Reply to the Counterclaim and Defence to the application to amend the patent ("**Rejoinder/Reply CC/Defence AtA**"), the "**R.9.3 Request**".

2. PBNT assert that the latest submission of GSK dated 12 January 2026, the Reply/Defence to the counterclaim/Application to amend the patent (the "**Reply**"), is excessive in length (377 pages) and contains information that is late filed. It reserves the right to request that parts of

the Reply be disregarded as late filed or inadmissible. In addition, PBNT assert that the number of forty two ARs is unreasonable, especially in view of the fact that (only) fifteen invalidity attacks were raised in de counterclaim (19 if added matter attacks regarding the dependent claims are taken into account) and only eleven ARs were filed in the opposition proceedings regarding the patent (which opposition was withdrawn during the appeal stage). Furthermore, PBNT point out that the number of ARs is possibly much higher, because GSK reserves the right to various combinations and reformulations of ARs (the "**Additional ARs**"). All this justifies an extension of one month for the Rejoinder SoD/Reply CC/Defence Amendment.

3. GSK, given the opportunity to reply, points out that the length of the Reply is not excessive compared to PBNT's Statement of Defence/Counterclaim for revocation ("**SoD/CC**"). As the layout of the submissions differs considerably, comparing the number of pages of the SoD/CC with those of the Reply (which suggest that the Reply is more than two times longer) is misleading. Based on the word count, the difference between GSK's Reply and PBNT's SoD/CC submissions is only a factor 1.3. The increase is mainly due to the infringement and inventive step parts of the Reply, which are prompted by the position taken by PBNT SoD/CC, according to GSK. With refence to UPC case law, it contests that the Reply contains any unpermitted new arguments.

4. Regarding the number of ARs, GSK maintains that the number is reasonable, also in view of the number of validity attacks and the interrelationship with other proceedings (including in the UK and the US) and the case concerning the same patent before the UPC (UPC_CFI_616/2025). The ARs are structured, hierarchical, and clearly substantiated, allowing the court to address the validity objections in a systematic manner which enhances procedural efficiency.

GROUNDS

The AR Request

5. Regarding the number of ARs, the court firstly clarifies that the number of conditional ARs submitted with the R.30.1 application to amend, is understood to be forty two. Thus the R.30.1 application does not contain any Additional ARs. The admissibility of further possible combinations and/or reformulations is subject to approval pursuant to a R.30.2 RoP request.

6. It is questionable whether, in proceedings before the UPC that aim to render speedy decisions within fourteen months, it is feasible to address forty two ARs. The court is at this point not convinced that the forty two proposed conditional ARs are reasonable in the circumstances of the case. GSK's assertion that this is triggered by the great number of validity attacks, is not shared by the court. The assertion that the high number is needed for consistency with other proceedings, is not substantiated.

7. Furthermore, although GSK did indicate the order in which the court should address the ARs in case the patent as granted is deemed invalid, the forty two ARs are not presented in an objection-related tabular overview, from which the (overlap of) introduced features and the addressed attacks are easily derivable.

8. In any case, the (in)admissibility of the ARS and the possible limitation of the number of ARs is a topic that will not be decided now and that will be discussed during the IC (together with the validity attacks). At this point in time, to assist the court and the other parties, GSK will be ordered to submit a comprehensive tabular overview of its ARs, clearly indicating which

(combination of) features is introduced with each AR and indicating in one column which invalidity attack(s) is(are) addressed with the AR. Such overview must be submitted within one week from today. PBNT's request to limit the number to ten, is dismissed.

The R.9.3 Request

9. In setting or extending a deadline, the interests of all parties must be considered, as well as the objective of the UPC to provide expeditious proceedings. The UPC's objective to resolve cases within 12-14 months in first instance from the start of an action provides for a strict, but balanced, system with clear deadlines set in the rules of procedure in a front-loaded system.

10. PBNT request to extend the deadline for filing its Rejoinder/Reply CC/Defence AtA with one month. The substantiation of the R.9.3 Request is based on three pillars, namely the allegedly excessive number of pages of the Reply (377 pages), the allegedly late filed, inadmissible, new arguments and the allegedly unreasonable number of ARs filed by GSK.

11. All submissions of both parties are long, which could be justified by the specifics of the subject of the proceedings. In this context, the number of pages of the Reply is not considered excessive in relation to the SoD/CC, because the difference in pages can be attributed in part to the layout, as GSK pointed out. In case the word count is considered, the difference is much less. This difference does not seem excessive and cannot justify an extension of deadline.

12. Regarding the allegedly late filed, inadmissible new arguments in the Reply, defendants do not mention any specific examples. GSK contests that any new arguments and further evidence presented in the Reply are inadmissible. Here, it suffices to point out that, in general, in proceedings before the UPC, the front-loaded character does not prevent a party from further expanding on arguments already made in a previous submission and from responding to unforeseen positions taken by the other party. In particular, the front-loaded character of the proceedings does not require a claimant to anticipate in its statement of claim every possible defence/argument of defendants. Disallowing a response, could interfere with a party's right to be heard. In this context it is also important to consider whether the other party has or has had sufficient opportunity to respond. Whether specific argument/ new evidence is (in)admissible, depends on the particulars of the submissions and the circumstances of the case. At this point in time, in the present circumstance, it cannot be established whether any arguments are inadmissible and this cannot warrant an extension.

13. As pointed out above, the number of ARs submitted is provisionally considered to be unreasonably high. This does justify a limited extension of one week to the two months period for filing the Rejoinder/Reply CC/Defence AtA. Such extension will not affect the dates already set for the interim conference and the oral hearing.

ORDER

The court, having heard the parties,

1. grants a one week extension for the submission of the Rejoinder/Reply CC/Defence AtA, setting the deadline on **19 March 2026**;
2. orders GSK to submit, within one week from today, a tabular overview of its ARs as set out in 8 above;
3. dismisses all other requests.

Margot Elsa Kokke

Digitally signed by Margot Elsa Kokke
Date: 2026.02.25 10:35:23 +01'00'