



Reference no:

UPC-CoA-146/2026

UPC-CoA-147/2026

UPC-CoA-148/2026

ORDER
of the Court of Appeal of the Unified Patent Court
issued on 12 October 2026

APPELLANTS

- 1) **Promosome LLC**, 48 Gurley Road, 06902 Stamford, Connecticut, USA
- 2) **The Scripps Research Institute**, 10550 North Torrey Pines Road, La Jolla, California 92037, USA

both represented by Georg Andreas Rauh, Vossius & Brinkhof UPC Litigators

RESPONDENTS

- 1) **BioNTech SE**, An der Goldgrube 12, 55131 Mainz, Germany
- 2) **BioNTech Manufacturing GmbH**, An der Goldgrube 12, 55131 Mainz, Germany
- 3) **BioNTech Manufacturing Marburg GmbH**, Emil-von-Bering-Straße 76, 35041 Marburg, Germany
- 4) **BioNTech Innovative Manufacturing Services GmbH**, Vollmersbachstraße 66, 55743 Idar-Oberstein, Germany
- 5) **BioNTech Europe GmbH**, An der Goldgrube 12, c/o BioNTech SE, 55131 Mainz, Germany
- 6) **Pfizer Manufacturing Belgium NV**, Rijksweg 12, 2870 Puurs-Sint-Amands, Belgium
- 7) **Pfizer SAS**, 23-25 Avenue du Docteur Lannelongue, 75014 Paris, France
- 8) **Pfizer AB**, Solnavägen 3h, 11363 Stockholm, Sweden

9) Pfizer, Inc., 66 Hudson Boulevard East, 10001-2192, New York, USA

1), 2), 3), 4) and 5) represented by Christine Kanz, Hoyng Rokh Monegier, 6), 7), 8) and 9) represented by Tobias J. Hessel, Clifford Chance Partnerschaft mbB

PATENT AT ISSUE

EP 2 401 365

PANEL

Panel 1c

Klaus Grabinski, presiding judge and president of the Court of Appeal

Paolo Catallozzi, legally qualified judge and judge-rapporteur

Peter Blok, legally qualified judge

DECIDING JUDGE

This order has been issued by the judge-rapporteur

LANGUAGE OF THE PROCEEDINGS

English

IMPUGNED DECISION OF THE COURT OF FIRST INSTANCE

- Decision of the Court of First Instance of the Unified Patent Court, Munich Local Division, dated 7 July 2026
- Numbers attributed by the Court of First Instance:
 - UPC_CFI_846/2024 (infringement action)
 - UPC_CFI_535/2025 (counterclaim for revocation filed by Respondents 1) to 5))
 - UPC_CFI_485/2025 (counterclaim for revocation filed by Respondents 6) to 9))

FACTS AND PARTIES' REQUESTS

1. On 1 October 2026, the Appellants lodged three applications under R. 9.3(a) RoP, one in each of the present appeals, seeking a one-month extension, until 9 December 2026, of the deadline for lodging the Statements of grounds of appeal

under R. 220.1(a), R. 224.2(a) and R. 226 RoP, which are currently due to expire on 9 November 2026. The applications are based on the same grounds. The appellants argue that the requested extensions are “justified by exceptional circumstances arising from a particularly heavy professional workload of Appellants’ Representative during the relevant time period for preparing the Statement of grounds of appeal, including several deadlines in other matters ... as well as several dates for oral hearings ... all of which require substantive preparation”. They also submit that the period for filing the Statements of grounds of appeals fell entirely into the Bavarian summer school holiday period and also includes the forthcoming Bavarian autumn school holidays taking place from 2 to 6 November 2026. Finally, they point out that the requested extensions would neither adversely affect the efficient conduct of the appeal proceedings nor unduly prejudice the Respondents.

2. Respondents 1 to 5 oppose the application. They submit that the Appellants have had ample time to prepare their Statements of grounds of appeal and that the professional commitments relied on are either insufficiently substantiated or could have been addressed through appropriate staffing, allocation of resources and case-management measures. They further point out that some of those commitments fall after the expiry of the applicable time period and therefore do not explain why the Appellants are unable to comply with it. In their view, the school holidays and the related absences within the Appellants’ legal team were foreseeable and should have been taken into account in organising the preparation of the Statements of grounds of appeal. Finally, they submit that the Respondents have a legitimate interest in the prompt and efficient resolution of the appeals and that the requested extension would delay the completion of the written procedure, notwithstanding that no date has yet been fixed for the oral hearing..
3. Respondents 6 to 9 also oppose the application. They submit, in substance, the same arguments as Respondents 1 to 5. In particular, they contend that the Appellants have not identified any specific impediment preventing compliance with the applicable time period or explained why the commitments relied on could not have been accommodated through ordinary staffing, resource-allocation and case-management measures. They likewise submit that the school holidays and routine absences relied on were foreseeable. Finally, they invoke their legitimate interest in the prompt and efficient resolution of the appeals and contend that an extension would unnecessarily delay the further progress of the appeal proceedings.

GROUND FOR THE ORDER

4. Pursuant to R. 9.3(a) RoP, the Court may, on a reasoned request by a party, extend a time period referred to in the Rules of Procedure or imposed by the Court.
5. In exercising its discretion under that provision, the Court must take account of all the circumstances of the case, including the reasons advanced in support of the

request and the consequences of the requested extension for the efficient and fair conduct of the proceedings and for the other parties' rights of defence. Regard must also be had to the objective, stated in the Preamble to the UPCA, of ensuring expeditious and high-quality decisions, while striking a fair balance between the interests of the parties and taking into account the need for proportionality and flexibility.

6. The circumstances relied on by the Appellants do not justify the requested extensions.
7. The time period for lodging the Statements of grounds of appeal expires on 9 November 2026, four months after the issuance of the impugned decision on 7 July 2026. Moreover, the preparation of those statements does not require the Appellants and their representatives to familiarise themselves with the subject matter of the dispute for the first time, since they were already involved in the proceedings before the Court of First Instance. They have therefore had a substantial period within which to organise the preparation of the Statements of grounds of appeal.
8. The professional commitments identified in the applications do not constitute unforeseen circumstances. Most of the deadlines and hearing dates relied on were known, or could reasonably have been anticipated, sufficiently in advance to enable the Appellants' representatives to organise their work accordingly. Moreover, some of the commitments identified in the applications fall after the expiry of the applicable time period, and the Appellants have not explained how those later commitments prevent compliance with the deadline of 9 November 2026.
9. Representatives before the Court are expected to organise their professional activities and make appropriate arrangements within their legal teams so as to ensure compliance with procedural time periods. A heavy workload resulting from other pending cases does not, in itself, justify an extension, particularly where the competing professional commitments were foreseeable. The applications do not establish that the matters identified could not have been addressed through appropriate advance planning, allocation of work or other reasonable organisational measures.
10. The same applies to the school holiday periods and the absences within the Appellants' legal team relied on in the applications. Those circumstances were foreseeable and should have been taken into account when organising the preparation of the Statements of grounds of appeal.
11. The fact that no date has yet been fixed for the oral hearing does not lead to a different conclusion. Procedural time periods serve to ensure the orderly and expeditious progress of the proceedings. Extending the time period for lodging the Statements of grounds of appeal would postpone the completion of the written procedure and, consequently, the point at which the appeals may proceed to their

subsequent stages. Regard must also be had to the fact that both groups of Respondents oppose the applications and have invoked their legitimate interest in the prompt and efficient resolution of the appeals.

12. In those circumstances, the Appellants have not established grounds justifying an extension of the time period for lodging the Statements of grounds of appeal.

ORDER

The applications for an extension of the time period for lodging the Statements of grounds of appeal are rejected.

Issued on 12 October 2026.

Paolo Catallozzi
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Paolo Catallozzi, legally qualified judge and judge-rapporteur