

**UPC CFI, Regional Division Nordic-Baltic, 11 December 2024, Edwards v Meril**

*low profile delivery system for transcatheter heart valve*

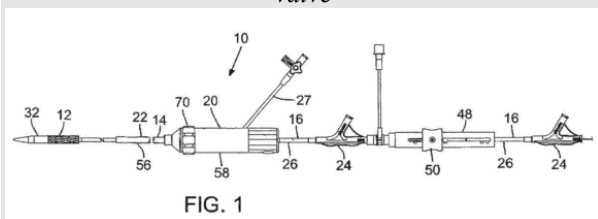


FIG. 1

**PATENT LAW – PROCEDURAL LAW**

No stay of proceedings (oral hearing at 16 January 2024) because of rapidly expected decision of EPO Opposition Division (17 January 2024) ([Art. 33\(10\) UPCA, R. 295\(a\) RoP](#))

- it can be expected that the outcome of the opposition proceedings will be available before this Court issues its decision on the merits (even if the Court proceeds as planned with the oral hearing on 16 January 2025). Furthermore, it can reasonably be assumed that the future decision by the EPO Opposition Division will be subject to an appeal.

Source: [Unified Patent Court](#)

**UPC Court of First Instance,  
Regional Division Nordic-Baltic, 11 December 2024**  
(Johansson, Härmand, Bessaud, Wilhelm)

ORD\_65290/2024

App\_14299/2024

ACT\_582093/2023

UPC\_CFI\_380/2023

**Procedural Order**

of the Court of First Instance of the Unified Patent Court delivered on 11 December 2024

**APPLICANTS/DEFENDANTS**

**1) MERIL LIFE SCIENCES PVT LIMITED** - Bilakhia House, Survey No. 135/139, Muktanand Marg, Chala - Gujarat 396191 - Vapi – IN

**2) MERIL GMBH** - Bornheimer Strasse 135 – 137 - D – 53119 - Bonn – DE

**3) SMIS INTERNATIONAL OÜ** - Harju maakond, Tallinn, Kesklinna linnaosa, Kaarli pst 9-1a - 10119 - Tallinn – EE

**4) SORMEDICA, UAB** - V. Kuzmos str. 28 - LT-08431 - Vilnius – LT

**5) INTERLUX, UAB** - Aviečių g. 16 - LT-08418 - Vilnius – LT

**6) VAB-LOGISTIK, UAB** - Laisvės pr. 60 - LT-05120 - Vilnius – LT

Represented by Andreas von Falck, Alexander Klicznik, Kerstin Jonen, Roman Wurtenberger, LarsFabian Blume, Friederike Rohn and Beatrice Wilden

**RESPONDENT/CLAIMANT**

**1) EDWARDS LIFESCIENCES CORPORATION** - One Edwards Way - 92614 - Irvine, California – US  
Represented by Jens Olsson, Siddharth Kusumakar and Tessa Waldron

**PATENT AT ISSUE**

[EP3769722](#)

**PANEL**

This order has been issued by the judge-rapporteur/presiding judge Stefan Johansson  
Presiding judge & judge-rapporteur Stefan Johansson

**PANEL**

Presiding judge & judge-rapporteur Stefan Johansson  
Legally qualified judge Kai Härmand

Legally qualified judge Mélanie Bessaud

Technically qualified judge Stefan Wilhelm

**DECIDING JUDGE**

This Order has been issued by the Panel

**LANGUAGE OF THE PROCEEDINGS**

English

**SUBJECT-MATTER OF THE PROCEEDINGS**

Infringement action, with Counterclaim for revocation

**STATEMENT OF THE FORMS OF ORDER SOUGHT BY THE PARTIES**

During the written procedure, the Defendants requested a) that the main proceedings be stayed pending a decision by the Opposition Division of the European Patent Office on the validity of the patent in suit, or

b) in the event that the Regional Division refers the counterclaim for revocation to the Central Division, that the main proceedings be stayed pending a decision by the Central Division of the Court on the counterclaim for revocation of the patent in suit, or

c) in the alternative, postpone the decision on the request to stay the present proceedings until Claimant has commented on the substance on the validity attacks brought forward (1) in the notice of opposition and (2) in the counterclaim for revocation. The Claimant requested that the application to stay the proceedings be dismissed.

On **20 August 2024, the Court dismissed** the request to stay the proceedings. This Order was set aside by the Court of Appeal (**Order on 21 November 2024 in case [UPC CoA 511/2024](#)**), and the case was referred back to the panel of the Court of First Instance that issued the impugned order for further consideration of the Defendants request for a stay.

**GROUND FOR THE (NEW) ORDER**

As confirmed by the Court of Appeal in the above mentioned Order, the Defendants request to stay the proceedings shall be decided on the basis of [Rule 295\(a\) RoP](#) in conjunction with [Article 33\(10\) UPCA](#). According to these provisions, the Court may stay proceedings relating to a patent which is also the subject of opposition proceedings before the EPO when a rapid decision may be expected from the EPO. On 10 December 2024, i.e. after the case was referred back to the panel, the judge-rapporteur issued an order after the interim conference ([RoP 105.5 Order](#)) that includes the following:

*The parallel proceedings at the EPO*

The Court has scheduled the oral hearing for 16 January 2025. Thereafter, the Parties have informed the Court that the EPO has accelerated an opposition by a third party, targeting the same Patent, and that the EPO Opposition Division has scheduled its hearing for 17 January 2025.

The Defendants have suggested that the Court reschedule its oral hearing and set a new date, after the decision by the EPO Opposition Division. The Claimant has suggested that the Court proceed as planned with the oral hearing on 16 January 2025.

Proceedings before the UPC shall be conducted in a way which will normally allow the final oral hearing at first instance to take place within one year. This infringement action was initiated in October 2023, which means that this clear ambition will not be met in this case, not even if the Court proceeds as planned with its hearing in January 2025. It is also clear that rescheduling the oral hearing could, inter alia because of other commitments, mean that the decision was significantly delayed further. At the same time, there are good reasons for trying to avoid that conflicting decisions are issued by the UPC and the EPO.

The Parties have provided the Court with a copy of the EPO Opposition Division's preliminary opinion, and the grounds for opposition are very similar to the grounds for revocation in the Counterclaims that will be decided by this Court in accordance with [Article 33.3\(a\) UPCA](#). Since the EPO Opposition Division normally deliver its decision orally at the conclusion of the oral hearing, it can be expected that the outcome of the opposition proceedings will be available before this Court issues its decision on the merits (even if the Court proceeds as planned with the oral hearing on 16 January 2025). Furthermore, it can reasonably be assumed that the future decision by the EPO Opposition Division will be subject to an appeal.

Against this background, taking into account the interests of the parties and the relevant circumstances of the case, the Court decides not to reschedule the oral hearing. This means that the oral hearing will take place as planned on 16 January 2025. However, at the hearing, the Court will request the Parties to inform the Court (after the hearing) of the outcome of the opposition proceedings. Thereafter, the Court may decide if further procedural steps are needed.

**ORDER**

2. The oral hearing will take place as planned on 16 January 2025. However, at the hearing, the Court will request the Parties to inform the Court (after the hearing) of the outcome of the opposition proceedings. Thereafter, the Court

may decide if further procedural steps are needed.

The Panel share the views expressed in this Order. Considering the relevant circumstances of the case and the balance of the interests of the parties, this is the best way to deal with the situation. Accordingly, the request to stay the proceedings shall be dismissed.

**ORDER**

The request to stay the proceedings is dismissed.

**INFORMATION ABOUT APPEAL**

This order may be either the subject of an appeal together with the appeal against the decision or may be appealed with the leave of the Court of First Instance within 15 days of service of the Court's decision to that effect.

Stockholm, 11 December 2024.

Stefan Johansson Presiding judge and judge rapporteur

Kai Härmand Legally qualified judge

Mélanie Bessaud Legally qualified judge

Stefan Wilhelm Technically qualified judge

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