

EU's UPC directs lower court to reconsider stay on patents dispute proceedings

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The Court of Appeal of the EU's Unified Patent Court directed its Nordic-Baltic Regional Division to reconsider a request from medical device manufacturer Meril Life Sciences to stay infringement proceedings pending a decision from the opposition division of the European Patent Office in a dispute with patent owner Edwards Lifesciences.

The Court of Appeal of the Unified Patent Court yesterday set aside an order of the EU court's Nordic-Baltic Regional Division, which rejected a request by medical device manufacturers Meril Life Sciences and Meril GmbH to stay infringement proceedings initiated by Edwards Lifesciences.

The parties are waiting for a decision from the opposition division of the European Patent Office, or EPO, early next year.

The Court of Appeal clarified that under Article 33 of the UPC Agreement, courts have the discretion to pause infringement proceedings in favor of opposition proceedings even if such a decision is likely to be appealed (see [here](#)).

The ruling shows how the UPC will balance infringement cases with EPO opposition proceedings, and how that approach will differ from their consideration of parallel revocation and opposition proceedings. The latter is "not irreconcilable," the panel said, while "decisions in parallel infringement and opposition proceedings may conflict."

"Such conflicts may arise in particular if the EPO revokes a patent during opposition proceedings that formed the basis for an order of the Court in infringement proceedings. Such conflicts should, in principle, be avoided," the panel added.

The appeals court referred the case back to the Court of First Instance to reconsider Meril's request with instructions to weigh "the balance of the interests of parties and specific circumstances of the case, such as the stage of the opposition proceedings, the stage of the infringement proceedings and the likelihood that the patent will be revoked in the opposition proceedings."

When considering whether to issue a stay, the Court of Appeal suggested that first-instance courts consider alternative solutions, such as rescheduling hearings and proceedings to take place after the EPO opposition division has issued a final decision.

The ruling also noted that while new evidence cannot be introduced on appeal, new legal arguments based on existing evidence submitted to the Court of First Instance are permitted.

"It is common ground that the EPO Opposition Division will deliver its decision orally at the conclusion of the oral hearing," according to the Court of Appeal.

The EPO opposition hearing is planned for January 17, one day after a scheduled UPC hearing on infringement.

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Areas of Interest: Intellectual Property

Industries: Pharmaceuticals & Biotechnology

Geographies: Europe, European Union Member States

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