

electr. transcript

FEDERAL PATENT COURT

3 Ni 20/23 (EP)
(reference number)

Munich, April 8, 2025

Protocoll

on the public meeting of the 3rd Senate
(Nullity Senate) of the
Federal Patent Court

At present:

Judge Berner as presiding judge

Judge Dorn

Judge Dipl.-Chem. Univ. Dr. Münzberg

Judge Dipl.-Chem. Univ. Dr. Freudenreich

Judge Dipl.-Chem. Univ. Dr. Wagner

In the nullity case

re. **1. the European patent**

1 893 196

(DE 60 2006 027 175.1)

**2. the supplementary protection
certificate 12 2013 000 155**

Justice employees Löbler
as clerk of the registry

- 1. Hexal AG, Holzkirchen**
- 2. Accord Healthcare GmbH,
Munich**
- 3. Synthon B.V., Nijmegen
(Netherlands)**
- 4. STADA Arzneimittel AG, Bad Vil-
bel**

Start of the meeting	9.35 a.m.
End of the meeting	3.27 p.m.

Plaintiffs,

against

**The Regents of the University of
California, Oakland (USA)**

Defendant,

**Astellas Pharma, Inc., Tokyo, (Ja-
pan)**

Intervener

appear when called:

1. for the plaintiff re 1:

- Patent Attorney Dr. Greiner
- Patent Attorney Dr. Geiger

via video transmission:

- Katrina Rooth, Senior IP Counsel, from London (UK)
- Boštjan Japeli, PhD, IP Counsel, from Ljubljana (Slovenia)

2. for the plaintiff re 2:

- Patent Attorney Dr. Hollatz
- Patent Attorney Dr. Müller
- Attorney at Law Hoppe

via video transmission:

Juliet Singer, member of the IP department, from London

3. for the plaintiff re 3:

Attorney at Law Schallmoser
Attorney at Law Dr. Salaschek
Dr. Herschdorfer, Patent Litigation Counsel for the plaintiff re 3

via video transmission:

- Dominique van de Kamp, Vice President IP at plaintiff re 3, from Nijmegen (Netherlands)
- Arjanne Overeem, patent attorney from Nijmegen (Netherlands)

4. for the plaintiff re 4:

- Patent Attorney Dr. Wittkopp
- Prof. Dr. Gemeiner (expert, FAU Erlangen)

via video transmission:

- Dr. Senay Has, Vice President Intellectual Property at Plaintiff re 4, from Bad Vilbel (until 11:25 a.m.)
Petra Gruber, Patent Manager at the plaintiff re 4, from Bad Vilbel
- Dr. Florian Pertenbreiter, Head of Patent Litigation at plaintiff re 4, from Bad Vilbel

5. for the defendant and intervening party:

- Patent attorney Dr. Klusmann,
- Patent attorney Dr. Zillies,
- Attorney at Law Dr. Schüßler-Langeheine,
- Attorney at Law Schain

for the intervening party:

- Tatjana Dragovic, General Counsel
- Brian Anderson, Vice President, IP Litigation
- Daniela Gill-Carey, Senior Director, IP Litigation Lead, EMEA
- Mark Zwick, Commercial Legal Director

via video transmission for the defendant and intervening party:

- Jin Ooi, foreign representative, from London (UK)
- Erin Austin, foreign representative, New York (USA)
- Whitney Meier Howard, foreign representative, New York (USA)
- Frank Eijsvogels, foreign representative, Amsterdam (Netherlands)
- Dirk Henderickx, foreign representative, Amsterdam (Netherlands)
- Carolina Gomes, foreign representative, Lisbon (Portugal)

The interpreters are also connected via online video transmission and are present:

Mrs. Christa Gzil,
Mrs. Karin Bettin,

from Feldkirchen near Munich, and the service provider Brähler from Feldkirchen near Munich.

Also present is Mr. Enhardt, a technician from Brähler.

Dr. Rabe, the patent attorney trainee assigned to the Senate, takes part in the oral proceedings and deliberations.

The presiding judge announced the following

Order:

Pursuant to Section 128 a ZPO, participation by way of video conference is permitted.

The presiding judge points out that

Sound and film or video recordings as well as recordings of the (video)hearing are prohibited by law pursuant to Section 128a (6) ZPO in conjunction with Section 99 (1) PatG and Section 169 (1) GVG, and the login data for the hearing may not be forwarded or disclosed to third parties.

The possibility of an amicable settlement of the legal dispute is discussed with the party representatives and representatives of the intervening party. An agreement cannot be reached.

The value in dispute is discussed with the representatives of the parties and the representatives of the intervening party. They unanimously state the value at EUR 30,000,000 and apply for it to be set accordingly.

The presiding judge announced the following

Order

The amount in dispute is set at EUR 30,000,000.

b. u. v. (decided and announced)

The party representatives and representatives of the intervening party are given the word to present and justify their requests.

The plaintiffs' representatives of the plaintiffs re 1 to 4 unanimously apply,

declare the European **patent** 1 893 196 invalid with effect for the territory of the Federal Republic of Germany and declare the supplementary **protection certificate** 12 2013 000 155 invalid.

v. u. g. (repeated and approved)

The representatives of the defendant and the intervening party request that

the claims be dismissed.

v. u. g. (repeated and approved)

The presiding judge introduces the facts of the case and the dispute.

The factual and legal situation is discussed with the representatives of the parties and the representatives of the intervening party.

At 11.25 a.m., the minutes are transferred to the legal assessor.

Löbler

The hearing is interrupted at 11.25 a.m. for a lunch break and brief deliberation by the Senate and resumed at 12.39 p.m.

The factual and legal situation is discussed again with the representatives of the parties and the representatives of the intervening party.

The hearing is interrupted at 1:00 p.m. for a consultation on the part of the plaintiff and resumed at 1:16 p.m.

The factual and legal situation is discussed again with the representatives of the parties and the representatives of the intervening party.

The presiding judge closed the hearing at 2.32 p.m.

After the court has deliberated, the presiding judge announces the following

Judgement :

- I. The claims are dismissed.
- II. The plaintiffs re 1 to 4 shall each bear 25 % of the costs of the legal dispute, including the costs incurred by the intervening party.
- III. The judgment is provisionally enforceable against the provision of security amounting to 120% of the amount to be enforced in each case.

Berner

Dorn

Certified
Köglasperger
Inspector of Justice
as clerk of the registry