

EIP



Breach of a standstill agreement does not affect jurisdiction or admissibility

Tandem Diabetes Care, Inc., Tandem Diabetes Care Europe B.V. v Roche Diabetes Care GmbH UPC_CFI_454/2023

Decision of 18 December 2024 (ORD_598508/2023[1])

The claimants sought revocation of EP 2196231, belonging to the defendant, before the UPC Central Division in Paris.

The patentee raised a preliminary objection to the action. It argued that according to a standstill agreement between the parties, a party has to inform the other party of the intention to file a lawsuit 90 days before the lawsuit is filed. Alleging this requirement not to have been met, the patentee argued that the Courts had no jurisdiction. This was rejected by the judge rapporteur.[2] The patentee continued to raise the issue in the main proceedings.

The Court considered that any breach of a standstill agreement does not deprive the Court of jurisdiction, nor does it render an action inadmissible. It can only give rise to liability for breach of contract.

Accordingly, the Court went on to consider the merits of the case. It found that none of the grounds of invalidity were well founded and therefore ordered the patent to be maintained as granted. Costs were awarded against the claimants.

[1] <https://www.unified-patent-court.org/en/node/1347>

[2] Reported here

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