



Edwards v Meril – The Interaction of Parallel UPC and EPO Proceedings

**Edwards Lifesciences Corporation v. Meril Lifesciences PVT Limited et al.
(UPC_CFI_380/2023)**

Decision of 21 July 2025 (ORD_598566/2023)[1]

What happens when a European Patent Office opposition is pending at the same time as a UPC action? And what happens if the EPO and UPC reach differing conclusions on the validity?

Background

Edwards Lifesciences and Meril Life Sciences are long-time rivals in the transcatheter heart valve space. Their dispute centres on Edwards's Unitary Patent EP3769722, covering delivery systems for heart valves. Edwards filed a UPC infringement action in October 2023, targeting Meril's Navigator THV Delivery System in Estonia and Lithuania. An EPO opposition was filed in March 2024.

Parallel Proceedings, Conflicting Timelines

The UPC provides the possibility for an infringement or revocation action to be stayed when a rapid decision is expected in a co-pending EPO opposition. At the same time, the EPO recently introduced a new regime[2] for accelerating oppositions when there is a co-pending UPC action.

In the present case, the EPO fast-tracked the opposition, issuing a preliminary opinion within four months and scheduling oral proceedings for January 2025. Meanwhile, Meril applied to stay the UPC proceedings pending the EPO outcome. The Nordic-Baltic

Regional Division refused, citing procedural rules and the likelihood of a lengthy appeal before the EPO reaches its final decision.

Meril appealed, and the UPC Court of Appeal clarified that while a stay is not mandatory, a final EPO decision is not required to justify one. Since this was the primary justification for refusing the stay, the Court of Appeal sent the matter back to the first instance for the Nordic-Baltic Regional Division to decide how to deal with the co-pending opposition.

The Court of Appeal suggested a number of options beyond an immediate stay of the proceedings:

- Proceed with the infringement proceedings, including preparations for the oral hearing, and reschedule the oral hearing to take place after the EPO's decision or after the issuance of the grounds for that decision.
- Hold the oral hearing as scheduled, request the parties to inform the Court of the outcome of the opposition proceedings, and then decide on the basis of such information whether further procedural steps are required.
- Proceed with the oral hearing as scheduled, but stay the UPC proceedings before issuing its decision on the merits.

The Nordic-Baltic RD ultimately decided to continue with the oral hearing as scheduled and to decide later whether further procedural steps were required based on the outcome of the opposition proceedings.

Diverging Outcomes

After the EPO oral proceedings, the patent was upheld in amended form, but the claims upheld by the opposition division did not match any of Edwards's 22 requests in the UPC case. Edwards asked the UPC to adopt the EPO's version. Meril objected, arguing the UPC should stick to the requests already on file.

The UPC sided with Meril, maintaining the patent in a narrower form as set out in one of Edwards's claim requests, which had the same independent claim as the EPO version, but without dependent claims.

How Will the Diverging Outcomes Be Reconciled?

The UPC Court of Appeal has already commented on one type of conflict between diverging EPO and UPC decisions in *Carrier v BLITZER*[3]: if one body revokes and the other upholds, the revocation prevails. However, this is the simplest case of diverging decisions and it's not clear what the effect would be if both uphold the patent in different forms. Will the first decision prevail, or the latter? If the latter decision prevails, is it

possible for the latter decision to uphold broader claim scope without impermissibly broadening the scope of protection after grant of the patent? So far, these questions remain unanswered.

In the present case, the EPO decision is under appeal. If the board of appeal agrees with the opposition division and upholds broader claims than the UPC, the most likely outcome is that the unitary patent will be maintained with narrower scope based on the UPC's decision, while the broader scope maintained by the EPO will be in force for national validations elsewhere in Europe.

Why It Matters

This case highlights the growing complexity of managing parallel UPC and EPO proceedings. It also underscores the strategic importance of claim consistency and procedural timing— particularly in cases involving accelerated opposition.

[1] <https://www.unifiedpatentcourt.org/en/node/136545>

[2] <https://www.epo.org/en/news-events/news/acceleration-opposition-proceedings-cases-parallel-court-actions>

[3] <https://eip.com/global/latest/article/upc-court-of-appeal-guidance-on-stay/>