Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Local Division The Hague
UPC_CFI_830/2025

ORDER
of the Court of First Instance of the Unified Patent Court
issued on 6 February 2026
concerning EP 3960072 (R. 211 RoP provisional measures)

Claimant

1. **Abbott Diabetes Care Inc.**
1360 South Loop Road
CA 94502 Alameda
United States of America

Represented by Wim Maas, as well as Michael Washbrook, Sebastien Versaevel, Geert Theuws, Sophie van Asten, Faziel Abdul, Niel Meiring

Defendants

1. **MicroTech Medical (Hangzhou) Co., Ltd.**
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Yuhang District, Zhejiang Province
311121 Hangzhou City, China

Represented by Peter Meyer and Stephanie Nottrott

2. **SenEaron Healthcare Limited**
40th Floor, Dah Sing Financial Centre,
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999077 Hong Kong, China

Represented by Peter Meyer and Stephanie Nottrott

3. **Lotus NL B.V**
Koningin Julianaplein 10, 1e Verd
2595 AA The Hague
The Netherlands

Represented by Peter Meyer and Stephanie Nottrott

4. **Medeco B.V.**
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2665 NZ Bleiswijk
The Netherlands

Represented by Peter Meyer and Stephanie Nottrott

5. **Mediq Nederland B.V.**
Rijnzathe 10
3454 PV De Meern
The Netherlands

Represented by Peter Meyer and Stephanie Nottrott

6. **Mediq Diabetes GmbH**
Hoechster Strasse 82
65835 Liederbach am Taunus
Germany

Represented by Peter Meyer and Stephanie Nottrott

7. **Mediq B.V.**
Rijnzathe 10
3454 PV De Meern
The Netherlands

Represented by Peter Meyer and Stephanie Nottrott

PATENT AT ISSUE

Patent no.	*Proprietor/s*
EP3960072	Abbott Diabetes Care Inc.

DECIDING JUDGES

Presiding judge and judge-rapporteur	**Edger Brinkman**
Legally qualified judge	**Margot Kokke**
Legally qualified judge	**Samuel Granata**
Technically qualified judge	**Steen Wadskov-Hansen**

LANGUAGE OF PROCEEDINGS: English

SUBJECT-MATTER OF THE PROCEEDINGS: Provisional measures (R. 211 RoP)

PROCEDURE

1. The following submissions of the parties are in the main case file:
   - Application for preliminary measures of 2 September 2025, with exhibits A1-E3,
   - Submission by Defendants called “Preliminary Objection (Rule 19 RoP),
   - Objection to the Application for preliminary measures of 17 November 2025, with exhibits SandS 1-10,
   - Reply to objection of 5 December 2025, with exhibits TW01-03,
   - Application for leave to change the claims.

1.1. The oral hearing took place on 19 December 2025. Applicant, hereinafter also “Abbott”, submitted, after deletion of certain paragraphs and highlights, combined pleading notes (for both cases 830/2025 and 875/2025) as well as case specific pleading notes. Defendants submitted bullet points, also in a combined and case specific version.

SUMMARY OF FACTS

2. The application is based on the following facts:

2.1. *The parties and the products*

2.1.1. Applicant develops and is a market leader in solutions for continuous glucose monitoring ("**CGM**") systems for diabetes. In 2014 it launched the FreeStyle Libre CGM system, which revolutionized the glucose monitoring market with an easy to use, affordable and accurate CGM, which was factory calibrated, meaning the user did not have to calibrate the device using finger-pricks. Abbott has continued to innovate the FreeStyle Libre since, with the latest version named the FreeStle Libre 3 Plus. All versions are collectively referred to as FreeStyle Libre. The device comprises an applicator (i.e. an insertion device), an on-body unit consisting of an analyte sensor (sensing for glucose) and sensor electronics as an integrated unit, and a display device (such as a reader or smartphone) with proprietary software and functionality to facilitate the user's management of the glucose data. The applicator and the corresponding on-body unit (“OBU”, including an analyte sensor and sensor electronics) for several versions of the FreeStyle Libre are depicted below.

	FreeStyle Libre (2014)	FreeStyle Libre 2 (2018)	FreeStyle Libre 3 (2020)
Applicator			
On body unit			

2.1.2. Abbott is the main supplier of CGM products in the Contracting Member States and Spain. In Europe, Abbott serves over 1.3 million patients with its FreeStyle Libre products and has a market share of approximately 80%.

2.1.3. Defendant 1, MicroTech,[1] is a company incorporated under the laws of the People's Republic of China and is in the business of manufacturing and/or selling CGM systems and diabetes management solutions around the world including the "**Vista System**" and "**DiaExpert System**". MicroTech is also listed on Google Play and Apple App Store as the developer and/or provider of the applications used with the Vista System and DiaExpert System, called the LinX Vista app ("**Vista App**") and DiaExpert CGM app ("**DiaExpert App**") respectively.

2.1.4. Defendant 2, SenEaron, is a company incorporated under the laws of Hong Kong, Special Administrative Region of the People's Republic of China, and is wholly owned by MicroTech. SenEaron and/or MicroTech advertise, promote, offer for sale and/or sell the Vista System through storefronts on <https://www.amazon.de/> ("**Amazon DE Store**") <https://www.amazon.it/> ("**Amazon IT Store**") and <https://www.amazon.es/> ("**Amazon ES Store**").

2.1.5. Defendant 3, Lotus, is a company incorporated under the laws of the Netherlands. Lotus is appointed by MicroTech as its EU Authorised Representative under the MDR for the Vista System and DiaExpert System, as well as the Vista App and DiaExpert App.

[1]MicroTech's company name in Chinese is "**微泰医**疗器械（杭州）股份有限公司", which translates into English as MicroTech Medical (Hangzhou) Co., Ltd., MicroTech Medical Equipment (Hangzhou) Co., Ltd and Weitai Medical Equipment (Hangzhou) Co., Ltd (or sometimes if the translation poor, Weitai Medical (Hangzhou) Co., Ltd). All these translations refer to the same company.

2.1.6. Defendant 4, Medeco, is a company incorporated under the laws of the Netherlands. It is wholly owned by Mediq Concern B.V. and its ultimate parent company is Mediq Top Holding B.V. ("**Mediq TopCo**"). Medeco is the importer of the DiaExpert System. Medeco and/or the Seventh Defendant also advertise, promote and offer to supply the DiaExpert System on the website at <https://diaexpert.com/> which is available in English, German and Dutch ("**DiaExpert Website**"), including by directing customers to the website <https://mediq.nl/ ("**NL Mediq Website**") and the website <https://diabetes.mediq.de/> ("**DE Mediq Website**") to obtain free samples of the DiaExpert System. The DiaExpert Website, the domain name for which is registered to the Seventh Defendant, also promotes the DiaExpert App.

2.1.7. Defendant 5, Mediq NL, is a company incorporated under the laws of the Netherlands. It is wholly owned by Mediq Concern B.V. and its ultimate parent company is Mediq TopCo. Mediq NL advertises, promotes and offers to supply the DiaExpert System on the "NL Mediq Website". Mediq NL is named as the entity responsible for the DiaExpert System ("*productverantwoordelijke*") on the G-Standaard, the official medicines and medical device database used by all healthcare stakeholders and is a necessary step for selling medical devices in the Netherlands.

2.1.8. Defendant 6, Mediq DE, is a company incorporated under the laws of Germany with company register number HRB 56223. The ultimate parent company of Mediq DE is Mediq TopCo. Mediq DE is a distributor of the DiaExpert System. It also advertises, promotes and offers to supply the DiaExpert System on the Mediq DE Website, and offers to supply and/or supplies it through around 70 diabetes specialist stores located throughout Germany. The Mediq DE Website also promotes the DiaExpert App.

2.1.9. Defendant 7, Mediq BV, is a company incorporated under the laws of the Netherlands. Mediq BV's ultimate parent company is Mediq TopCo. Mediq BV and/or Medeco operate and control the DiaExpert Website. Mediq BV also operates and controls the website at <https://mediq.com/> ("**Mediq Website**") through which it advertises and promotes the DiaExpert System. The domain name for the Mediq Website is registered to Mediq BV.

2.1.10. In 2024, Mediq TopCo reported total net sales in Europe of EUR 1,292,033,000 (of which EUR 609,962,000 was attributed to sales in Benelux and EUR 142,158,000 to sales in Germany) (see extracts from Mediq TopCo's 2024 Annual Report and the latest available annual accounts information for MicroTech, Lotus and Mediq DE).

2.1.11. MicroTech and Lotus also introduced into the European market an earlier version of the Vista System known as the "**LinX System**". The LinX System has a circular-shaped on-body unit whereas the Vista System has a teardrop shaped on-body unit.

2.1.12. Prior to the proceedings, parties corresponded on alleged unfair competition.

(a) On 24 March 2025, Abbott sent a letter to MicroTech alleging that they had engaged in unfair competition in relation to the LinX System, and seeking

information about the Vista System MicroTech had exhibited at the Advanced Technologies & Treatments for Diabetes conference ("**ATTD Conference**") in Amsterdam, the Netherlands in March 2025 (discussed in paragraph 3.4 below). Among other things, Abbott asked for details of launch plans for the Vista System and the names of local distributors.

(b) On 4 April 2025, MicroTech responded to the 24 March letter where it, among other things, refused to provide information sought regarding the Vista System and indicated that the LinX System was mainly "*for the markets outside of US/EU, and therefore currently not sold in the EU*" by MicroTech.

(c) On 23 April 2025, Abbott responded to MicroTech's letter of 4 April in which it, among other things, reserved Abbott's position and rights in relation to MicroTech's CGM systems.

(d) MicroTech responded on 5 May 2025 and variously indicated in that letter with respect to the LinX System that "*[t]he focus of our client is not the EU*", "*[o]ur client clearly has no interest in selling circular-shaped OBUs in Germany or any other Western European country. No such sales take place*" and "*[o]ur client is not targeting the EU with its circular-shaped products*". However, Simmons & Simmons admitted that MicroTech was selling "*small quantities*" of the LinX System through one distributor in Hungary.

2.2. *The Vista System and DiaExpert System*

2.2.1. Around January 2025, MicroTech published on the website <https://www.microtechmd.com/> ("**MicroTech Website**") a CE marked user manual for a CGM system known at the time as the "LinX Neo", though information on the MicroTech Website stated that EU MDR certification was pending at that time. The LinX Neo was renamed LinX Vista and is the same product as the Vista System.

2.2.2. An image of the Vista System taken from the Amazon DE Store is depicted below

The Vista System

2.2.3. Images of the DiaExpert System taken from the DiaExpert Website, are shown below:

The DiaExpert System

2.3. *The patent*

2.3.1. Abbott is the sole proprietor of EP3960072, "**the patent**". The application for the patent was filed on 2 February 2010 and the patent has an earliest priority date of 3 February 2009. The application was published on 2 March 2022 and the mention of the grant of the patent was published on 11 December 2024. The patent is in force as a European patent in the Contracting Member States of Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovenia and Sweden. It is also in force in other countries, including Spain. After submission of the application, opposition was filed with the EPO. There is no indication yet when a hearing or decision is due. The patent was opted out of the exclusive competence of this Court until 22 August 2025 when the opt-out was withdrawn.

2.3.2. The patent contains the following claims:

1. A glucose sensor insertion assembly for positioning an on-body patch device including sensor and sensor electronics assembly, the insertion assembly comprising:
an insertion device (1200) comprising a housing (1210), an introducer (1260), a bias mechanism (1250), and a cap (1220) configured to provide a closure or seal on an open end of the insertion device (1200); and
an integrated glucose sensor (1280) and sensor electronics assembly (1270) provided within the housing (1210);
wherein the introducer (1260) is configured to pierce the skin surface (1230) of a user and position the glucose sensor in fluid contact with a body fluid of the user;
wherein the insertion device (1200) is configured to move the introducer (1260) and the integrated glucose sensor (1280) and sensor electronics assembly (1270) within the housing (1210) towards the skin surface (1230) of the user in a direction substantially perpendicular to the skin surface (1230);

wherein the bias mechanism (1250) is configured to retract the introducer (1260) from an insertion position to a retracted position in which the introducer (1260) is entirely retained within the housing (1210);
wherein the glucose sensor insertion assembly is configured such that when the insertion device (1200) is removed from the skin surface (1230), the sensor electronics assembly (1270) is retained on the skin surface (1230), while the position of the glucose sensor (1280) is maintained in fluid contact with the body fluid of the user under the skin surface (1230); and
wherein the sensor electronics assembly (1270) is configured to communicate with a reader device or receiver unit via a Bluetooth enabled communication link.

2. A glucose sensor insertion assembly according to claim 1, wherein the insertion device (1200) is configured such that the introducer (1260) is driven in a direction substantially perpendicular to the skin surface (1230), in response to a force applied on the insertion device housing (1210).
3. A glucose sensor insertion assembly according to any preceding claim, configured to bring the integrated glucose sensor (1280) and sensor electronics assembly (1270) into contact with the skin surface (1230) when a force is applied on the housing (1210).
4. A glucose sensor insertion assembly according to claim 2 or 3, wherein the force is applied upon a top end of the housing (1210).
5. A glucose sensor insertion assembly according to claim 2 or 3, wherein the force is a manual force.
6. A glucose sensor insertion assembly according to any preceding claim, further comprising an adhesive layer (1290) configured to maintain a bottom surface of the sensor electronics assembly (1270) in an adhered relationship with the skin surface (1230) when the bottom surface of the sensor electronics assembly (1270) comes into contact with the skin surface (1230).
7. A glucose sensor insertion assembly according to any preceding claim, wherein the introducer (1260) is an introducer needle.
8. A glucose sensor insertion assembly according to any preceding claim, wherein the bias mechanism is a bias spring (1250).
9. A glucose sensor insertion assembly according to any preceding claim, wherein the integrated glucose sensor (1280) and sensor electronics assembly (1270) are configured as an on-body patch device and wherein the on-body patch device is configured for the wireless communication with a reader device or receiver unit.

2.3.3. The patent contains the following figures:

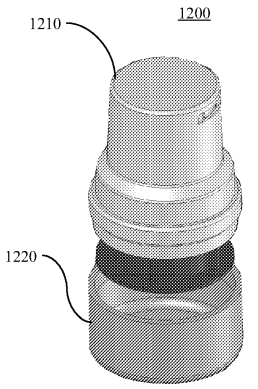


FIGURE 12A

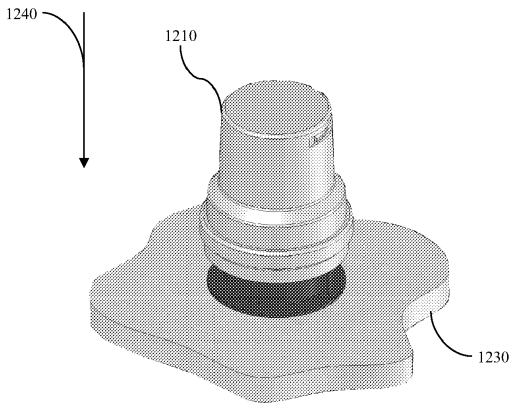


FIGURE 12B

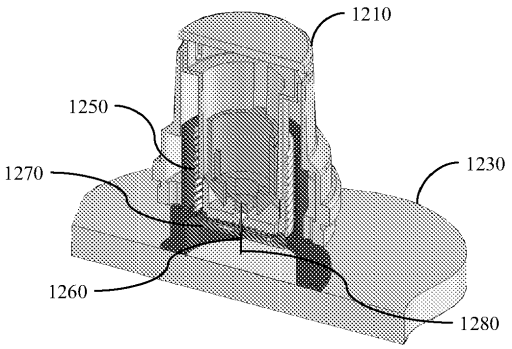


FIGURE 12C

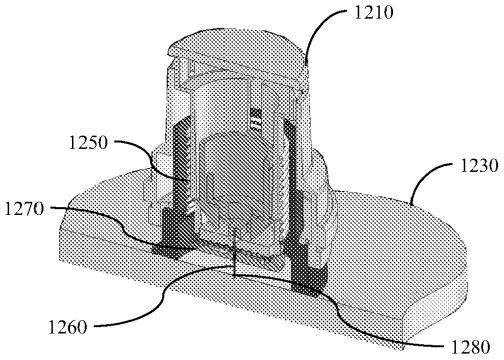


FIGURE 12D

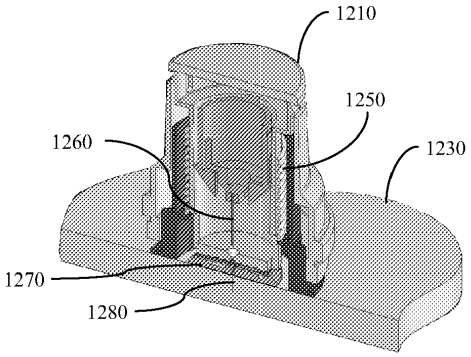


FIGURE 12F

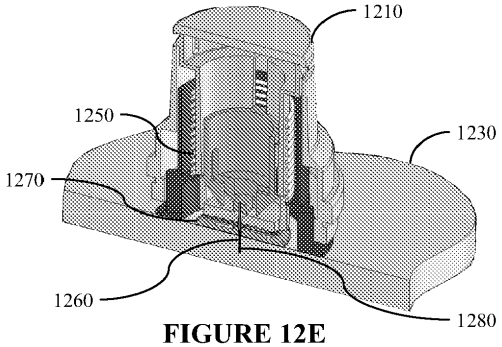


FIGURE 12E

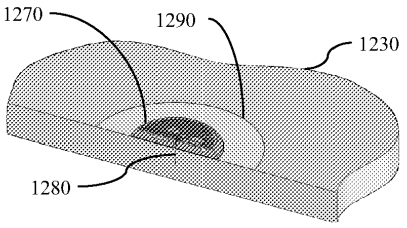


FIGURE 12G

2.3.4. The description of the patent contains inter alia the following paragraphs:

BACKGROUND

[0001] The detection of the level of glucose or other analytes, such as lactate, oxygen or the like, in certain individuals is vitally important to their health. For example, the monitoring of glucose is particularly important to individuals with diabetes. Diabetics may need to monitor glucose levels to determine when insulin is needed to reduce glucose levels in their bodies or when additional glucose is needed to raise the level of glucose in their bodies.

[0002] Devices have been developed for continuous or automatic monitoring of analytes, such as glucose, in bodily fluid such as in the blood stream or in interstitial fluid. Some of these analyte measuring devices are configured so that at least a portion of the devices are positioned below a skin surface of a user, e.g., in a blood vessel or in the subcutaneous tissue of a user.

[0003] WO 2008/065646 and US 2008/0033268 both disclose inserters for inserting a sensor and a patch or housing that is applied separately by the user.
[0004] Ease of insertion and use, including minimal user intervention and on-body size and height (or thickness) of such transcutaneous or percutaneous medical devices that are worn on the body are important in usability, wearability, and comfort during the device usage. Moreover, for many of such medical devices that require a battery or a similar power source to perform the device specific operations, power management as well as shelf life is important.

SUMMARY

[0005] The aspects and/or embodiments and/or examples disclosed in the following description, but that are not covered by the appended claims, are considered as not being part of the present invention and are disclosed by way of example only. Examples of the subject disclosure include devices and methods and kits for providing sensor electronics assembly including an analyte sensor for monitoring of analyte levels such as glucose levels over a sensing time period. Sensing time period may be determined by the analyte sensor life, for example, including, but not limited to about three days or more, about five days or more, or about seven days or more, or about fourteen days or more.
[0006] Embodiments include assemblies for monitoring glucose levels and obtaining glucose measurements that are discreet, automated, minimally invasive and with reduced pain and repetition of glucose testing procedures to obtain multiple discrete measurements over the sensing time period.
[0007] Embodiments further include a control unit, a control command generator coupled to the control unit to receive a control signal and to generate a control command based on a carrier signal, an antenna section coupled to the control command generator to transmit the control command with the carrier signal and to receive a backscatter response data packet using the carrier signal, and a receiver section coupled to the antenna section to process the received backscatter response data packet and to generate an output glucose data.
[0008] Embodiments also include real time discrete glucose measurement data acquisition on-demand, as desired by the user or upon request, based on, for example, RFID data communication techniques for data transmission and acquisition from the analyte sensor/electronics assembly or the on-body patch device including the analyte sensor and the data processing and communication components provided in a compact, low profile housing and placed on the skin surface of the user. The analyte sensor in certain embodiments includes a portion that is transcutaneously positioned and maintained in fluid contact with an interstitial fluid under the skin surface continuously during the sensing time period as discussed above, for example.
[0009] These and other features, objects and advantages of the present disclosure will become apparent to those persons skilled in the art upon reading the details of the present disclosure as more fully described below.
[0010] (…)
FIGS. 12A-12B illustrate pre-deployment and post insertion configurations of the insertion device for positioning the on-body patch device including sensor and sensor electronics assembly in accordance with embodiments of the present disclosure;
FIGS. 12C-12G illustrate cross sectional perspective views of the operation of the insertion device for deploying the on-body patch device including sensor and sensor electronics assembly in accordance with embodiments of the present disclosure;
(…)

DETAILED DESCRIPTION

[0011] Within the scope of the present disclosure, there are provided devices, systems, kits and methods for providing compact, low profile, on-body physiological parameter monitoring device (physiological parameters such as for example, but not limited to analyte levels, temperature levels, heart rate, etc), configured for single or multiple use over a predetermined time period, which provide a low profile geometry, effective power management, improved shelf life, and ease and comfort of use including device positioning, and activation. Embodiments include an on-body assembly including a transcutaneously positioned analyte sensor and sensor electronics in a compact, low profile integrated assembly and coupled to an insertion device for deployment.
[0012] Embodiments include continuous glucose monitoring (CGM) system or routines or functions for execution operations to continuously or semi-continuously monitor an analyte level such as glucose level with the transcutaneously positioned analyte sensor, where the real time analyte measurements are provided to a data receiver unit, a reader device, a data repeater or relay device such as data processing module, a data processing terminal or a remote terminal for data processing automatically upon data sampling at predetermined time intervals or based on programmed or programmable data transmission schedule. Data processing may include display, storage, execution of related alarm or notification functions, and analysis such as generating charts or graphs based on, for example, the monitored analyte levels received from the sensor/sensor electronics assembly.
(…)
[0033] Referring to FIG. 1, the analyte monitoring system 100 includes a sensor 101, a data processing unit (e.g., sensor electronics) 102 connectable to the sensor 101, and a primary receiver unit 104 which is configured to communicate with the data processing unit 102 via a communication link 103. In aspects of the present disclosure, the sensor 101 and the data processing unit (sensor electronics) 102 may be configured as a single integrated assembly 110. In certain embodiments, the integrated sensor and sensor electronics assembly 110 may be configured as an on-body patch device. In such embodiments, the on-body patch device may be configured for, for example, RFID or RF communication with a reader device/receiver unit.
(…)
[0050] FIG. 2 illustrates a data monitoring and management system for real time glucose measurement data acquisition and processing in one aspect of the present disclosure. More specifically, as shown in FIG. 2, the on-body patch device 211 including sensor electronics coupled to an analyte sensor 250 is positioned on a skin surface 210 of a patient or a user. In one aspect, an introducer mechanism may be provided, as discussed in further detail below in conjunction with FIGS. 12A-12G, for the transcutaneous placement of the analyte sensor 250 such that when the on-body patch device 211 is positioned on the skin surface, a portion of the sensor 250 is inserted through the skin surface and in fluid contact with a body fluid of the patient or the user under the skin layer 210.
[0051] The introducer mechanism may be fully or partially automated, for example with a trigger mechanism, or may be fully or partially manual such that the sensor 250 is positioned transcutaneously by a manual operation of the user. That is, in one aspect, the on-body patch device 211 may include an introducer needle and/or lumen (and/or catheter) which may guide the sensor 250 during the insertion process through the skin layer 210. In a further aspect, the placement of the on-body patch device 211 on the skin layer 210 includes the initial piercing of the skin layer 210 with a force applied on the on-body patch device 211 in conjunction with the on-body patch device 211 placement on the skin layer 210, effectively driving the sensor 250 (and/or the introducer) through the skin layer 210. Within the scope of

the present disclosure, a mechanism (such as a spring, for example) may be provided within the on-body patch device 211 or alternatively, in the introducer in cooperation with the on-body patch device 211, to withdraw the introducer needle after the sensor 250 has been positioned in fluid contact with the body fluid. In certain other embodiments, a lumen may be provided, with the analyte sensor 250 provided within the hollow cavity of the lumen for insertion, and maintained in position with the on-body patch device 211 during the time period that the on-body patch device 211 is worn on the skin layer 210.
(…)
[0108] FIG. 10A is a perspective view of the components of the on-body patch device including sensor and sensor electronics assembly in accordance with one aspect of the present disclosure. Referring to FIG. 10A, an integrated sensor and sensor electronics assembly/on-body patch device 110 of FIG. 1 in one embodiment is shown. As can be seen, the housing 1010 in one embodiment is substantially shaped such that the height profile is minimized (for example, to less than or equal to approximately 10 mm, e.g., about 4 mm or less). For example, as shown in the figures, the housing of the integrated assembly may have a dome-like shape, or otherwise tapered shape. A height dimension may be at most about 4 mm, and may taper (gradually or step wise) to heights less than about 4 mm, e.g., 3mm or less, e.g., 2 mm or less, e.g., 1 mm or less. [0109] Referring back to FIG. 1 0A, in one embodiment, the analyte sensor 1020 is assembled (e.g., provided to the user) with the sensor electronics 1030 and provided
within the housing 1010. Furthermore, an adhesive (single sided or two sided) layer 1040 (FIG. 10C) may be provided on a lower surface of the housing 1010 to provide secure positioning of the housing 1010 on the skin surface during and after sensor deployment. As discussed in further detail below, the integrated sensor and sensor electronics assembly/on-body patch device 110 may be positioned (e.g., during manufacture to provide to the user) within the housing of an insertion device, avoiding the need for a user to align, position, or otherwise connect or couple the sensor and sensor electronics to the insertion device prior to the insertion of the sensor and turning on the sensor electronics. Accordingly, potential misuse, misalignment of the sensor relative to the introducer of the insertion device, or errors and difficulties in use of the integrated assembly by the user may be avoided.
[0110] FIG. 10B is another perspective view of the components of the on-body patch device including sensor and sensor electronics assembly in accordance with one aspect of the present disclosure. As shown in the Figure, each component of the integrated assembly is separated to illustrate the relative position of each component, in one embodiment. As discussed in further detail below, it can be seen in one embodiment that the sensor 1020 includes a bent configuration, whereby at least a portion of the body of the sensor is maintained in a direction substantially planar to the surface of the skin. In one aspect, this configuration allows for the low profile dimension of the housing 1010 that includes the sensor 1020 such that the protrusion of the housing 1010, when positioned on the skin surface of the user, is minimized. Accordingly, the sensor 1020 may be bent, or may be bendable, from about 1 degree to about 90 degrees or more.
[0111] FIG. 10C is another perspective view of the assembled on-body patch device including sensor and sensor electronics assembly in accordance with one aspect of the present disclosure. As shown in FIG. 10C, after positioning the integrated sensor and sensor electronics assembly, the adhesive layer 1040 may be configured to substantially fixedly retain the integrated assembly 110 on the skin surface such that movement of the sensor 1020 during the course of wearing the device is minimized. In one aspect, the adhesive layer 1040 may be

configured to provide a substantially watertight seal between the integrated assembly 110 and the skin surface during the predetermined time period of wear such that the likelihood of the integrated assembly 110 detaching from the skin surface is minimized.
(…)
[0115] FIGS. 12A-12B illustrate pre-deployment and post insertion configurations of the insertion device for positioning the on-body patch device including sensor and sensor electronics assembly in accordance with embodiments of the present disclosure. Referring to FIG. 12A, insertion device 1200 in one embodiment includes a housing or body 1210 and a cap 1220 which is configured to provide closure or seal on the open end of the insertion device. As shown, the insertion device 1200 may be configured for sensor insertion and sensor electronics assembly positioning in a direction substantially perpendicular to the skin surface.
[0116] Referring to FIG. 12B, when a force, e.g., a manual force, is applied upon the top end of the housing 1210 in the direction as shown by arrow 1240, and with the open end of the housing on the skin surface 1230, the integrated sensor and sensor electronics assembly provided within the housing (not shown) is configured to come into contact with the skin surface 1230. Furthermore, the force applied as discussed above also may be configured to move the introducer (not shown) within the housing in the same direction as shown by arrow 1240 to pierce the skin surface 1230 and position the sensor in fluid contact with an analyte of the user.
[0117] Further details of the mechanism associated with the insertion device for sensor insertion and sensor electronics assembly positioning is shown and described below in conjunction with FIGS. 12C-12G which illustrate cross sectional perspective views of the operation of the insertion device for deploying the on-body integrated sensor and sensor electronics assembly in accordance with embodiments of the present disclosure.
[0118] As shown in these figures, in response to the force applied on the insertion device housing 1210, the introducer 1260 is driven in a direction substantially perpendicular to the skin surface 1230, and along with the movement of the introducer 1260, the sensor 1280 and the sensor electronics assembly 1270 are moved in the same direction. When the bottom surface of the sensor electronics assembly 1270 comes into contact with the skin surface 1230, the bottom surface is maintained in an adhered relationship with the skin surface 1230 by, for example, the adhesive layer 1290 (FIG. 12G). Moreover, also shown in the Figures is a bias spring 1250 which, in one embodiment, is configured to retract the introducer needle from the insertion position to a retracted position which is an opposite direction from the direction indicated by arrow 1240 (FIG. 12B).
[0119] Referring back to the Figure, it can be seen that the introducer needle 1260 is substantially and entirely retained within the insertion device housing 1210 after sensor insertion, and thereafter, when the insertion device 1200 is removed from the skin surface 1230, the sensor electronics assembly 1270 is retained on the skin surface 1230, while the position of the sensor 1280 is maintained in fluid contact with the analyte of the user under the skin layer 1230.
(…)
[0149] Also, in embodiments of the present disclosure the sharp needle or the introducer is not visible to the user prior to, during and after the use of the insertion device to position the sensor and the sensor electronics. As such, potential for perceived pain associated with when the sharp needle is visible is minimized.

2.4. *Prior art cited by Defendants*

2.4.1. For the sake of brevity of this order, links are provided below for the relevant prior are relied on by Defendants.

D1 (WO 2008/065646 A1, published on 5 June 2008):
https://patentimages.storage.googleapis.com/64/ca/b8/11768b900633cd/WO2008065646A1.pdf

D2 (US 2008/033268 A1, published on 7 February 2008):
https://ppubs.uspto.gov/api/pdf/downloadPdf/20080033268?requestToken=eyJzdWIiOiJhZjlkMTdlYS0yYWY2LTQzNWItOGRiMi05MGE5YzUyYTQ1MmIiLCJ2ZXIiOiIxNGMzNGQzZi02YjI3LTRmZGItODUyZi02NzUxYTI2MGYyODQiLCJleHAiOjB9

D4 and D5a (US 2008/0097246 A1, published on 24 April 2008):
https://ppubs.uspto.gov/api/pdf/downloadPdf/20080097246?requestToken=eyJzdWIiOiJhZjlkMTdlYS0yYWY2LTQzNWItOGRiMi05MGE5YzUyYTQ1MmIiLCJ2ZXIiOiIxNGMzNGQzZi02YjI3LTRmZGItODUyZi02NzUxYTI2MGYyODQiLCJleHAiOjB9

2.5. *Original application*

2.5.1. The application for the patent was filed on 24 August 2021 as a divisional application of the parent application EP 3 730 044 (20177703.4), itself filed as a divisional application of the grandparent application EP 3 329 842 (17201183.5), itself filed as a divisional application of the great-grandparent application EP 2 393 418 (10739031.2) published as WO 2010/091028 (application as originally filed and published under the PCT). Thus, the patent is a third-generation divisional application. No arguments are based on a textual difference in the descriptions of these original applications, so it suffices to cite the PCT application, which can be found – again for brevity – at:
https://patentscope.wipo.int/search/en/detail.jsf?docId=WO2010091028&_cid=P12-MKZH4C-83098-1

RELIEF SOUGHT

3. The provisional measures sought are as follows

3.1. After amending the amount of costs, to which Defendants objected (see below 4.12.7 for decision on this), from EUR 11,000 to EUR 200,000, Abbott requests that the Court:

(a) grant an immediately enforceable injunction for infringement of the patent by (i) prohibiting the Defendants, individually and jointly, on a provisional basis, from infringing the patent in any way, with immediate effect after service of the order to be rendered in this matter, in particular by offering, placing on the market, and/or using, the Vista System and / or DiaExpert System (or components thereof) as well as by importing or storing the Vista System and / or DiaExpert System for those purposes, and (ii) additionally or in the alternative in respect of the Third Defendant, prohibiting the Third Defendant from exercising its services as the EU Authorised

Representative in respect of the Vista System and the DiaExpert System within the meaning of the MDR in such a way that the infringing acts complained of are carried out by the First Defendant; (*Art.62(1) and Art.25)*

(b) declare that the Vista System and DiaExpert System are considered "goods suspected of infringing an intellectual property right" within the meaning of Article 2(7)(a) of Regulation (EU) No 608/2013; *(Art.64(2)(a))*

(c) order the Defendants to provide counsel for Abbott, within 4 weeks after service of the order rendered in this matter, with a written statement, substantiated with appropriate documentation, drawn up and signed by an independent auditor – or any other professional that this Court deems suitable for providing such a statement – comprising, in each case, for each of the Contracting Member States in which the patent is in force and for Spain: (*Art.67(1)* (c))

(i) the origin and distribution channels of the Vista System and DiaExpert System, including the full names and addresses of the legal entities that are involved in the manufacture of and trade in these Systems including without limitation any and all importers or distributors;

(ii) the total number of each Vista System and DiaExpert System that the Defendants and / or any of their affiliates still have in stock either administratively or physically as of the date of the order;

(iii) the total number of each Vista System and DiaExpert System that the Defendants, including any of its affiliates, have traded, sold, supplied, transferred and / or delivered to its customers and / or distributors since 2 March 2022 (being the date of publication of the patent application, or since 11 December 2024 (being the date of grant of the patent), or from another date to be determined by this Court, as well as any and all copies of invoices pertaining to those acts which also shows the price obtained for these products;

(iv) the identity including the full name(s) and address(es) of any non-consumer third person(s) involved in the production, import, distribution, trade and / or sale of the Vista System and DiaExpert System and / or in the use of the Vista System and DiaExpert System since 2 March 2022, or since 11 December 2024, or from another date to be determined by this Court;

(v) the internal cost calculated, or the purchasing costs paid, as well as the sales prices charged for each Vista System and DiaExpert System by the Defendants, including their affiliates, since 2 March 2022, or since 11 December 2024, or from another date to be determined by this Court;

(vi) the total amount of gross and net profit which the Defendants, including their affiliates, have gained as a result of trading the Vista System and DiaExpert System since 2 March 2022, or since 11 December 2024, or from another date to be determined by this Court, and the calculation thereof;

(d) order the Defendants to deliver up to a bailiff appointed by Abbott, at their own expense, or alternatively orders the seizure, of any Vista System and DiaExpert System in stock and / or otherwise held, owned or in the direct or indirect possession of the Defendants in the Contracting Member States in which the patent is in force and in Spain, within 1 week after service of the order to be rendered in this matter, and to provide counsel for Abbott with proper evidence of the full and timely compliance with this order within 10 days after the delivery up to the bailiff or seizure; (*Art. 62(3) and R.211.1(b))*

(e) orders the Defendants jointly and severally to comply with the *R.354.3* orders under (a) and (c) – (d), subject to a recurring penalty payment of EUR 250,000.00 for each violation of, or noncompliance with, the order(s), plus EUR 100,000.00 for each day, a part of a day counting as an entire day, that the violation or non-compliance continues, or a recurring penalty of EUR 5,000.00 for each Vista System and DiaExpert System with which the order(s) is / are violated, or another amount as determined by this Court in the proper administration of justice; (*Art. 63(2))*

(f) append an order for the enforcement to its decision, while declaring that the judgment is immediately enforceable; (*Art.82(1))*

(g) order the Defendants to jointly and severally bear reasonable and proportionate legal costs and other expenses incurred by Abbott in these proceedings and orders, insofar such costs are to be determined in separate proceedings for the determination of such costs, that the Defendants pay to Abbott by means of an interim award of costs in the amount of EUR 200,000.00 or another amount as the Court may order within 14 days after service of the order in this matter. (*Art.69 and R.118.5, R.150.2)*

GROUNDS

4. The grounds for the order are as follows

4.1. *Summary*

4.1.1. The proceedings concern a request for a provisional injunction and other measures based on alleged infringement of the patent. The Court finds below that it has jurisdiction and is competent to hear the case. The application was also made in a timely manner and meets other urgency requirements. The assessment of the alleged infringement and the alleged invalidity of the patent (argued as a defence), depend inter alia on claim construction. Claim construction will be addressed together with the patent's teaching and the definition of the skilled person. The Court will conclude, addressing the invalidity defences and concerning infringement, that it is more likely than not that the patent will be considered valid and infringed. The (objective urgency and proportionality of the) requested measures are discussed in the last part.

4.2. *Jurisdiction and competence*

4.2.1. The patent is a European patent and the initial opt-out was timely withdrawn.

Accordingly, this Court has competence to hear actions for actual or threatened infringement of the patent within UPC territory (Art. 1 and 32(1)(a) and (c) UPCA). For the sake of completeness, the Court notes that internal competence of the LD The Hague was not disputed and in its application, Abbott provided evidence of alleged infringement by the Defendants within UPC territory, in particular also in the Netherlands, which creates internal competence for the LD The Hague pursuant to Art. 33 (1)(a) UPCA.

4.2.2. Defendants object against the territorial jurisdiction of this Court for Spain. This objection is to be rejected. Vis-à-vis Defendants 3-5 and 7, who are domiciled in the Netherlands, the LD The Hague is the Court of domicile (pursuant to Art. 4 BR[2]). This also applies to Defendant 6, Mediq DE. Even if this defendant is not domiciled in The Netherlands, it is domiciled in a UPCA Contracting Member State (i.e. Germany). Since the UPC is considered to be a court of member state just like the national EU Member State courts (Art. 71a BR), with a territory encompassing all Contracting Member States. The fact that the internal competence rules of the UPC may point to a CD, RD or LD outside the territory of the CMS addressed here, does not take away jurisdiction according to Art. 4 BR for the UPC, including the LD the Hague. [3] Simply put, all divisions of the UPC are courts of domicile according to art. 4 BR when the defendant is domiciled anywhere within the UPCA territory. As Defendants 3-7 are all UPCA-domiciled defendants for whom the Court has Art. 4 BR broad jurisdiction, therefore this (division of the) Court has international jurisdiction to hear the case of alleged infringement of the Spanish part of the EP in Spain against these defendants.[4]

4.2.3. Regarding the non-UCPA domiciled Defendants 1 and 2, MicroTech and SenEaron, the Court is equally competent and has international jurisdiction. As confirmed in the Barco v. Yealink decision of the Court of Appeal[5] as well as in the *Dyson v Dreame*[6] case, according to Article 71b(2) BR, Article 8(1) BR also applies to third state defendants domiciled outside the EU.[7] The Defendants' reference to the CJEU's *Land Berlin/Sapir* decision does not change this – as this was pre-71b BR.[8]
"The new proposal in Art. 71b, paragraph 2 therefore extends the Regulation's jurisdiction rules to disputes involving third State defendants domiciled in third States.
As a result of this extension, access to the Unified Patent Court and the Benelux Court of Justice will be ensured in situations where the defendant is not domiciled in an EU Member State as access is ensured in situations where the defendant is domiciled in an EU Member State."

4.2.4. Defendant 3, Lotus, is an alleged direct infringer, or – at the very least – alleged to

[2] Brussels Ibis Regulation, Regulation (EU) 1215/2012
[3] CoA 28 November 2025, UPC_CoA_317/2025 (*Barco/Yealink*), paragraph 41-42).
[4] CJEU 25 February 2025, C-339/22 (*BSH Hausgeräte v Electrolux*), CJEU 12 July 2012, C-616/10 (*Solvay v Honeywell*).
[5] CoA 28 November 2025, UPC_CoA_317/2025 (*Barco/Yealink*), paragraph 44.
[6] LD Hamburg 14 August 2024, UPC_CFI_387/2025 ACT_20368 (*Dyson v Dreame*), paragraph 59.
[7] Proposal for a Regulation of the European parliament and of the council amending Regulation (EU) No 1215/2012 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters, Brussels, 26.7.2013 COM(2013) 554 final 2013/0268 (COD), page 6; CJEU 25 February 2025, C-339/22 (*BSH Hausgeräte v Electrolux*).
[8] CJEU 11 April 2013, C-645/11 (*Land Berlin*), paragraph 47.

act as an intermediary for Defendants 1 and 2, MicroTech and Senearon.[9] They act in the whole EU, including Spain, see Annex D7 (EUDAMED register entries, which lists Spain as a country where New Teardrop-shaped System will or has been made available). Lotus therefore acts as anchor defendant for MicroTech and Senearon, because they are all accused of infringing the patent with the New Teardrop-shaped Systems in all Contracting Member States where these patents are in force, as well as in Spain.[10]

4.2.5. This means each of these defendants is separately accused of the same infringing acts involving the same products, and those infringements occurred in the same countries and thus infringe the same national parts of the European patent.[11] There is therefore a close connection between these claims, and a risk of irreconcilable decisions exists. It was not argued, nor can it be readily seen, that the case regarding Spain was instituted at this Court only to oust MicroTech and Senearon of their court of domicile.[12] Contrary to Defendants' position, the Court finds that the facts and evidence put forward by Abbott on cursory review[13] supports its allegation of infringement by Lotus, either as an infringer proper or as an intermediary.

4.2.6. In as far as this is maintained by the CJEU as a separate criterion[14], the Court finds that it was foreseeable for MicroTech and Senearon that they might be sued in the Member State where Lotus is domiciled. After all, Lotus, a Dutch company, is named as the EU Authorised Representative on the packaging and instructions of the Vista and DiaExpert Systems, allegedly sold and promoted by MicroTech and Senearon, in UPCA CMS and in Spain alike.

4.3. *Urgency*

4.3.1. Defendants argue that the application is not admissible or should be dismissed for lack of urgency. The Court disagrees. Abbott made clear that only after its purchase on Amazon IT and DE (delivered 16-18 June 2025) could it test the (Linx) Vista System. It took a little over a month to complete the infringement testing in the US for the patent, until 22 July 2025, which does not seem unreasonable. It is settled case law of the UPC that an applicant may first gather all reasonably necessary evidence before filing its application for preliminary measures, even analysis that in hindsight was perhaps not necessary.[15] In this case, Abbott relied on detailed photographs, some of them X-ray photographs. Six weeks later, Abbott filed its application on 2 September 2025. This does not amount to undue

[9] LD Hamburg 14 August 2025, UPC_CFI_387/2025 ACT_20368 (*Dyson v Dreame*), paragraph 54-55, 5860; cf. LD Düsseldorf 10 July 2025, UPC_CFI_213/2025 ACT_12013/2025. (*Aesculap v Shanghai International*); UPC CoA 3 October 2025, UPC_CoA_534/2024 (*Philips v Belkin*).
[10] PI Applications, Section 7.
[11] CJEU 12 July 2012, C-616/10 (*Solvay v Honeywell*), paragraph 29.
[12] See CJEU 12 July 2012, C-616/10 (*Solvay v Honeywell*), paragraph 22; CJEU Case C-145/10, Painer, ECLI:EU:C:2011:798, paragraph 78; Case 189/87 Kalfelis [1988] ECR 5565, paragraphs 8 and 9, and Case C-51/97 Réunion européenne and Others [1998] ECR I-6511, paragraph 47.
[13] CoA 28 November 2025, UPC_CoA_317/2025 (*Barco/Yealink*), paragraph 65.
[14] While mentioned by the CJEU in Painer (paragraph 81, with reference to Freeport, where in fact it cannot be found as clearly), it is not stipulated as a condition in the Solvay-decision (see footnote 11).
[15] CoA 14 February 2025, UPC_CoA_382/2024 APL_39664/2024 (*Abbott v Sibio*), paragraph149; LD Dusseldorf 31 October 2024, UPC_CFI_368/2024 *(Valeo/Magna)*, LD Munich 27 August 2024, UPC_CFI_201/2024 (Syngenta/Sumi)

delay. In the Abbott/Sibio-case, Abbott took 5 weeks after completion of the testing. If one is to look also at the total amount of time, including analysis, in the Abbott/Sibio case, Abbott took from receipt of the test-purchases (first arrived 16 December 2023) until filing its application on 20 March 2024, a total of a bit more than 3 months. In this case, it took Abbott 2.5 months. This is also less than the 3 months total recently allowed by the LD Paris.[16] Read in isolation, paragraph89 of the Barco/Yealink order seems to indicate the CoA now deems one month and a few days (including testing, see paragraph77) too long:

> The Court of Appeal considers that Barco could have made its test purchase on 12 June 2024, or very shortly thereafter. On 12 June 2024, Barco knew that it had a granted European patent, knew the content of the patent claims, and knew about Yealink's allegedly infringing devices. Following the arrival of the test products and the technical analysis (with the same time span as in the actual sequence of events), the Application for provisional measures could have been lodged on 15 July 2024, as rightly observed by the Local Division, or a few days later.

This panel does not think that was intended. The panel rather sees "15 July 2024 or a few days later" as what the CoA deemed as the moment Barco could have filed its application (when the clock starts), and then filing the application on 2 October 2024 (2.5 months later, see paragraph 77 on the timeline in the case) the CoA regarded as too late. A stricter reading would mean the Barco/Yealink order is not congruent with the Abbott/Sibio order as well as other case law of the CFI, and more guidance could have been expected. The more so since the facts of the case already indicate a much longer delay of 2.5 months as mentioned.

4.3.2. The fact that Abbott may have had access to and had corresponded over the old circular shaped systems does not alter this finding. Firstly, it is certainly not a given that the inner workings of this older version are the same, for purposes of patent infringement. Secondly, Abbott has made sufficiently clear that it was under the understandable impression from their correspondence that Defendants would refrain from marketing this older version in the EU, albeit on the grounds of unfair competition.

4.3.3. Nor is it reasonable to hold against Abbott that it had a specimen in its possession, picked up by two Abbott representatives in the ATTD conference from 19-23 March 2025 before it was on the market in the EU, which specimen however got lost. Abbott provided a sworn affidavit by its Senior Counsel in the IP litigation team that it was lost by the courier. Failing evidence to the contrary and given that there would be criminal consequences if this statement were incorrect, the Court will assume this loss indeed happened over which Abbott had no control. To hold differently would effectively mean that Abbott would be precluded from instituting an application for provisional measures through no clear fault on its part. This cannot be followed.

4.3.4. In addition, Abbott has sufficiently argued the presence of objective urgency/necessity to obtain provisional measures to cease (imminent) infringement. Why this is the case will be explained in more detail together with the weighing of the interests of the parties below.

[16] LD Paris 23 January 2026, UPC_CFI_808/2025 (*SG/GH*)

4.4. *The patent*

4.4.1. The patent relates to continuous glucose monitoring systems. Specifically, it relates to the sensor assembly of a CGM system. A CGM system typically includes an applicator and an on-body device (OBD). The on-body device is configured to be worn on the patient's body and contains electronics coupled with a glucose sensor. The applicator is used by the patient to apply the on-body device to the skin while inserting a portion of the sensor in the patient's body using a sharp with the applicator. According to paragraph [0011] (paragraph [0033] of the application), the patent is concerned with an on-body assembly including a transcutaneously positioned analyte sensor and sensor electronics in a compact, low profile integrated assembly and coupled to an insertion device for deployment.

4.4.2. The features of claim 1 are set out below:

Claim 1	
1.1	A glucose sensor insertion assembly for positioning an on-body patch device including sensor and sensor electronics assembly, the insertion assembly comprising:
1.2	an insertion device (1200) comprising:
1.3	a housing (1210),
1.4	an introducer (1260),
1.5	a bias mechanism (1250), and
1.6	a cap (1220) configured to provide a closure or seal on an open end of the insertion device (1200); and
1.7	an integrated glucose sensor (1280) and sensor electronics assembly (1270) provided within the housing (1210);
1.8	wherein the introducer (1260) is configured to pierce the skin surface (1230) of a user and position the glucose sensor in fluid contact with a body fluid of the user;
1.9	wherein the insertion device (1200) is configured to move the introducer (1260) and the integrated glucose sensor (1280) and sensor electronics assembly (1270) within the housing (1210) towards the skin surface (1230) of the user in a direction substantially perpendicular to the skin surface (1230);
1.10	wherein the bias mechanism (1250) is configured to retract the introducer (1260) from an insertion position to a retracted position in which the introducer (1260) is entirely retained within the housing (1210);

1.11	wherein the glucose sensor insertion assembly is configured such that when the insertion device (1200) is removed from the skin surface (1230), the sensor electronics assembly (1270) is retained on the skin surface (1230), while the position of the glucose sensor (1280) is maintained in fluid contact with the body fluid of the user under the skin surface (1230); and
1.12	wherein the sensor electronics assembly (1270) is configured to communicate with a reader device or receiver unit via a Bluetooth enabled communication link.

4.4.3. Claim 1 therefore relates to a glucose sensor insertion assembly comprising:

(a) an insertion device comprising:

(i) a housing;

(ii) an introducer;

(iii) a bias mechanism;

(iv) a cap; and

(b) an integrated glucose sensor and sensor electronics assembly,

in which the insertion device positions the sensor in fluid contact with a body fluid and further positions the sensor electronics assembly on the skin surface. Claim 1 further relates to the configurations within the insertion device, and between the insertion device and the integrated glucose sensor and sensor electronics assembly, prior to, during and after the positioning.

4.4.4. The main teaching of the claimed invention, cf. paragraphs [0011], [0033, [0108]-[0111] and [0145]-[0149], seems to be to deploy an "**integrated" glucose sensor and sensor electronics "assembly"**, i.e. assembled already as also set out in (feature 1.7 of) claim 1 of the patent. According to paragraphs [0006] and [0149] of the patent, inter alia the potential for perceived pain associated with the sharp needle (when visible) is minimized with devices in accordance with the teachings of the patent.

4.5. *Skilled person*

4.5.1. Applicant defines the skilled person as an engineer involved in the design and manufacture of devices for monitoring analytes, in particular CGMs, and the components of these devices such as the insertion device and the sensor. Defendants confirmed during the oral hearing that they agree with this definition. The Court sees no reason to see otherwise.

4.6. *Claim construction*

4.6.1. According to the Defendants features 1.1., 1.3., 1.4., 1.7 and 1.9. of Claim 1 are unclear and are therefore, according to inter alia T 79/96 and T 596/96, to be construed in the broadest technically sensible way.
Hence, according to the Defendants

- the requirement of feature 1.1 "*that the assembly is suitable "for positioning an on-body patch device""* would – when coupled with the wording of claim 9 directed to a preferred embodiment in which the ""*integrated glucose sensor (1280) and sensor electronics assembly (1270)" are actually "configured as an on-body patch device""* - leave the reader in doubt as to what is claimed and how "*patch*" is to be construed wherefor "*the skilled person would construe "on-body patch device" in the broadest sense, e. g. as a substantially flat, thin, and flexible structure that may adhere to the skin.*"

- the housing (1210) required by feature 1.3 "*would …. be interpreted by the skilled person as a physical, at least partially void entity that, in particular, includes on its inside (i. e. "houses") all or some other elements required by the claim.*"

- the introducer (1260) required by feature 1.4 would, based on "*the function of the feature in the claimed device (see also feature 1.8), as well as from the description, e. g. paragraph [0141], where the "introducer 1260" is also referred to as the "introducer needle 1260"",* be construed "*substantially as a needle, a cannula, or longitudinal, sharp object with a small diameter.*"

- the skilled person would, with reference to figure 6 and paragraph [0010] and paragraph [0033] of the patent, construe the integrated glucose sensor (1280) and sensor electronics assembly (1270) provided within the housing (1210) required by feature 1.7 in a way whereby the electronic components as depicted in Figure 6, as well as a "data processing unit", would fall within the scope and meaning of the claimed "sensor electronics assembly"

- the requirement in feature 1.9 that the introducer (1260) be moved […] in a direction substantially perpendicular to the skin surface (1230) would because of the term "substantially" be rendered unclear wherefor feature 1.9 has to be interpreted as broad as reasonably possible.

4.6.2. Applicant maintains that the proper standard for claim interpretation is set out in the Enlarged Board of Appeal's decision of 18 June 2025, G 1/24, and the decision of the Court of Appeal of the UPC in the 10x Genomics v NanoString case[17], which both set out that the claims are the starting point, and the description and drawings shall always be consulted to interpret the claims. The Court agrees. Also, given the fact that the Defendants do not dispute that their products fall under the scope of claim 1 of the patent, there does not appear to be any interest to decide any dispute between the parties on claim construction

[17] CoA 26 February 2024, UPC_CoA_335/2023, NanoString Technologies v. 10x Genomics;

with respect to whether the allegedly infringing products are encompassed by the claims of the patent.

4.7. *Added matter*

4.7.1. According to the Defendants, claim 1 of the patent is invalid due to added matter. There is unallowable added matter if the claim as granted contains subject-matter that extends beyond the content of the application as filed. In order to ascertain whether there is added matter, the Court must thus first ascertain what the skilled person would derive directly and unambiguously using his common general knowledge and seen objectively and relative to the date of filing, from the whole of the application as filed, whereby implicitly disclosed subject-matter, i.e. matter that is a clear and unambiguous consequence of what is explicitly mentioned, shall also be considered as part of its content.[18] An intermediate generalization may add matter if the omitted features from an embodiment have a functional or structural relationship with a/the features of the claim, giving rise to an inextricable link.[19]

a) "bias-mechanism"

4.7.2. According to the Defendants, the only reference to a “bias mechanism” can be found in [0140] of the original application (WO028), which discloses a bias spring, just like Figures 12A-12G show a bias spring (1250). This is thus disclosed only in the context of a specific embodiment described there. Therefore, there is no general disclosure of "bias mechanism" in the parent application, and the introduction of this feature into claim 1 extends the subject-matter of claim 1 beyond the content of the parent application as filed, and thus constitutes an Art. 123(2) EPC violation as well as a violation of Art. 76(1) EPC. Thus, the Defendants argue that the "bias mechanism" of claim 1 is an unallowable generalization of the specific disclosure of a bias spring in paragraph [0140] and Figures 12A-12G of the application as filed.

4.7.3. As rightly pointed out by the Applicant, however, paragraphs [0072] and [0073] in the general part of the application as filed, with specific reference to the introducer mechanism of Figures 12A-12G, contain that "*within the scope of present disclosure, a mechanism (such as a spring, for example) may be provided within the on-body patch device*". The skilled person would clearly derive from this that the mechanism may be a spring (for example) but also may be another (bias) mechanism and can relate to all embodiments. The Defendants have not provided any reasoning as to why a skilled person would at the priority date have doubted the technical soundness of this more general teaching with regards to a bias mechanism. Hence, the Court does not hold it more likely than not that the patent will be invalid on this ground.

b) "movable inner housing"

4.7.4. The omission of a movable *inner* housing disclosed in Fig. 12 is, contrary to what Defendants argue, also no impermissible intermediate

[18] CoA 2 October 2025, expert klein v Seoul Viosys, UPC_CoA_764/2024 and UPC_CoA_774/2024
[19] CoA 14 February 2025, Abbott v Sibio, UPC_CoA_382/2024, paragraph78, see also Case Law BoA EPO, II.E.1.9

generalisation. In the context of this and further added matter attacks, Defendants seem to take the position that the claimed invention corresponds (only) to the embodiment described in paragraph [0137]-[0141] and Fig. 12A-G of the original application (WO028). The Court finds that the skilled person would not consider the claimed system to be limited to this specific embodiment; it is just an example, but other embodiments can also fall within the scope of protection.
The disclosure relied upon by the Defendants, paragraphs [0137]-[0141] of WO028, does not make any mention of a movable inner housing. It mentions "a housing or body 1210", which provides support for the corresponding housing feature in the claim. The feature of a "movable inner housing" is not mentioned anywhere else in the patent application's description, in fact no distinction is made anywhere between an 'inner' and 'outer' housing. The Defendants rely on the drawings, figure 12, only for this distinction, specifically on the fact that part of the housing in figure 12 is a darker colour which they assert to be the 'inner' housing. While the dark colour of the "movable inner housing" may suggest some importance, the fact that it is not indicated with a reference number suggests the opposite, i.e. that this is not a relevant distinction. The latter suggestion is compounded because a skilled person would look in vain for any support in the description in the patent application of an 'inner housing'. The skilled person would therefore understand, not only from the disclosure in connection with Figure 12, but also from the original application as a whole, that the technical teaching of the patent is not limited to any specific insertion/introducer or retraction mechanism, let alone a movable inner housing. The fact that the feature allegedly omitted is not mentioned in the patent application, also sets this case apart from the case in T 0324/21, to which the Defendants refer.

4.7.5. Also, based on the additional disclosure in paragraphs [0072] – [0073] of the application, which refers specifically to Figures 12A-G, that the introducer mechanism may be configured in many ways, there would not seem to be any reasons why a skilled person would think that a glucose sensor otherwise in accordance with claim 1, would as a necessity have to rely on the specific mechanism of movement of claims 2-5 and Figures 12A-G. Already for this reason, the movable inner housing cannot be considered essential. In addition, as noted above the application presents the invention at a level which goes beyond the specific embodiment of Figures 12A-G. Thus, even if the functions of a moveable inner housing may relate to a specific mechanism by which the inserter device functions, the presence or absence of an inner housing is not related to the invention *per se*, and the presence of a moveable inner housing is not essential to achieving any of the different functions mentioned by the Defendants in their arguments.

c) <u>Other features</u>

4.7.6. The Defendants also argue that an intermediate generalization has been made in relation to the facts that:
- claim 1 as granted does not stipulate the presence of an adhesive layer, although being clearly part of the embodiment described in paragraphs [0137]-[0141], when *inextricably linked* to Figure 12G (Ref. 1290)
- feature 1.8 is in paragraphs [0137]-[0141] only disclosed in conjunction with a force being applied to the top end of the housing, wherefor also the omission of this force application leads to an intermediate generalization,

- the retraction of the introducer in feature 1.10 in paragraphs [0137]-[0141], only describes the introducer as an introducer needle, wherefor also the omission of “needle” leads to an intermediate generalization,
- feature 1.12, Bluetooth, cannot be derived from Figures 12A-12G, and is only, in paragraph [0066], disclosed as part of a specific embodiment with further features that are also reflected in Figure 1, wherefor the omission of the remaining features in paragraph [0066] and Figure 1 also leads to an intermediate generalisation.

4.7.7. In line with what is set out above (in relation to "movable inner housing") both a) the adhesive layer with which the “integrated” glucose sensor and electronics “assembly” is adhered to the skin and b) the force applied on a top end of the housing would – even if they do indeed pertain to the general functioning of the device – appear to be unrelated to what seems to be central to the claimed invention, i.e. that it relates to devices comprising an “integrated” glucose sensor and electronics “assembly”. Likewise, an introducer appears to be disclosed broadly in the application, and is not systematically, in the context of the embodiments described in paragraphs [0137]-[0141]), limited to "needle".
Finally, even if selecting Bluetooth as the protocol for the communication link may be viewed as a combination of a specific feature not disclosed in paragraphs [0137]-[0141] with the embodiments otherwise disclosed in these paragraphs, this is only a single selection from a list of possible communication links, and this single selection is done from a list in e.g. paragraph [0066] of the application of what appears to be in general equally feasible alternative possible protocols for communication.

Conclusion on added matter for claim 1

4.7.8. In view of the above, the Court, at this preliminary stage, reaches the conclusion that, on the balance of probabilities, it is more likely than not, that a skilled person would have been able to derive directly and unambiguously the subject-matter of claim 1 of the patent from the parent application(s). At this point, there is no need to look at the arguments of added matter developed against the dependent claims.

4.8. *Sufficiency of disclosure*

4.8.1. Also in relation to the question of sufficiency of disclosure, Defendants’ arguments rely on the point that, according to the Defendants, the only part of the description relevant to claim 1 of the patent is the embodiment of Figures 12A-12G, also described at paragraphs [0137]-[0141] of the parent application, which correspond to paragraphs [0115] - 0119] of the patent, and that this embodiment (only) discloses an insertion device comprising a “movable inner housing”. Thus, according to the Defendants, the description of the patent does not contain sufficient information that would enable the skilled person to manufacture a sensor insertion assembly according to the claim without a movable inner housing, and that without a movable inner housing, the skilled person would be confronted with a number of difficulties, which the skilled person would not be able to solve without undue burden and/or inventive skill.

4.8.2. As rightly noted by the Applicant, however, these arguments seem to run counter to the principles for the assessment of insufficiency set out by the Court of Appeal in its Order of 25 November 2025 (UPC_CoA_528/2024, UPC_CoA_529/2024; Amgen/Sanofi, see

paragraph 107 in relation to functionally defined features of a claim): "*Where a claim contains one or more functional features, it is not required that the disclosure includes specific instructions as to how each and every conceivable embodiment within the functional definition(s) should be obtained. A fair protection requires that variants of specifically disclosed embodiments that are equally suitable to achieve the same effect, which could not have been envisaged without the invention, should also be protected by the claim. Consequently, any non-availability of some embodiments of a functionally defined claim is immaterial to sufficiency, as long as the skilled person through the disclosure is able to obtain suitable embodiments within the scope of the claim.*"

4.8.3. That is to say, it is undisputed that the description provides at least one detailed example and embodiment to illustrate how the invention can be put into practice, in such a way that the underlying principles of the invention (such as the application of an "integrated" glucose sensor and electronics "assembly") are understood and can be reproduced by the skilled person using common general knowledge. This should according to the principles set out by the Court of Appeal be enough, and it is *not* a requirement that the disclosure includes specific instructions on how other conceivable embodiments that fall within the functional definitions in the claim can be obtained. Hence, for the reasons set out above, the Court concludes that, on the balance of probabilities, it is not more likely than not, that the patent is insufficiently disclosed.

4.9. *Inventive Step*

Introduction

4.9.1. The legal standard applied by both the UPC and the EPO when assessing inventive step, i.e. Art. 56 EPC, stipulates that an invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art. The principles to assess inventive step were set out by the Court of Appeal of the UPC on 25 November 2025 in the Amgen v Sanofi case and in the Edwards v Meril case. The Court of Appeal has confirmed that despite any differences between the approach of the UPC and the approaches of the EPO and/or national courts of the various EPC countries, all of these, when properly applied, should and generally do lead to the same conclusion.

4.9.2. The burden and presentation of proof with regard to the facts from which the lack of validity of the patent is derived and other circumstances favourable to the invalidity or revocation lies with the claimant in a revocation action (Art. 54 and 65(1) UPCA, R. 44(e)-(g), 25.1(b)-(d) RoP). Even though proof of certain facts, if contested, may be required, the assessment of whether the legal consequence for which the facts and circumstances have been submitted is justified, is a question of law. The approach taken by the Unified Patent Court when establishing inventive step, which can already be derived from the Order of the Court of Appeal in Nanostring/10X Genomics (supra), is as follows.

4.9.3. It first has to be established what the object of the invention is, i.e. the objective problem. This must be assessed from the perspective of the skilled person (m/f – hereinafter referred to as 'it'), with its common general knowledge, as at the application or priority date (also referred to as the relevant date) of the patent. This must be done by establishing what

the invention adds to the state of the art, not by looking at the individual features of the claim, but by comparing the claim as a whole in context of the description and the drawings, thus also considering the inventive concept underlying the invention (the technical teaching), which must be based on the technical effect(s) that the skilled person on the basis of the application understands is (are) achieved with the claimed invention. In order to avoid hindsight, the objective problem should not contain pointers to the claimed solution.

4.9.4. The claimed solution is obvious when at the relevant date the skilled person, starting from a realistic starting point in the state of the art in the relevant field of technology, wishing to solve the objective problem, would (and not only: could) have arrived at the claimed solution. The relevant field of technology is the field relevant to the objective problem to be solved as well as any field in which the same or similar problem arises and of which the person skilled in the art of the specific field must be expected to be aware. A starting point is realistic if the teaching thereof would have been of interest to a skilled person who, at the relevant date, wishes to solve the objective problem. This may for instance be the case if the relevant piece of prior art already discloses several features similar to those relevant to the invention as claimed and/or addresses the same or a similar underlying problem as that of the claimed invention. There can be more than one realistic starting point and the claimed invention must be inventive starting from each of them.

4.9.5. The skilled person has no inventive skills and no imagination and requires a pointer or motivation that, starting from a realistic starting point, directs it to implement a next step in the direction of the claimed invention. As a general rule, a claimed solution must be considered not inventive / obvious when the skilled person would take the next step prompted by the pointer or as a matter of routine, and arrive at the claimed invention. A claimed solution is obvious if the skilled person would have taken the next step in expectation of finding an envisaged solution of this technical problem. This is generally the case when results of the next step were clearly predictable, or where there was a reasonable expectation of success.

4.9.6. The burden of proof that the results were clearly predictable or the skilled person would have reasonably expected success, i.e. that the solution he envisages by taking the next step would solve the objective problem, lies on the party asserting invalidity of the patent. A reasonable expectation of success implies the ability of the skilled person to predict rationally, on the basis of scientific appraisal of the known facts before a research project was started, the successful conclusion of that project within acceptable time limits.

4.9.7. Whether there is a reasonable expectation of success depends on the circumstances of the case. The more unexplored a technical field of research, the more difficult it was to make predictions about its successful conclusion and the lower the expectation of success. Envisaged practical or technical difficulties as well as costs involved in testing whether the desired result will be obtained when taking a next step may also withhold the skilled person from taking that step. On the other hand, the stronger a pointer towards the claimed solution, the lower the threshold for a reasonable expectation of success.

4.9.8. When the patentee brings forward and sufficiently substantiates uncertainties and / or practical or technical difficulties, the burden of proof that these would not prevent a skilled person from having a reasonable expectation of success, falls on the party alleging obviousness.

4.9.9. The fact that other persons or teams were working contemporaneously on the same project does not necessarily imply that there was a reasonable expectation of success. It may also indicate that it was an interesting area to explore with a mere hope to succeed

Inventive step assessment

4.9.10. The above principles applied to the claims of the patent lead to the conclusion that the claims are not obvious.

4.9.11. The Defendants cite 15 different prior art documents and rely on three separate starting points for their inventive step attacks, i.e. prior art references: "D1", "D2", and "D5a". The Defendants' inventive step arguments starting from D1 and D2 rely on two documents over which the Examiner of the EPO has already found the claims of the patent to be novel and inventive (c.f. the Applicant's letter of 28 November 2022). The third starting point, D5a, appears, for all practical purposes, to be identical to D4, which is one of the additional documents that the Defendants argue would make the subject matter of claim 1 of the patent obvious if combined with D1 or D2.

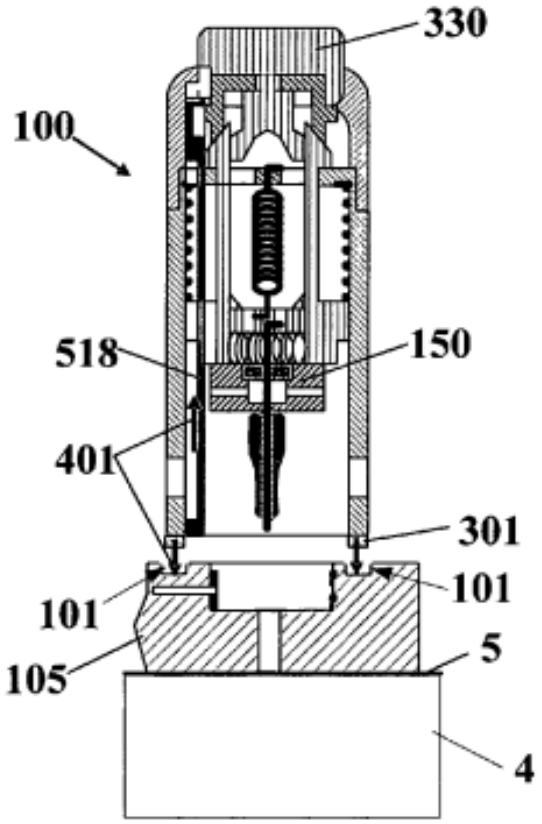
4.9.12. As mentioned above, applying a 'holistic' approach the objective problem the patent aims to solve should be determined. While Abbott did not specifically address this approach, but rather defined the objective problem according to the technical effect derivable from the distinguishing features (in short: the EPO – and Dutch – approach), it can be safely derived from those problems formulated vis-a-vis specific prior art and general statements about the patent (e.g. Abbott's pleading notes para's 1-3) that Abbott sees the underlying objective problem of the patent to provide an CGM device providing safety, ease and comfort of use (see also paragraph [0011] of the patent).
The invention according to the patent (claim 1) aims to solve this problem by providing "*a glucose sensor insertion assembly which has, in short, the following interrelated features:*
(i) The claimed assembly contains two elements: (1) an integrated sensor and sensor electronics assembly forming an on-body patch device and (2) an insertion device to position the on-body patch device on the body of the concerned individual. The sensor is a glucose sensor which is used to measure the concentration of glucose in the blood of the individual. The sensor electronics allows to communicate the measured data with a reader via Bluetooth.
(ii) Both the sensor and sensor electronics assembly are provided in the housing of the insertion device. The insertion device is capable of moving the integrated sensor and sensor electronics assembly towards the skin of the individual, so that after removal of the insertion device the sensor electronics is retained on the skin surface and the sensor remains in fluid contact with the interstitial fluid of the user under the skin surface. The user may thus in a single operation of the insertion device deploy the integrated sensor and sensor electronics, without the need to couple the electronics to the sensor afterwards.

(iii) After deployment of the sensor, there is a bias mechanism in the insertion device which retracts the introducer so that it is entirely retained within the housing for safety purposes. (iv) Finally, the cap protects the sensor and sensor electronics provided within the housing."
(Pleading notes Abbott, paragraph1).

D1

4.9.13. Distinguishing features over D1

At least features 1.7, 1.9 and 1.11 would appear not to be disclosed in D1. D1 discloses a general-purpose insertion device for placing a subcutaneously insertable element (primarily a cannula, optionally a sensor) into a patient's body. D1 focuses on an insertion device (inserter) with a housing that accommodates a penetrating cartridge (penetrating member + cannula or sensor), a spring-loaded actuation mechanism, and optional safety, alignment, and retraction mechanisms. The inserter is typically used in conjunction with a separate patch pump or well assembly, through which fluid delivery or sensing occurs. After insertion, the penetrating member is withdrawn, while the cannula or sensor remains in the subcutaneous tissue. The disclosure emphasizes accurate depth, angle control, and safe insertion, not system-level integration of sensing electronics. Hence, D1 describes insertion of a sensor element only in a generic sense, treating it as interchangeable with a cannula. D1 Does not disclose an integrated sensor electronics assembly, nor coordinated positioning of electronics on the skin surface during or after insertion. The sensor electronics assembly is mounted on the sensor post-insertion. See below figure of D1:



Feature 1.7 ("an integrated glucose sensor (1280) and sensor electronics assembly (1270) provided within the housing (1210)")
D1 does not disclose specific sensor electronics of any kind. There is therefore no disclosure of an integrated sensor and sensor electronics assembly in D1. Also, it does not follow that "sensor" in D1 would be interpreted to mean an integrated sensor and sensor electronics assembly in the sense of the patent. It seems to be undisputed that at the priority date, the products available on the market first inserted a sensor and then separately coupled the sensor electronics assembly to the sensor afterwards (i.e., after deployment of the sensor alone).
Feature 1.9 ("wherein the insertion device (1200) is configured to move the introducer (1260) and the integrated glucose sensor (1280) and sensor electronics assembly (1270) within the housing (1210) towards the skin surface (1230) of the user in a direction substantially perpendicular to the skin surface (1230)")
Feature 1.9 requires the "sensor electronics assembly (1270)". As outlined in relation to feature 1.7 above, D1 does not disclose any form of sensor electronics. Therefore, D1 fails to disclose feature 1.9.
Feature 1.11 ("wherein the glucose sensor insertion assembly is configured such that when the insertion device (1200) is removed from the skin surface (1230), the sensor electronics assembly (1270) is retained on the skin surface (1230), while the position of the glucose sensor (1280) is maintained in fluid contact with the body fluid of the user under the skin surface (1230)")
As with feature 1.9 above, feature 1.11 also requires the "sensor electronics assembly (1270)". As outlined in relation to feature 1.7 and feature 1.9 above, D1 does not disclose any form of sensor electronics. Therefore, D1 fails to disclose feature 1.11.

4.9.14. Starting from the disclosure of D1 and considering the objective problem, the Court fails to see what would lead the skilled person to the claimed solution. D1 does not mention sensor electronics at all and only briefly refers to a sensor as an item to be inserted as an alternative to an infusion set. There is therefore no consideration at all in D1 of the ease of use of an arrangement for inserting a sensor and therefore no motivation in D1 itself for the skilled person (who has no inventive skills or imagination) to consider modifying the disclosed arrangement to provide an integrated glucose sensor and sensor electronics assembly within the housing of the insertion device and absolutely no indication as to how the skilled person could make the significant amendments to the inserter disclosed in D1 that would be required to reach claim 1.

4.9.15. D1 in combination with D4
The Defendants refer to D4 which they argue discloses feature 1.7. D4 discloses an "integrated analyte sensor and data processing unit assembly", where the analyte may be glucose. The Defendants suggest that D4 therefore teaches "integration of a glucose sensor and sensor electronics assembly" and that the remaining problem to solve to arrive at feature 1.7, is to replace the "sensor" of D1 with the assembly of D4. The Defendants suggest that it would be obvious for the skilled person to combine D1 and D4.
As discussed above, there is no mention at all of sensor electronics in D1, nor is there any indication that there is an "ease of use" problem to be solved when reading D1. The skilled person would therefore not be motivated to turn to D4. Also, the Defendants provide no explanation as to how the skilled person could modify the insertion device of D1 to allow for

the insertion of the assembly of D4. None of D1, D4 or any of the other prior art documents cited by the Defendants teaches how to do this.

4.9.16. Conclusion in relation to D1

D1 fails to disclose numerous features of claim 1 and includes no pointer that would motivate the skilled person to modify the arrangement of D1 or to combine it with other documents. In particular, the uninventive skilled person would not contemplate an integrated sensor and sensor electronics assembly based on D1 alone and would not combine D1 with D4, given the teaching in D4 not to use an inserter. Even if they did consider D4, it is not clear how the inserter of D1 could be modified to accommodate the assembly of D4.

D2

4.9.17. Distinguishing features over D2.

D2 relates to an insertion system for a transcutaneous analyte sensor, primarily directed to continuous glucose monitoring (CGM). D2 focuses on an insertion device (applicator/inserter) used to insert a flexible glucose sensor into subcutaneous tissue, where a sharp insertion member (introducer needle) that carries the sensor into the body is subsequently removed, and where a base or mounting structure that remains on the skin and supports the sensor after insertion. The goal is to achieve reliable, minimally painful placement of a fragile electrochemical sensor. D2 discloses a sensor and a separate electronics unit (transmitter) that may later be coupled to the sensor base. According to the teachings of D2, the electronics are not integrated with the sensor at the time of insertion; rather, they are typically attached after insertion as a separate step. At least feature 1.7 would appear not to be disclosed in D2.

Feature 1.7 ("an integrated glucose sensor (1280) and sensor electronics assembly (1270) provided within the housing (1210)")

While paragraph [0115] of D2 sets out that the sensor is "couplable" to the sensor control unit, nothing within this paragraph states when the sensor is coupled to the sensor control unit and it certainly doesn't disclose that there is an integrated glucose sensor and sensor electronics assembly provided within the housing before the insertion of the sensor into the skin, as the claim requires.

Also, it is clear from both the description and paragraph [0115] of D2, which the Defendants cite, that neither the "housing 45" nor the "housing 202" represent a housing of an insertion device that contains the electronics within it. While the "housing 45" may contain electronics, it is attached to the "sensor 42", after insertion and as such does not satisfy feature 1.7, as it is not provided within the housing of the insertion device.

Also, the "sensor 42" and the "on-skin sensor control unit 44" are separate items, which although capable of being coupled are not disclosed as being coupled at any time prior to insertion. All that is shown in the more detailed description of the insertion process in the description is the insertion of the sensor alone with the later addition of the transmitter (which the skilled person would understand corresponds to the sensor control unit).

What is more, D2 describes in detail in paragraphs [0174] to [0188] and with reference to Figures 22A – 26B, the process of insertion of the sensor involving the insertion device and a mounting unit followed by attachment of a transmitter unit. This further emphasizes that the addition of the electronics to the sensor (by way of attaching the transmitter, which the

skilled person would understand corresponds to the sensor control unit) takes place in a separate step after insertion.
Therefore, D2 fails to disclose at least feature 1.7. The Court can leave undecided whether 1.9 and 1.11 are disclosed.

4.9.18. Claim 1 is inventive over D2 alone
In analogy with the analysis for D1, starting from the disclosure of D2 and considering the objective problem, there is nothing that would lead the skilled person to the claimed solution.
D2 does not disclose, or even suggest, the insertion of an integrated glucose sensor and sensor electronics assembly provided within the housing of the insertion device.
There is therefore no consideration at all in D2 itself for the skilled person (who has no inventive skills or imagination) to consider modifying the disclosed arrangement to provide an integrated glucose sensor and sensor electronics assembly within the housing of the insertion device and absolutely no indication as to how the skilled person could make the significant amendments to the inserter disclosed in D2 that would be required to reach claim 1.

4.9.19. Claim 1 is inventive over D2 in combination with other documents
As with D1, the Defendants have failed to justify why the skilled person would make any of the cited prior art combinations, and their approach is in the eyes of the Court driven by hindsight.
As described above, D2, like D1, fails to disclose at least features 1.7, 1.9 and 1.11.
Hence, the analysis with respect to D2 in combination with D4, is largely identical to the analysis wither respect to D1 in combination with D4 set out above.

4.9.20. Conclusion in relation to D2
D2 fails to disclose numerous features of claim 1 and includes no pointer that would motivate the skilled person to modify the arrangement of D2 or to combine it with other documents.

D5a
4.9.21. The Defendants have in context of their inventive step attack starting from D5a (which is the same document as D4) not indicated which features they believe are disclosed in D5a and which are not. Defendants have not included references to the paragraph numbers in D5a when discussing its disclosure. Already for that reason, this attack should be dismissed because of insufficient substantiation. Even if the Court would indulge, it observes that, as for D1 and D2, at least features 1.7, 1.9 and 1.11 would appear not to be disclosed in D5a. Which means that D5a does not render the patent obvious for the same reasons as D1 and D2.

4.10. *Conclusion on validity*

4.10.1. The Defendants' invalidity case fails to meet the required standard for establishing that it is more likely than not that the patent is invalid due to lack of inventive step.
Thus, in the eyes of the Court it is, on the balance of probabilities, not more likely than not, that claim 1 adds matter, is insufficiently disclosed and/or is obvious over D1, D2 and D5a,

including in combination with other cited prior art documents and the skilled person's common general knowledge.

4.11. *Infringement*

4.11.1. Defendants did not dispute infringement.

4.12. *Necessity, Relief, Balance of interests and costs*

4.12.1. In view of the likelihood of infringement and validity discussed above, the requested measures shall be granted in so far as necessary and proportionate.

4.12.2. The injunction will be granted for the UPC territory and for Spain, as requested. The Court fails to see that the above assessment of validity would not equally apply in Spain, and no argument was forwarded by the Defendants to explain so. The provisionally established infringement warrants a general injunction. Abbott explained convincingly that an injunction is necessary and urgent at this moment to avoid Defendants from (further) entering the reimbursement market and to avoid further sales via 'cash pay'. Within UPC territory, sales of CGM systems are either in the cash pay segment (where the user self-funds the purchase) or in the 'reimbursement' segment (typically where a product is prescribed, and the cost is borne by the healthcare system). The cash pay segment is less than 5% of the total CGM market in each country. Currently, pending often time-consuming national approvals for the reimbursement market, the Vista and DiaXpert systems are CE marked which means that the Defendants can and effectively sell into the cash pay segment of the market. Such sales are at prices which are comparable with or below the price of Abbott's FreeStyle Libre (according to Abbott at the oral hearing: about EUR 10 lower). There is nothing to stop the Defendants from offering discounts to undercut Abbott's prices, and such aggressive pricing is expected. This can be prevented further, by a provisional injunction. According to Abbott, the DiaXpert will be offered at "a lot lower price" than Abbott's in the reimbursement market (in the so-called Dutch G-standaard, DiaXpert is listed at EUR 54.10 while Abbott's product list price is EUR 68). An injunction can avoid this, preventing expected lost sales and (further) price erosion. The damage caused by such loss of sales and price erosion is difficult to quantify and may run for many years due to long contracts with insurers and the irreversibility of price reductions. Defendants have disputed any involvement of Defendants 4-7 in Spain and Abbott has not offered sufficient evidence to the contrary, so this part of the claim will be dismissed vis-a-vis Defendants 4-7. In as far as Defendants argued that Defendant 3 is not an infringer as such but, if anything, an intermediate, this argument is dismissed. As the undisputed appointed EU Authorised Representative for the products, it is sufficiently clear Defendant 3 qualifies as a person to whom the acts of infringement are attributable, or at the very least such threat exists.[20]

4.12.3. The requested declaration that the Vista and DiaXpert systems are considered "goods suspected of infringing an intellectual property right" within the meaning of Article 2(7)(a) of Regulation (EU) No 608/2013, is dismissed. Whatever the merits, such declaration is not possible as provisional measure.

[20] CoA 3 October 2025, Philips v Belkin, UPC_CoA_534/2024, UPC_CoA_19/2025 and UPC_CoA_683/2024

4.12.4. The order for the provision of information, requested at c), will be limited as set out in the order below. Information regarding distribution channels and the (further) origin of the products are deemed urgent and necessary for Abbott to avoid possible further infringement by third parties. Information regarding prices, numbers of sales and costs are only deemed necessary for the calculation of damages, as Defendants rightly point out, which is premature at this stage. As this order will be made subject to a penalty payment, as requested, under the terms set out below, this is considered a sufficient incentive to comply without the need of the requested involvement of an independent auditor. Defendants' request that the provision of any information be made subject to confidentiality, is rejected in view of the limited scope of the order to be granted.

4.12.5. The requested order to deliver up to a bailiff appointed by Abbott any product in stock and / or otherwise held or owned by Defendants in the Contracting Member States where the patent is in force and Spain within 1 week after service of the order to be rendered in this matter, is also considered proportionate to avoid further infringement. Defendants did not substantiate why this additional measure is not proportionate. The additional request to provide counsel for Abbott with proper evidence of the full and timely compliance with this order within 10 days after the delivery up to the bailiff or seizure, is dismissed as superfluous in view of the delivery to a bailiff appointed by Abbott, who can be assumed to communicate with Abbott.

4.12.6. The requested recurring penalty payments are limited and maximised at set out in the order. As Defendants are independent companies, Defendants shall not be ordered to comply jointly and severally to comply with the orders as rightly objected to by Defendants.

4.12.7. Abbott requests the Defendants to jointly and severally bear reasonable and proportionate legal costs and other expenses incurred by the Applicant in these proceedings and orders, which costs are to be determined in separate proceedings for the determination of such costs. This order shall be granted as requested. In this context, it is relevant that the value of this case is set at EUR 4,000,000, as requested by Abbott and not objected to. On 5 December 2025, Abbott applied to amend its claim from an interim award of EUR 11,000 to EUR 200,000 (half the ceiling of the costs considering the value of the case) in view of the more generous approach the CoA took on 25 November 2025 as opposed to prior case law by many Divisions of this Court.[21] The Court accepts this amendment. Abbott filed it promptly after this new guidance was given by the Court of Appeal. While it could have requested so from the beginning, it is reasonable that Abbott wished not to burden these already condensed and fast proceedings with yet another issue. With the guidance now given by the Court of Appeal, the issue is however settled and therefore no burden anymore.

4.12.8. Defendants requested to impose a security for enforcement of 4 million euros. The Court rejects this. As the CoA held in Abbott v Sibio[22], to which Abbott rightly drew the Court's attention at the oral hearing, Defendants have not substantiated why serious difficulties would be expected in connection with the recovery of any possible damages from

[21] UPC CoA 25 November 2025, UPC_CoA_464/2024 APL_45049/2024 (Meril v Edwards), paragraph 203; UPC CoA UPC_CoA_317/2025 APL_16185/2025 (Barco v Yealink), paragraph 98.
[22] CoA 14 February 2025, Abbott v Sibio, UPC_CoA_382/2024, paragraph 170.

Abbott, which is a US based listed company with several subsidiaries in Europe and undisputed global sales of US$ 43.7 billion in 2022.

ORDER

5. The order is as follows

Having heard the parties, the court by way of provisional measures:

(a) prohibits Defendants, individually and jointly, on a provisional basis, from infringing the patent in any way, with immediate effect after service of this order, in particular by offering, placing on the market, and/or using, the Vista System and / or DiaExpert System (or components thereof) as well as by importing or storing the Vista System and / or DiaExpert System for those purposes, for each of the Contracting Member States in which the patent is in force (in the Contracting Member States of Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovenia and Sweden) and for Spain (Defendants 1-3 only) (Art.62(1) and Art.25);

(b) orders Defendants to provide, within four weeks after the service of this order, to Abbott's representative a written account with the full names and address details of the origin and distribution channels of the Vista System and / or DiaExpert System, including the full names and addresses of the legal entities and of any other non-consumer third person(s) that are involved in the manufacture of and trade in these systems within the territory of the Contracting Member States in which the patent is in force (in the Contracting Member States of Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovenia and Sweden) and in Spain (Defendants 1-3 only) (R. 211 (1) RoP);

(c) orders the Defendants to deliver up, within one week after the service of this order, to a bailiff appointed by Abbott, at their own expense, of any Vista System and DiaExpert System in stock and / or otherwise held, owned or in the direct or indirect possession of the Defendants, within the territory of the Contracting Member States in which the patent is in force (in the Contracting Member States of Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovenia and Sweden) and for Spain (Defendants 1-3 only) (Art. 62(3) and R.211.1(b));

(d) orders each Defendant to pay to the Court a penalty payment of up to EUR 100,000 for each day or part of a day that it does not comply with the injunction at a) with a maximum of EUR 1,000,000 per Defendant and a penalty of EUR 10,000 for each day that it does not comply with the orders at b) and c) with a maximum of EUR 100,000 per Defendant, or EUR 100 for each product with which the orders are violated (per

day or per product determined by whichever leads to the higher amount); the penalties will be determined by this Local Division of the Court upon request by Abbott (Article 63(2) UPCA; and R.354.3 RoP);

(e) orders the Defendants to jointly and severally pay to Abbott an interim award of costs in the amount of EUR 200,000.00 within 14 days after service of the order in this matter (Art.69 and R.118.5, R.150.2);

(f) The above is immediately enforceable;

(g) Rejects the claims in all other respects;

(h) Determines that the Defendants shall bear the costs of the proceedings;

(i) Sets the date as referred to in R. 213.1 RoP at 30 calendar days after service of this order;

(j) Sets the value of the dispute at EUR 4,000,000.

INFORMATION ABOUT APPEAL

An appeal to this order may be brought in accordance with Art. 73 (2) (a) UPCA and R. 220.1 (c) and 224.1(b) RoP within 15 calendar days of the service of this order.

INFORMATION ON ENFORCEMENT (ART. 82 UPCA, ART. 37(2) STATUTE, R. 118.8, 158.2, 354, 355.4 ROP)

An authentic copy of the enforceable order will be issued by the Deputy Registrar upon request of the enforcing party (R. 69 Rules governing the Registry of the Unified Patent Court).

Edger Brinkman, presiding judge and judge-rapporteur	Edger Frank BRINKMAN Digitally signed by Edger Frank BRINKMAN Date: 2026.02.06 09:01:30 +01'00'
Margot Kokke	Margot Elsa Kokke Digitally signed by Margot Elsa Kokke Date: 2026.02.03 17:08:31 +01'00'
Sam Granata	Samuel Rocco M Granata Digitally signed by Samuel Rocco M Granata Date: 2026.02.03 21:12:31 +01'00'
on behalf of the deciding judge Steen Wadskov-Hansen	Edger Frank BRINKMAN Digitally signed by Edger Frank BRINKMAN Date: 2026.02.06 09:01:51 +01'00'
On behalf of the registry	Noua Mohammed Digitally signed by Noua Mohammed Date: 2026.02.05 14:21:29 +01'00'