Unified Patent Court
Einheitliches Patentgericht
Juridiction unifiée du brevet

Local Division The Hague
UPC_CFI_875/2025

ORDER
of the Court of First Instance of the Unified Patent Court
issued on 6 February 2026
concerning EP 2720610 (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.**
No.108 Liuze St., Cangqian,
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,
248 Queen's Road East, Wan Chai
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.**
Brandpuntlaan Zuid 14
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*
EP2720610	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 16 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

[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.

Vista System and DiaExpert System, as well as the Vista App and DiaExpert App.

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 shown 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 the patent. The application for the patent was filed on 18 June 2012 (as an international application, published on 20 December 2012 as WO2012/174538, "WO538") and the patent claims a priority date of 17 June 2011. The European application was published on 23 April 2014 and the mention of the grant of the patent was published on 16 July 2025. 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 11 September 2025 when the opt-out was withdrawn.

2.3.2. The patent contains the following claims:

1. An analyte sensor (10) comprising:
   a dielectric base substrate (11) having a proximal end, a distal end, a first side edge extending from the proximal end to the distal end, a second side edge extending from the proximal end to the distal end, and a first thickness;
   a first conductive layer (12) positioned on the dielectric base substrate, the first conductive layer having a length (L_1) and a width (W_1);
   a first dielectric cover layer (13) positioned to cover at least a portion of the first conductive layer, wherein the first dielectric cover layer has a proximal end, a distal end, a first side edge extending from the proximal end to the distal end, a second side edge extending from the proximal end to the distal end, and a second thickness which is less than that of the dielectric base substrate;
   a second conductive layer (14) positioned on the first dielectric cover layer, the second conductive layer having a length (L_2) and a width (W_2); and
   a second dielectric cover layer (15) positioned to cover at least a portion of the second

conductive layer, wherein the second dielectric cover layer has a second thickness which is less than that of the dielectric base substrate, wherein W_1 is less than W_2 or W_2 is less than W_1;
wherein when W_1 is less than W_2 the first conductive layer (12) is spaced away from the first and second side edges of the dielectric base substrate (11); and
wherein when W_2 is less than W_1 the second conductive layer (14) is spaced away from the first and second side edges of the first dielectric cover layer (13); and
wherein the dielectric base substrate (11), the first dielectric cover layer (13) and the second dielectric cover layer (15) have the same width over the entire length of the analyte sensor.

2. The analyte sensor (10) of claim 1, wherein the second conductive layer (14) terminates at a distal end which is spaced back from the distal end of the first conductive layer (12).
3. The analyte sensor (10) of claim 1, wherein when W_1 is less than W_2 the second conductive layer (14) has a width that is the same as the dielectric base substrate (11) over the entire length of the second conductive layer.
4. The analyte sensor (10) of claim 1, wherein when W_2 is less than W_1 the first conductive layer (12) has a width that is the same as the dielectric base substrate (11) over the entire length of the first conductive layer.
5. The analyte sensor (10) of claim 1, wherein the dielectric base substrate (11) has a thickness from 0.1 to 0.15 mm.
6. The analyte sensor (10) of claim 1, wherein the first dielectric cover layer (13) and the second dielectric cover layer (15) each have a thickness from 15 to 150 µm.
7. The analyte sensor (10) of claim 1, wherein the first conductive layer (12) is a working electrode having a width W_1 and the second conductive layer (14) is a reference electrode having a W_2 and wherein W_1 is less than W_2.

2.3.3. The patent contains the following figures:

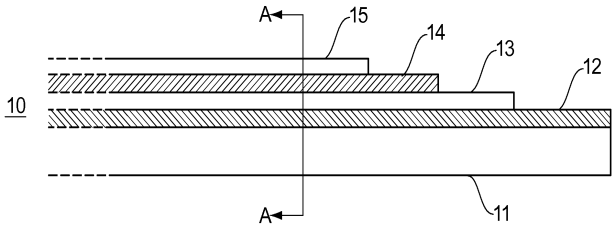

FIG. 1A

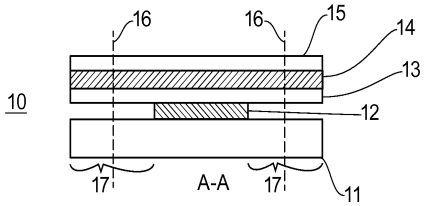

FIG. 1B

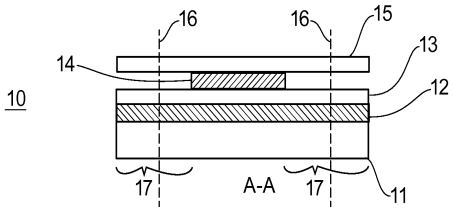

FIG. 1C

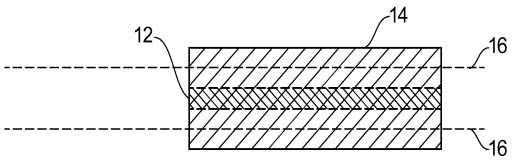

FIG. 1D

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

INTRODUCTION

[0001] In many instances it is desirable or necessary to regularly monitor the concentration of particular constituents in a fluid. A number of systems are available that analyze the constituents of bodily fluids such as blood, urine and saliva. Examples of such systems may be configured to monitor the level of particular medically significant fluid constituents, such as, for example, cholesterol, ketones, vitamins, proteins, and various metabolites or blood sugars, such as glucose. Diagnosis and management of patients suffering from diabetes mellitus, a disorder of the pancreas where insufficient production of insulin prevents normal regulation of blood sugar levels, generally requires careful monitoring of blood glucose levels on a daily basis.
[0002] A number of systems that allow individuals to easily monitor their blood glucose are currently available. For example, a person may obtain a blood sample by withdrawing blood from a blood source in his or her body, such as a vein, using a needle and syringe, for example, or by lancing a portion of his or her skin, using a lancing device, for example, to make blood available external to the skin, to obtain the necessary sample volume for in vitro testing. The person may then apply the blood sample to a test strip, whereupon suitable detection methods, such as calorimetric, electrochemical, or photometric detection methods, for example, may be used to determine the person's actual blood glucose level. The foregoing procedure provides a blood glucose concentration for a particular or discrete point in time, and thus, must be repeated periodically when the user actively initiates the procedure, in order to monitor blood glucose over a longer period.
[0003] In addition to the discrete or periodic, in vitro, blood glucose-monitoring systems described above, there are at least partially implantable, or in vivo, blood glucose-monitoring systems, which are constructed to provide continuous or automatic in vivo measurement of an individual's blood glucose concentration. Such in vivo analyte monitoring devices are constructed to provide for continuous or automatic monitoring of analytes, such as glucose, in the blood stream or interstitial fluid while the in vivo analyte monitoring device is positioned at least partially in the body of a user. Such devices include analyte sensors, e.g., electrochemical sensors, at least a portion of which are operably positioned in a blood vessel or in the subcutaneous tissue of a user, or elsewhere, for monitoring/detection.
[0004] While continuous or automatic glucose monitoring is desirable, there are several challenges associated with manufacturing sensors constructed for in vivo use. In addition, attaching such sensors to other system components such as electronics units, e.g., sensor control units, poses additional challenges, particularly where two or more electrodes and their respective conductive traces are positioned on different surfaces of the sensor, e.g., on opposing substrate surfaces. Accordingly, further development of manufacturing techniques and methods; as well as analyte monitoring devices, systems, and kits employing the same, are desirable and provided herein.
[0005] US2008/0135408 A1 (Novo Nordisk, Inc .) discloses a manufacturing process for producing narrow electrochemical sensors in which subsequent conductive layers in a sandwich structure are offset in order to address deficiencies in prior art devices.
[0006] WO2009/148849 A1 describes extended lifetime reference electrodes for amperometric sensors including providing Ag/AgCl based reference electrodes having an extended lifetime that are suitable for use in long term amperometric sensors. Electrochemical sensors equipped with reference electrodes demonstrate considerable stability and extended lifetime in a variety of conditions.

SUMMARY

[0007] The invention is defined by the appended claims 1-7.
[0008] Analyte sensor connectors that connect analyte sensors, e.g., conductive members of analyte sensors, to other devices such as sensor electronics units, e.g., sensor control units, are provided. Also provided are systems that include analyte sensors, analyte sensor connectors, and analyte sensor electronics units, as well as methods of establishing and maintaining connections between analyte sensors and analyte sensor electronics units, and

methods of analyte monitoring/detection. Also provided are methods of making analyte sensor connectors and systems that include analyte sensor connectors.
[0009] Embodiments of the present disclosure relate to analyte monitoring and/or detection devices and systems which utilize one or more sensor connectors, e.g., one or more rivets, to physically connect an analyte sensor, e.g., an in vivo or in vitro analyte sensor having one or more electrodes to an electronics unit such as a sensor control unit. Also provided, are systems and devices which utilize one or more conductive sensor connectors, e.g., conductive rivets, to electrically connect an analyte sensor, e.g., an in vivo or in vitro analyte sensor, having one or more electrodes to an electronics unit such as a sensor control unit, e.g., by electrically connecting one or more electrodes disposed on a first surface of the analyte sensor with one or more electrical contacts disposed on a second surface of the analyte sensor or a surface of the electronics unit.
[0010] Methods of making and using the analyte monitoring systems and devices, as well as methods of analyte monitoring and kits are provided. Also provided are analyte sensors and analyte sensor precursors along with methods of making and using the same.
(…)

[0069] According to one embodiment of the present invention, with reference to FIGs. 1A and 1C, a sensor 10 includes an at least generally planar insulative base substrate 11. Positioned on the at least generally planar insulative base substrate 11 is a first conductive layer 12. A first relatively thin insulative layer 13, e.g., an insulative layer having a thickness in the range of 15-30μm, is positioned on the first conductive layer 12 and second conductive layer 14 is positioned on the relatively thin insulative layer 13. Finally, a second relatively thin insulative layer 15, e.g., an insulative layer having a thickness in the range of 15-30μm, is positioned on the second conductive layer 14. As shown in FIG. 1B, first conductive layer 12 may be an electrode having a narrow width relative to conductive layer 14 as shown in the FIG. 1B cross-section taken at lines A-A. Alternatively, second conductive layer 14 may be a conductive electrode having a narrow width relative to conductive layer 12 as shown in the FIG. 1C cross-section taken at lines A-A. Singulation cut lines 16 are shown in FIGs. IB, 1C and ID. The sensor may be singulated, for example, by cutting to either side of the relatively narrow conductive electrode, e.g., in regions 17, as shown in FIGs 1B, 1C and 1D. With reference to FIGs. 1B and 1D, singulation by cutting along singulation cut lines 16 results in cutting through conductive layer 14 but not conductive layer 12. With reference to FIG. 1C, singulation by cutting along singulation cut lines 16 results in cutting through conductive layer 12 but not conductive layer 14.
[0070] FIG. 1D shows an embodiment of the sensor shown in FIG. 1B as it may be provided prior to singulation during the manufacturing process. It should be noted that while FIGs 1B and 1C appear to depict empty space to either side of conductive layers 12 and 14 respectively, one of ordinary skill in the art will understand that insulative layers 13 and/or 15, may extend into these spaces thereby covering side edges of conductive layer 12 and 14 respectively.
[0071] In an embodiment, first conductive layer 12 is an electrode having a relatively narrow width relative to conductive layer 14 and is a working electrode while conductive layer 14 is a reference electrode or counter/reference electrode. In another embodiment, second conductive layer 14 is an electrode having a relatively narrow width relative to conductive layer 12 and is a working electrode while conductive layer 12 is a reference electrode or counter/reference electrode.
[0072] In addition, one of the conductive layers may be spaced back from the other conductive layer at the distal end of the sensor, e.g., the sensing end of the sensor. One of the conductive layers may extend, for example, to the distal tip of the sensor while the other terminates proximal to the distal tip of the sensor. In this manner, the sensor may be cut perpendicularly to the length of the sensor and across one of the conductive layers without cutting through two conductive layers separated by only a thin insulative layer e.g., an insulative layer having a thickness in the range of 15-30 μm. In the embodiment depicted in FIG. 1A the second conductive layer **14** is spaced back distally relative to the first conductive layer **12.** While FIGS. 1A-1D depict a two electrode sensor, it should be noted that this sensor structure may be readily modified to accommodate additional electrode layers, e.g., in the case of sensors having 3 or 4 electrodes.
(…)

[0111] The analyte sensor **400** may be wholly implantable in a user or may be configured so that only a portion is positioned within (internal) a user and another portion outside (external) a user. For example, the sensor **400** may include a first portion positionable above a surface of the skin **405,** and a second portion positioned below the surface of the skin. In such embodiments, the external portion may include contacts (connected to respective electrodes of the second portion by traces) to connect to another device also external to the user such as a transmitter unit. While the embodiment of FIG. 17 shows three electrodes side-by-side on the same surface of base **404,** other configurations are contemplated, e.g., fewer or greater electrodes, some or all electrodes on different surfaces of the base or present on another base, some or all electrodes stacked together, electrodes of differing materials and dimensions, etc. Additional sensor configurations are discussed herein.

Data Monitoring and Management Systems

[0112] The analyte sensors and associated devices described herein may be used in the context of one or more data monitoring and management systems. FIG. 18 shows a data monitoring and management system such as, for example, an analyte (e.g., glucose) monitoring system **100** in accordance with certain embodiments. Aspects of the subject disclosure are further described primarily with respect to glucose monitoring devices and systems, and methods of glucose detection, for convenience only and such description is in no way intended to limit the scope of the embodiments. It is to be understood that the analyte monitoring system may be configured to monitor a variety of analytes at the same time or at different times.

2.4. *Prior art cited by Defendants*

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

D5 (US 2011/0021889 A1)
https://ppubs.uspto.gov/api/pdf/downloadPdf/20110021889?requestToken=eyJzdWIiOiI2YmNkMmE4ZC1lNTZmLTRiY2ItYTU4NS1iYjlhYzhmZjlkZTYiLCJ2ZXIiOiIyY2Q3ODQ1Zi04ODVlLTQwM2ItYTQ5Yy1kYzg3ZjJkMzAyZTYiLCJleHAiOjB9

2.5. *Original application*

2.5.1. The original PCT application is WO 2012/174538 A1, which can be found – again for brevity – at: https://patentscope.wipo.int/search/en/detail.jsf?docId=WO2012174538

RELIEF SOUGHT

3. The provisional measures sought are as follows

3.1. After amending the amount of interim 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 23 April 2014 (being the date of publication of the patent application, or since 16 July 2025 (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 23 April 2014, or since 16 July 2025, 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 23 April 2014, or since 16 July 2025, 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 23 April 2014, or since 16 July 2025, 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

[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.

State."

4.2.4. Defendant 3, Lotus, is an alleged direct infringer, or – at the very least – alleged to 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 three months to complete the infringement testing for the patent on 15 September 2025, which does not seem unreasonable as this required a more detailed analysis on sensor layers and inner dimensions of the sensor than the parallel case about EP 072. 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

[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 (paragraph81, 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).

perhaps not necessary.[15] Only one day later, Abbott filed its application on 16 September 2025. This does not amount to undue 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 months from grant of the patent to file its application. This is also less than the 3 months total recently allowed by the LD Paris.[16]

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 (in particular the layers of the sensor) 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 months before the grant of the patent, picked up by two Abbott representatives in the ATTD conference from 19-23 March 2025, 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 stop (imminent) infringement. Why this is the case will be explained in more detail together with the weighing of the interests of the parties below.

4.4. *The patent*

4.4.1. The patent is entitled "Stacked analyte sensor having a first electrode narrower than a second electrode of the sensor". The first few paragraphs of the description provide the context of the invention.

4.4.2. The “Summary” chapter in the description of the patent in paragraphs [0007] – [0010] and the “Detailed Description” chapter from paragraph [0012] and onwards go on to describe several embodiments that address the subject of the invention of the patent. Some of those embodiments are reflected in the claims. Independent claim 1 and dependent claims 2 – 7 relate to a single-sided analyte sensor comprising a number of layers, including a first and second conductive layer having different widths, positioned on one side.

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[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)

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

4.4.3. Paragraph [0067] of the patent sets out that when manufacturing analyte sensors having electrodes that are stacked, "*relatively thin insulative layers may be used … to reduce the cross-sectional area of the sensor*". It further explains this may be desirable where the analyte sensor is "*body-implanted*" because reducing the cross-sectional area of the sensor means that a "*sensor is produced which can be inserted while causing less pain and/or discomfort to the user*".

4.4.4. The patent describes that therefore a sensor is provided which includes insulative layers that are thin relative to the substrate layer (paragraph [0068]). Such sensors may according to the patent be manufactured in sheets wherein a single sheet includes a plurality of sensors, but such a process generally requires singulation of the sensors prior to use. Paragraph [0068] further teaches that where such singulation "requires cutting through two or more conductive layers which are separated by insulative layers, shorting between the two conductive layers may occur, particularly if the insulative layers are thin". As such, when manufacturing sensors with thin insulative layers (which reduces the cross-sectional area of the sensor and therefore insertion causes less pain to the user), there is a risk of shorting between the conductive layers of the sensor. Paragraph [0068] further teaches that "*to avoid such shorting, fewer than all of the conductive layers may be cut through during the singulation process*".

4.4.5. Likewise, it follows from paragraphs [00111] of the original application that the aim of the invention is to reduce the cross-sectional area of the sensor or a portion thereof, as this means that the sensor can be inserted while causing less pain or discomfort to the user., and according to paragraph [00112] of the original application, that reduction of the cross-sectional area of the sensor requires the insulative layers to be relatively thin, but this may cause shorting between the two conductive layers to occur when these are cut during the singulation process, and that the solution of the invention as encompassed in the claims, is that fewer than all of the conductive layers are cut during the singulation process.

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

Claim 1	
1.1	An analyte sensor (10) comprising:
1.2	a dielectric base substrate (11) having a proximal end, a distal end, a first side edge extending from the proximal end to the distal end, a second side edge extending from the proximal end to the distal end, and a first thickness;
1.3	a first conductive layer (12) positioned on the dielectric base substrate, the first conductive layer having a length (L_1) and a width (W_1);
1.4	a first dielectric cover layer (13) positioned to cover at least a portion of the first conductive layer, wherein the first dielectric cover layer has a proximal end, a distal end, a first side edge extending from the proximal end to the distal end, a second side edge extending from the proximal end to the

	distal end, and a second thickness which is less than that of the dielectric base substrate;
1.5	a second conductive layer (14) positioned on the first dielectric cover layer, the second conductive layer having a length (L_2) and a width (W_2); and
1.6	a second dielectric cover layer (15) positioned to cover at least a portion of the second conductive layer, wherein the second dielectric cover layer has a second thickness which is less than that of the dielectric base substrate
1.7	wherein W_1 is less than W_2 or W_2 is less than W_1;
1.7.1	wherein when W_1 is less than W_2 the first conductive layer (12) is spaced away from the first and second side edges of the dielectric base substrate (11); and
1.7.2	wherein when W_2 is less than W_1 the second conductive layer (14) is spaced away from the first and second side edges of the first dielectric cover layer (13); and
1.8	wherein the dielectric base substrate (11), the first dielectric cover layer (13) and the second dielectric cover layer (15) have the same width over the entire length of the analyte sensor.

4.4.7. Claim 1 therefore relates to an analyte sensor comprising:

(a) a dielectric base substrate;

(b) a first conductive layer positioned on the dielectric base substrate;

(c) a first dielectric cover layer positioned to cover at least a portion of the first conductive layer;

(d) a second conductive layer positioned on the first dielectric cover layer; and

(e) a second dielectric cover layer positioned to cover at least a portion of the second conductive layer,

in which the first conductive layer has a length (L_1) and a width (W_1), the second conductive layer has a length (L_2) and a width (W_2), and W_1 is less than W_2 or W_2 is less than W_1. Claim 1 further relates to the thicknesses and other dimensions of the dielectric base substrate, first dielectric cover layer and second dielectric cover layer.

4.4.8. Paragraph [0068] describes the insulative layers within the sensor. See FIG. 1A of the patent as copied and annotated (by Abbott) below, wherein the conductive layers are referenced as 12 and 14. Paragraph [0068] also describes the manufacturing of multiple

sensors in sheets which may require singulation. Such singulation may entail cutting through two or more conductive layers separated by insulative layers and, where this is the case, shorting between the two conductive layers may occur. Paragraph [0069] describes a way of avoiding such shorting.

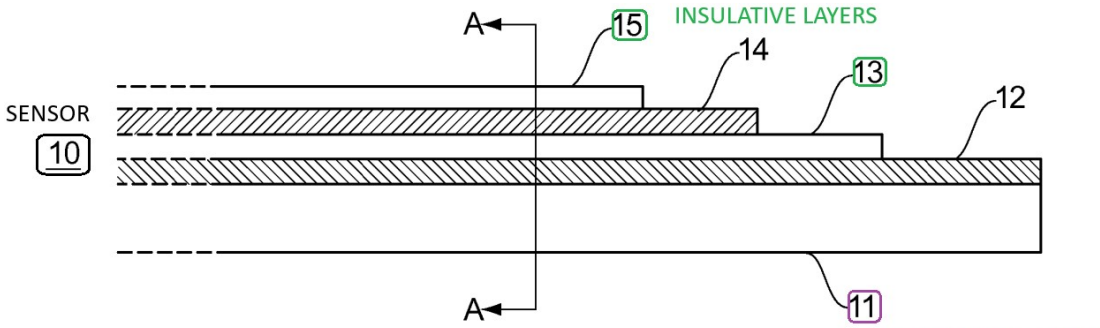

FIG. 1A

4.4.9. Paragraph [0069] describes the first conductive layer and second conductive layer in relation to the further described, relatively thin, insulative layers and the singulation cut lines. Paragraphs [0069] and [0070] further describe one of the conductive layers having a narrow width relative to the other. Further in relation to the sensor manufacturing and singulation as mentioned in paragraph [0068] above, this relative difference in width between the conductive layers means that singulation would therefore result in the cutting through of one (i.e., the relatively wider) conductive layer and not the other (being, the relatively narrower conductive layer). See FIGs. 1B – 1D of the patent as copied and annotated (by Abbott) below, with 1B and 1C showing cross-sections and 1D showing a top view of the analyte sensor of Figs 1A and 1B [0011].

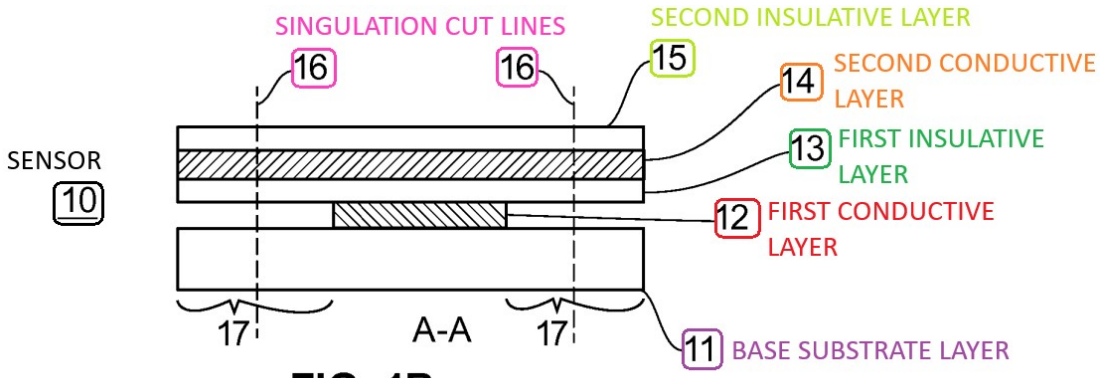

FIG. 1B

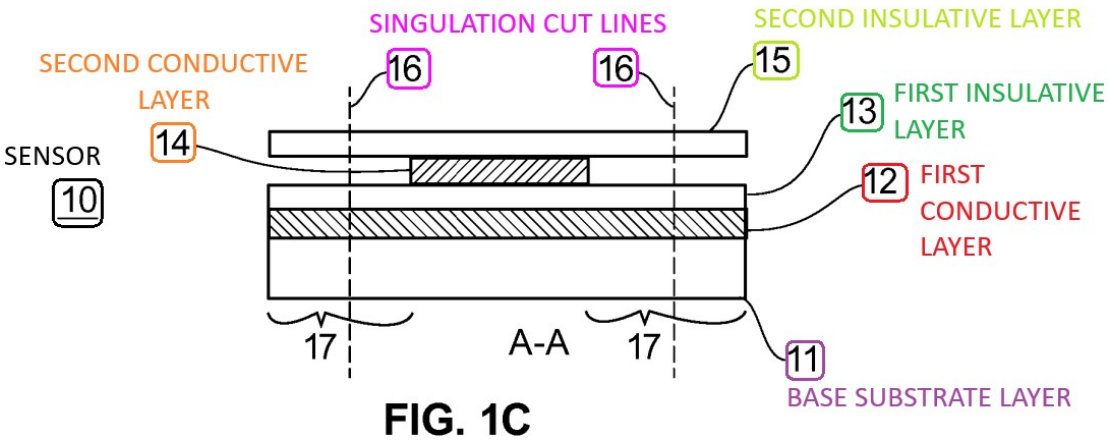

FIG. 1C

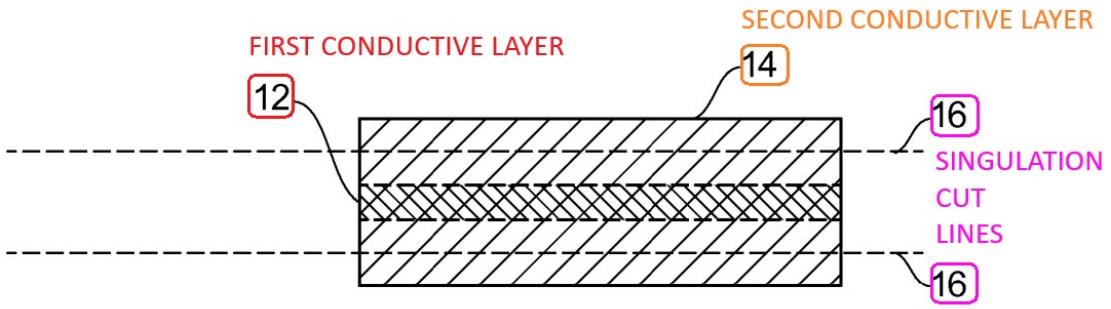

FIG. 1D

4.4.10. Paragraph [0071] further describes the conductive layers of the sensor, in relation to one conductive layer being a working electrode and another being a reference or counter/reference electrode.

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. The construction of features 1.7, 1.7.1, 1.7.2 and 1.8 is in dispute between the parties. According to the Defendants the objective problem solved by the patent is related to shorting, and the manufacturing process of singulation by cutting through only one of the conductive layers provides the technical effect. Thus, according to the Defendants the advantages of the patent are manufacturing related, and this is what is outlined in paragraphs [0067] – [0069], which paragraphs were referred to by the Applicant throughout examination prior to grant of the patent.

4.6.2. According to the Defendants the Applicant has explicitly referred to the manufacturing advantage by providing two conductive layers of different width, particularly

if the dielectric cover layer is thin, during prosecution, e.g. in the two submissions made by the Applicant during prosecution on 8 October 2019 and on 26 July 2022.
According to the Defendants the only parts of the description relevant to the construction of claim 1 of the patent can be found in paragraph [0067]-[0072] and the (only) relevant drawings are figures 1A-1D.
According to the Defendants Feature 1.7 determines that the width of the first conductive layer and the second conductive layer *must* be different. Either of them is less than the width of the other. Thus, according to the Defendant, it is clear from the claim language that a sensor comprising two conductive layers, where, at any point along the length of the conductive layers, the width of both layers is the same, is not encompassed by the defined relationship between W1 and W2.
The Court agrees with Defendants. After all, the skilled person understands that the aim of the invention is to prevent shorting resulting from the singulation process, which is effected in the claimed invention by avoiding that both conductive layers are cut. However, if at any point along the length of the sensor the widths of both types of layers are the same, shorting could occur, which would counter the aim of the patent.

4.6.3. Feature 1.8 provides that the dielectric base substrate, the first dielectric cover layer and the second dielectric cover layer (the three dielectric layers) have the same width over the entire length of the analyte sensor. According to Defendants this makes it clear that the width should be the same over the entire length of the sensor, as length can only be understood vertically, from the beginning to the end of the sensor. According to the Defendants it is apparent that this is an alleged advantage for manufacturing, as layers with the same width can be used and simply cut by singulation. Thus, according to the Defendants the only potentially supporting passage in the original application concerns Fig. 1D, which clearly shows a cutting line, which is parallel to the length axis of the sensor, which would result in constant widths of all layers over the length of the sensor.

4.6.4. According to the Applicant however the entire length in feature 1.8 does not refer to the vertical relationship from the bottom to the top of the sensor/tail, but rather to the horizontal cross-sectional cuts. At any cross-sectional – horizontal level – the dielectric layers must have the same width. According to the Applicant the objective problem solved by the patent is to provide a stacked design of an analyte sensor allowing it to be manufactured with a reduced risk of defects (shorting) when singulating sheets of thin layers into separate sensors (which thinness is necessary to keep the cross-sectional surface small). According to the Applicant the solution to this problem, as set out in the independent claim, is that the sensor is built up using layers where one conductive layer has a narrower width than the other layers, and the narrower conductive layer is spaced away from the side edges of the dielectric layers to prevent shorting.
According to the Applicant, what is described in paragraphs [0067] – [0069] of the patent is that the relative difference in width between the narrower conductive layer, the other conductive layer and the dielectric cover layers, coupled with the fact that the narrower layer is spaced away from the side edges of the dielectric (base or cover) layers on which it sits, are the features that provide the technical effect.
According to the Applicant these features mean that singulation (or other methods of cutting the layered sensor sheets) results in the cutting through of at most one (the relatively wider) conductive layer and not the other (the relatively narrower conductive

layer). Thus, according to the Applicant the singulation process need not be modified as part of the invention; it is the structure of the sensor itself (the product) that differs, and it is these product features which provide the technical solution, and which are therefore claimed, not the manufacturing process.
Thus, according to the Applicant the technical advantage of the claimed sensor is that it is built up using layers where one conductive layer has a narrower width than the other layers, and the narrower conductive layer is spaced away from the side edges of the dielectric cover layers, and that it is therefore the relative difference between the widths of the two conductive layers at any given point along the length of the sensor which provides the technical effect. The same can, according to the Applicant, be said of the three dielectric layers; provided that they all have the same width at any given point, the technical advantage of the claimed sensor is achieved. The width of the sensor itself need not be the same along its length and can be narrower at certain points, e.g. at the tip.

4.6.5. The Court, like Applicant, does not consider that claim feature 1.8 requires that the widths of the three dielectric layers remain constant along the length of the sensor, and that the skilled person would, based also on common general knowledge, understand that the benefit of the narrower conductive layer would still be realised for sensors that do not have a constant width along the entire length (as long as at least one conductive layer is spaced away from the edge, having a lesser width than the dielectric layers).
As regards the fact that in Figure 1D, the singulation cut lines are illustrated as running parallel to each other which would result in dielectric (base and cover) layers with a constant width in that example, the Applicant is of the opinion that there is no technical reason why non-parallel singulation lines could not be used, while still achieving the technical effect of the claim, provided the narrower conductive layer remains spaced away from the side edges of the non-conducting layer as explicitly required by the claim. The Court agrees. At this preliminary stage the Court sees no reason to doubt that a skilled person would, using common general knowledge, recognise that any variation (or lack of variation) in width of a particular layer along the length of that layer or the sensor is irrelevant to achieving this effect, as long as the width of one conductive layer is narrower than the width of the other conductive layer. With the last proviso, non-parallel singulation lines would indeed not adversely affect the use of thin insulative layers (provided to reduce the cross-sectional area of the sensor and therefore reduce the pain caused to the user upon insertion of the sensor) nor the building of the sensor using layers where one conductive layer has a narrower width than the other layers to reduce the risk of shorting between the two conductive layers.

4.6.6. The Court as a starting point, at this preliminary stage, therefore favours the Defendants interpretation of features 1.7, 1.7.1 and 1.7.2 and the Applicant's interpretation of feature 1.8.

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.[17] An intermediate generalization may add matter if the omitted features from an embodiment have a functional or structural relationship with the features left in the claim, giving rise to an inextricable link.[18]

4.7.2. The granted claims of the patent were filed as an auxiliary request during prosecution on 24 January 2024. The parties agree that Features 1.1 to 1.7.2 can, as separate features, be derived from the original application, WO538. As regards Features 1.7.1 and 1.7.2, the Defendants have pointed out that the configurations shown in Figures 1B and 1C are only options. Another option with respect to the side edges is disclosed in paragraph [00114] of WO538, reproduced below:

> [00114] FIG. 1D shows an embodiment of the sensor shown in FIG. 1B as it may be provided prior to singulation during the manufacturing process. It should be noted that while FIGs 1B and 1C appear to depict empty space to either side of conductive layers 12 and 14 respectively, one of ordinary skill in the art will understand that insulative layers 13 and/or 15, may extend into these spaces thereby covering side edges of conductive layer 12 and 14 respectively.

According to Defendants, if there is no empty space on either side of a conductive layer, then the conductive layer is not “spaced away” from the side edge. The claim language does not define the side edge as being the edge most distant from the centre of the length axis of the sensor. According to the Defendants, it follows from this that a selection is required to obtain the “spaced away from the side edges” requirement of features 1.7.1 and 1.7.2.

4.7.3. Furthermore, according to the Defendants, Feature 1.8 has, contrary to what is alleged by the Applicant, no literal support in the original application. According to the Defendants paragraph [00113] merely refers to Figure 1D, and the passage on page 25, lines 11 to 17 (shown below) is concerned with the embodiment shown in Figures 1A-1D:

> [00113] Singulation cut lines 16 are shown in FIGs. 1B, 1C and 1D. The sensor may be singulated, for example, by cutting to either side of the relatively narrow conductive electrode, e.g., in regions 17, as shown in FIGs 1B, 1C and 1D. With reference to FIGs. 1B and 1D, singulation by cutting along singulation cut lines 16 results in cutting through conductive layer 14 but not conductive layer 12. With reference to FIG. 1C, singulation by cutting along singulation cut lines 16 results in cutting through conductive layer 12 but not conductive layer 14.

According to Defendants these passages do not constitute a general teaching in the application. Instead, paras. [00112] and [00113]specifically refer to, and describe, the embodiment depicted in Figures 1A-1D and this disclosure is thus (with reference to T 0324/21, 2.8.4) inextricably linked to the specific disclosure of Figures 1A-1D An assessment of whether claim 1 of the patent is directly and unambiguously derivable from what is

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

disclosed in the original application must thus be carried out based on paras. [00112] and [00113] and Figures 1A-1D.
Still according to the Defendants, this disclosure does not define that the width of each dielectric cover layer (and the substrate) is the same over its length, as feature 1.8 requires. Also, if Applicant's claim interpretation is followed, where feature 1.8 would encompass also sensors, wherein the dielectric base substrate and the two dielectric cover layers have varying widths as long as they are the same at any particular observation point, such as a cross-section, would contravene Art 123(2) EPC.

4.7.4. As noted by the Applicant the standard under Art. 123(2) EPC does not require that each and every embodiment covered by the claim is directly and unambiguously disclosed in the original application. Rather the test under Art 123(2) EPC is if the features which are included in the claim are directly and unambiguously disclosed in the original application. As the Defendants themselves acknowledge, feature 1.8 is the inevitable result of the cutting process depicted in Figure 1D of the original application, and hence fulfils this requirement. Feature 1.8 is thus directly and unambiguously disclosed.

4.7.5. If Feature 1.8 is interpreted as referring to dielectric layers with constant widths, this would, according to the Defendant, nonetheless result in an inadmissible intermediate generalization. As this interpretation is not followed, see above 4.6.3 to 4.6.5, there is no need to explore this argument further.

4.7.6. Defendants also argue that Fig. 1D, concerning the cutting of the conductive layers, in the specific product-by process using the cutting lines shown in Fig. 1D, inevitably results in a constant width of the [dielectric layers and the] wider conductive layer. Leaving out this feature [i.e. same width along the whole length), which is inextricably linked to Fig. 1D, according to the Defendant further adds matter as it constitutes another inadmissible intermediate generalisation.
Likewise, the cutting according to Fig. 1D also results in the width of the wider conductive layer being the same as the width of the non-conductive layers, as can be seen in Figures 1B and 1C. As this requirement is not part of claim 1, and only present as options in dependent claims 3 and 4, also leaving out this feature, which is inextricably linked to Fig. 1D, would, according to the Defendant, further add matter as it constitutes another inadmissible intermediate generalisation.

4.7.7. The Court cannot agree with this line of reasoning, as it presupposes that the features in question, as the Defendant also argues, are inextricably linked to what a skilled person would ultimately see as disclosed by Figure 1D.
In fact, none of the relevant features would in the eyes of the Court necessarily be inextricably linked to Figure 1D. As the Applicant rightly notes, the Defendants argue that the following features are via Figure 1D inextricably linked to feature 1.8:
(i) the product-by-process feature of cutting parallel to the length axis of the sensor,
(ii) that the width of the wider conductive layer is constant, and
(iii) that the width of the wider conductive layer is the same as the width of the non-conductive layers.
The Defendants, however, do not explain why those features would be inextricably linked to feature 1.8, which, as the Applicant again correctly notes, requires more than the relevant

features simply being derivable in combination from a particular embodiment, in this case what is disclosed in Figure 1D. What is decisive is whether the skilled person would, based also on common general knowledge, recognize from the original application as a whole that these features are necessary to achieve the technical effect of the patent. In the eyes of the Court, the technical solution of the patent, which the skilled person would, based also on common general knowledge, derive from the original application is that, the sensor is built up using layers where one conductive layer has a narrower width than the other layers, and the narrow conductive layer is spaced away from the side edges of the dielectric layers (paragraph [00112] and Figures 1B and 1C).
It is, in the words of the Applicant, the relative difference in width between the narrow conductive layer, the other conductive layer and the dielectric layers, coupled with the fact that the narrow layer is spaced away from the side edges of the dielectric on which it sits, that provide the technical effect of the claimed invention.
The relative difference between the width of the narrow conductive layer and the other conductive layer allows that only the latter conductive layer is cut during the singulation process, while the former conductive layer is not.

4.7.8. Furthermore, as noted above, it follows from the original application that the aim of the invention is to reduce the cross-sectional area of the sensor or a portion thereof, and that as this requires the insulative layers to be relatively thin, which may cause shorting between the two conductive layers to occur when these are cut during the singulation process. The solution of the invention is to prevent as much as possible that any of the conductive layers are cut during the singulation process (paragraphs [00111] and [00112]).
It follows that, based on the Courts understanding of the invention of the patent, none of the features, derived from Figure 1D of the original application by the Defendant listed above, would appear to be inextricably linked to what a skilled person would ultimately see as disclosed by Figure 1D in the context of the overall disclosure of original application. Consequently, these would not have to be included to avoid an unallowable intermediate generalization.

Conclusion on added matter for claim 1

4.7.9. 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. *Novelty*

D5 (US 2011/0021889 A1)

4.8.1. D5 discloses an analyte sensor in Fig. 5B, which is identical to the sensor disclosed in Figure 5B of D4. D5 discloses the same subject-matter as D4 and elaborates on the dimensions of the involved layers.

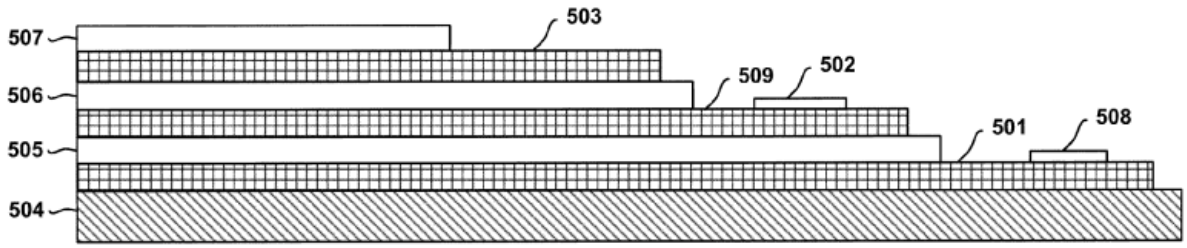

FIGURE 5B

According to the Defendants, D5 discloses an analyte sensor comprising all the features of claim 1. Most notably, regarding features 1.7-1.7.2 the disclosure of which Abbott disputes, Defendants contend as follows:

Feature 1.7: D5 discloses for example at paragraph [0061], that "some or all layers may have the same or different lengths and/or widths". Therefore, D5 discloses sensors, wherein the conductive layers have different widths, i.e. at least one of W1<W2 or W2<W1.
Feature 1.7.1, and 1.7.2: According to paragraph [0074] of D5, the electrodes (i.e. the first and second conductive layers), can be arranged on both sides of the substrate. Such “double-sided sensors” are disclosed in Figures 6 and 7 of D5. With respect to Figure 6, paragraph[0100] discloses that “one or both of the conductive layers may terminate proximally of distal edge 612 and/or may have a width which is less than that of substrate 602 where the width ends a selected distance from the side edges 614a, 614b of the substrate, which distance may be equidistant or vary from each of the side edges”.
Feature 1.8: According to paragraph [0066], embodiments of the sensor substrate have uniform dimensions along the entire length of the sensor. According to paragraph [0067], the distal end of the sensor is to be implanted into the patient. The proximal end of the sensor can have a width, which is substantially the same as the distal portion.
Hence, according to the Defendants claim 1 of the patent lacks novelty over D5.

4.8.2. The Court cannot follow this line of reasoning.
As regards feature 1.7 Paragraph [0061] in D5 states that "Some or all layers may have the same or different lengths and/or widths". This is identical to the disclosure in D4. From a literal point of view this clearly does not constitute a direct and unambiguous disclosure of any particular arrangement of lengths and widths of layers in the analyte sensor. Hence, it is not a direct and unambiguous disclosure of the widths of the first and second conductive layers (W1 and W2) being arranged such that W1 is greater than W2 or W2 is greater than W1.
As regards feature 1.7.1 and 1.7.2, the Defendants have not pointed to any other disclosures in D5 that relates to the widths of any of the layers in the embodiment of Figure 5B. Rather the Defendants rely upon the separate embodiment of the "double-sided sensors" in Figures 6 and 7 of D5 and the description of such sensors in paragraph [0100]. These sensors are a different embodiment from that in Figure 5B. When assessing novelty, it is not possible to combine different passages or embodiments of a prior art document except if the corresponding combination is actually disclosed in the document.[19]

[19] See CoA Abbott/Sibio, paragraph 109 and this LD, 18 November 2025, UPC_CFI_187/2024, Advanced Cell v Molecular Instruments, paragraph 48.

4.8.3. During the oral proceedings the Defendants tried to explain how the skilled person would, using common general knowledge, be taught by D5 to combine features from the single-sided sensor in Figure 5B with features from the double-sided sensor in Figures 6 and 7. In addition the Defendants pointed to the fact that claim 1 of the patent does not exclude double-sided sensors, and that such sensors are in fact described in the patent, and further, with regards to Feature 1.8 added that this feature should in any event, based on common general knowledge, at least be considered an arbitrary selection amongst equally feasible alternatives within the teachings of D5 without a technical effect, which would at least be obvious.

4.8.4. The Court notes that the teaching of D5, cited by the Defendants, cannot in the eyes of the Court be said to directly and unambiguously disclose feature 1.8.
Hence, in the eyes of the court, regardless of what may be concluded with regards to features 1.7, 1.7.1, 1.7.2, at least feature 1.8 of claim 1 makes it novel over D5.
Thus, at this preliminary stage the Court does not conclude that it is more likely than not that the patent is invalid for lack of novelty.

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. 126. 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. 135. 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. 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 1-4) that Abbott, with reference to para's [0067] and [0068], sees the underlying problem of the patent as to provide a sensor design with relatively thin layers, allowing the sensor to be manufactured with a reduced risk of shorting. The Court will follow this; Defendants' position that the claimed invention is a process cannot be followed, as rightly pointed out by Applicant. Claim 1 and the dependent claims are directed at the design of a (thin) sensor in a way to prevent shorting, when it is in use.

D5

4.9.12. According to the Defendant D5 can - if it is assumed that the combination of Features 1.7, 1.7.1, 1.7.2, and 1.8 is not explicitly disclosed in D5 - be considered as a realistic starting point for assessing inventive step.
The Defendants argue that the patent is silent with regard to the technical effects provided by features 1.7, 1.7.1, 1.7.2, and 1.8 to the sensor, and that the alleged technical effect is present only for the manufacturing process, which is not relevant for the granted product claims.
The same argument is repeated in relation to dependent claims 3, 4 and 7.
The Defendants further state that "the alleged advantages of the manufacturing process do not carry over to the claimed product" and cite headnote 2 of EPO case T1523/2322.
As pointed out by the Applicant, however, the EPO Board of Appeal in paragraph 3.12 of T1523/23 explains that in that case the technical effect achieved by the manufacturing process could not be relied upon when assessing inventive step of the product because the technical effect was not recognizable in the product itself. That is to say in that case the technical advantage achieved did not result in a discernible effect for an individual product produced from the manufacturing process.

4.9.13. In the eyes of the Court this does not apply to the present scenario. The differing sensor layers that are set out in the claim are discernible in each individual resulting product and it is these features that enable the technical effect/contribution. Hence, these features of the resulting product are the very ones that reduce the risk of shorting between the two conductive layers of a product produced by the (otherwise unaltered) manufacturing

process. Furthermore, the relevant steps of the manufacturing process *per se* (the singulation or cutting steps themselves) are not altered in the present invention.

4.9.14. The Defendants additionally argue that the objective problem is not solved over the whole scope of claim 1, as the claim would cover embodiments where the wider conductive layer is less wide than the dielectric substrate so singulation by cutting would not involve either conductive layer and there is still no risk of shorting.
The Court cannot follow this line of reasoning as such embodiments can according to the Defendants themselves in fact be manufactured with a reduced risk of defects such as shorting, and therefore they indeed solve the problem the patent purports to solve, although in a different way than those of the examples of the patent.

4.9.15. The Defendants also assert that the problem of providing functional sensors, wherein there is no shorting, had already been solved in the prior art. However, the Defendants have not pointed to prior art documents from which it is clear that the problem with shorting solved by the invention had even been recognised prior to the filing of the patent. Also, D5 does not mention the problem of providing a stacked design of an analyte sensor allowing it to be manufactured with a reduced risk of defects during singulation of sheets of thin layers into separate sensors. In fact, the issue of shorting during singulation would not arise with the kind of double-sided sensors described in D5, and that in such sensors (such as that in Figure 6B of D5), the spacing described in features 1.7.1 and 1.7.2 of claim 1 of the patent would in fact not be required. This is also why it seems highly speculative that the skilled person looking to solve the technical problem solved by the patent would, based e.g. also on common general knowledge, consider combining the single-sided layered embodiment of Figure 5B of D5 with the embodiment in Figures 6 and 7 of D5. Also, the Defendant has not drawn the attention of the Court to any pointer or motivation for the skilled person to select particular options from the list of features described in paragraph [0100] and apply those selected features, not to the sensor of Figures 6A to 6C, but instead to the separate embodiment in Figure 5B.

4.9.16. Thus, at this preliminary stage the Court cannot conclude that it is more likely than not that the patent is invalid for lack of inventive step.

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. According to Defendants, neither the new LinX Vista Product (introduced in July 2025 according to Defendants) nor the old LinX Vista Product (as mentioned above, to avoid confusion: not the old circular product but apparently the first iteration of the tear shaped

product) apply the patent. Since Abbott only submitted the results of examination of the old Linx Vista Product, the Court can only evaluate whether this product applies claim 1. While Defendants filed a report on the new product as well in an effort to prove it does not apply all features of claim 1, the debate on this has not developed enough for the Court to render an opinion, even a preliminary one. Abbott indicated at the oral hearing that its application was directed only at the LinX Vista Product it analysed.

4.11.2. As regards the old Linx Vista Product, Defendants dispute the application of feature 1.8 (the Court understands from the Objection pages 32-34, that for the New Linx Vista Product also features 1.7-1.7.2 are disputed but as indicated, that product is not subject of these proceedings).
According to the Defendants, feature 1.8 of claim 1 requires that the dielectric base substrate/layers have the same width over the entire length of the analyte sensor. Since this feature is interpreted differently by the Court (see above 4.6.3 to 4.6.5), the argument fails. paragraph

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 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, with the caveat that since the Court did not assess infringement with the new LinX Vista product, that product also falls outside the scope of the orders as granted. 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.

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

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

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 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,

[22] CoA 14 February 2025, Abbott v Sibio, UPC_CoA_382/2024, paragraph 170.

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 08:59:22 +01'00'
Margot Kokke	Margot Elsa Kokke Digitally signed by Margot Elsa Kokke Date: 2026.02.04 19:14:17 +01'00'
Sam Granata	Samuel Rocco M Granata Digitally signed by Samuel Rocco M Granata Date: 2026.02.04 18:54:19 +01'00'
on behalf of the deciding judge Steen Wadskov-Hansen	Edger Frank BRINKMAN Digitally signed by Edger Frank BRINKMAN Date: 2026.02.06 08:59:52 +01'00'
On behalf of the registry	Noua Mohammed Digitally signed by Noua Mohammed Date: 2026.02.05 14:18:00 +01'00'