



Reference numbers:

UPC_CoA_46/2025,
APL_3486/2025,
App_21415/2025,
App_25038/2025

and

UPC_CoA_48/2025,
APL_3595/2025,
App_22747/2025,
App_25037/2025

DECISION

of the Court of Appeal of the Unified Patent Court

issued on 23 June 2025

concerning a confirmation of a settlement and reimbursement of Court fees

APPELLANT (DEFENDANT BEFORE THE COURT OF FIRST INSTANCE):

Arkyne Technologies S.L., Carrer de la Tecnologia, 17, 08840 Viladecans, Barcelona, Spain

hereinafter also referred to as "**Arkyne**"

represented by: Dr. Bernd Allekotte, Dr. Julia Traumann, attorneys-at-law, Grünecker Patent- und Rechtsanwälte PartG mbB, Munich, Germany

RESPONDENTS (CLAIMANTS BEFORE THE COURT OF FIRST INSTANCE) :

Plant-e Knowledge B.V. and Plant-e B.V., Beukenlaan 52, 6871 CL Renkum, The Netherlands

hereinafter also jointly referred to as "**Plant-e**"

represented by: Oscar Lamme, B.W.A. Algie, D.M. Termeulen, Dr. P. Meyer, attorneys-at-law, Simmons & Simmons LLP, Amsterdam, The Netherlands

PATENT AT ISSUE

EP 2 137 782

PANEL AND DECIDING JUDGES

This decision was adopted by Panel 1a, consisting of:

Klaus Grabinski, Presiding Judge

Peter Blok, legally qualified judge

Emmanuel Gougé, legally qualified judge and judge-rapporteur

Andrea Scilletta, technically qualified judge

Dennis Kretschmann, technically qualified judge

IMPUGNED DECISION OF THE COURT OF FIRST INSTANCE

□ Decision of the Court of First Instance of the Unified Patent Court, The Hague Local Division, dated 22 November 2024

□ Numbers attributed by the Court of First Instance:

- in the infringement action, UPC_CFI_239/2023 ACT_549536/2023 ORD_598516/2023,

- in the counterclaim for revocation, UPC_CFI_239/2023 CC_588768/2023 ORD_598513/2023.

LANGUAGE OF PROCEEDINGS

English

SUMMARY OF FACTS AND REQUESTS OF THE PARTIES

1. Plant-e initiated infringement proceedings against Arkyne before The Hague Local Division based on alleged infringement of the patent at issue. Arkyne filed a counterclaim for revocation of the patent at issue.
2. The Local Division held that Arkyne had infringed the patent at issue, granted an injunction, ordered several other measures and rejected the counterclaim for revocation of the patent at issue (see impugned decision).
3. Arkyne filed an appeal under Rule 220.1(a) RoP (APL_3486/2025 UPC_CoA_46/2025) against the impugned decision issued in the infringement action and an appeal under Rule 220.1(a) RoP (APL_3595/2025 UPC_CoA_48/2025) against the impugned decision issued in the counterclaim for revocation.
4. On behalf of all parties, Plant-e then informed the Court that they had concluded the proceedings by way of a settlement and filed two applications (App_21415/2025 in the infringement action and App_22747/2025 in the counterclaim for revocation) for a confirmation by the Court of Appeal of a settlement agreement entered into between the parties (hereafter the "Settlement Agreement"), requesting the Court to
 - confirm that the parties have concluded the Settlement Agreement, as provided under Exhibit EP47;

- pursuant to Rule 365.2 RoP, keep the entire contents of the Settlement Agreement, except for the preamble and recitals, confidential from the public;
 - on behalf of all parties, Plant-e notified the Court that a cost order pursuant to R. 365.4 RoP is not required.
5. Plant-e filed two requests for confidentiality from the public under R 262.2 RoP (App_24254/2025 UPC_CoA_46/2025 and App_24270/2025 UPC_CoA_48/2025), requesting the Court to keep confidential the unredacted version of the Settlement Agreement.
 6. Arkyne lodged two generic applications (App_25038/2025, in appeal APL_3486/2025, and App_25037/2025, in appeal APL_3595/2025) to request the reimbursement of 60% of the Court fees as well as reimbursement of the difference between the Court fees actually paid by Arkyne and the reduced fees to which it is eligible pursuant to Rule 370.8 RoP.

GROUND FOR THE DECISION

7. According to R. 365 RoP, if requested by the parties, the Court shall confirm the settlement that they have reached. Such decision may be enforced as a final decision of the Court and shall be entered into the register.
8. The request for confidentiality from the public under R. 262.2, 365.2 RoP will be decided once a R. 262.1(b) RoP request is made by a member of the public. The confidentiality interests of the parties are protected by the order of the court that only the decision including the redacted version of the settlement shall be entered on the register.
9. Concerning the reimbursement of court fees, in the event of a settlement of an action concluded by the parties, the party liable for the Court fees will upon request receive a refund of 60% of the Court fees if the action is settled before the closure of the written procedure (R.370.9(b)(i) RoP).
10. The written procedures in these appeal cases have not been closed since Plant-e had to lodge its Statement of response until 24 June 2025, therefore the time limit of R. 235 RoP has not expired. It follows that, in the present case, the actions were settled prior to the closure of the written procedure. Consequently, Arkyne is entitled to a reimbursement of 60% of the Court fees paid for the above-mentioned appeals pursuant R. 370.9(b)(i) RoP.

DECISION

- I. At the request of the parties, the Court confirms, pursuant to R. 365.1 RoP, that the parties have reached the following settlement:

THIS AGREEMENT is dated 9 april 2025 and made

BETWEEN:

- (1) PLANT-E KNOWLEDGE B.V., having its registered office at Beukenlaan 52, 6871 CL Renkum, The Netherlands;
- (2) PLANT-E B.V., having its registered office at Beukenlaan 52, 6871 CL Renkum, The Netherlands.

Hereinafter jointly referred to as "**Plant-e**".

and

- (3) ARKYNE TECHNOLOGIES S.L., having its registered office at Calle de la Tecnologia 17, 08840 Viladecans, Barcelona, Spain ("**Bioo**").

Plant-e and Bioo hereinafter jointly referred to as "**Parties**" or individually as "**Party**".

WHEREAS

- (A) Plant-e is a company which develops and sells products in which light energy is converted into electricity.
- (B) Plant-e is the proprietor of EP 2 137 782, entitled "*Device and Method for Converting Light Energy into Electrical Energy*" ("**EP 782**"). EP 782 was granted on 17 November 2015 and is valid up to and including 16 April 2028 in Belgium, France, Germany, Great Britain, Ireland, Italy, Luxembourg, Spain and the Netherlands. Plant-e has furthermore filed and obtained patent protection for the same invention in the United States of America and Brazil, invoking the same priority right as EP 782 (EP 782 and the patents obtained by Plant-e for the same invention in the other territories mentioned, hereinafter collectively referred to as the "**Patent**").
- (C) Bioo is a company which researches, manufactures and markets, inter alia, products that extract energy from nature, and more specifically energy produced by microorganisms in the soil.
- (D) After an exchange of letters in the first half of 2023 in which Plant-e asserted that Bioo would infringe upon its patent rights, Plant-e initiated patent infringement proceedings at the UPC against Bioo based on the UPC designations of EP 782.
- (E) In the proceedings at the UPC, Bioo filed a counterclaim for invalidity of the UPC designations of EP 782.
- (F) By decisions of 22 November 2024 with order reference ORD_598516/2023 and ORD_598513/2023 (the "**Decisions**") the Court of First instance of the UPC Local Division The Hague held that EP 782 is valid and infringed by Bioo, thereby ordering, among other things, Bioo to cease and desist infringement of the UPC designations of EP 782, recall products with which it had infringed EP 782 in the UPC territories, pay provisional damages of EUR 35,000 to Plant-e and pay to Plant-e the costs of the proceedings up to the ceilings set out in the decisions.
- (G) Bioo filed an appeal against the Decisions with the Court of Appeal of the UPC.

- (H) By agreement of 30 January 2025 (signed on 3 February 2025) Parties reached an agreement concerning the payment of legal costs as per the Decisions.
- (I) Following the Decisions Bioo has introduced a new version of the Bioo Panel, the Bioo Panel 2.0, of which it has provided a sample to Plant-e, which Plant-e is allowed to retain.

[REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

4.4 shall have this settlement agreement confirmed with the UPC pursuant to Rule 365 of the Rules of Procedure (RoP);

[REDACTED]

4.6 shall inform the UPC that a cost order pursuant to Rule 365.4 RoP is not required.

[REDACTED]

[REDACTED]

[REDACTED]

- II. This decision including only the redacted version of the settlement shall be entered on the register.
- III. The Court of Appeal orders the reimbursement to Arkyne of a total of 60 % of the court fees it has paid, namely 8,820 EUR as set out hereafter:
 - IV. 3,960 EUR, corresponding to 60% of 6,600 EUR, the amount of reduced appeal Court fees in the APL_3486/2025;
 - V. 4,860 EUR corresponding to 60% of 8,100 EUR, the amount of reduced appeal Court fees in the appeal APL_3595/2025.
- VI. This decision is enforceable as a final decision of the Court of Appeal.

This decision was issued on 23 June 2025

Klaus Grabinski, Presiding Judge

Peter Blok, legally qualified judge

Emmanuel Gougé, legally qualified judge and judge rapporteur

Andrea Scilletta, technically qualified judge

Dennis Kretschmann, technically qualified judge