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Paris Local Division Revokes another DexCom Patent

DexCom, Inc. v Abbott Laboratories and 13 other Abbott entities UPC_CFI_395/2023

Decision of 11 December (ORD_63909/2024[1])

The second decision on the merits from the UPC came from the Paris Local Division and revoked DexCom's patent EP3435866 asserted against Abbott.[2] This decision is a similar case with a similar outcome.

DexCom asserted its patent EP3831282 against a number of Abbott entities, who counterclaimed for revocation of the patent.

An added matter attack raised for the first time in the rejoinder was deemed late filed and inadmissible. The Court only considered the sole ground raised in the original counterclaim, namely lack of inventive step. On this ground, the Court indeed found that the claims did not involve an inventive step when considered in view of "Valdes" combined with "Goodnow", prior art documents cited in the counterclaim.

Three auxiliary requests presented by DexCom were considered to involve added matter.

Accordingly, the Court ordered the revocation of the patent.

In view of the finding on validity, infringement was not considered.

[1] <https://www.unified-patent-court.org/en/node/1319>

[2] Reported here:

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