



Press release dated December 15, 2023

BARDEHLE PAGENBERG successfully enforces two decisions for 10x Genomics against NanoString, winning one of the first UPC penalty payment decisions

On December 5, 2023, the Unified Patent Court, Local Division Munich (Case No. ACT_459746 UPC_CFI_2/2023) ordered NanoString to pay a penalty of EUR 100,000 for non-compliance with a preliminary injunction pronounced on September 19, 2023, in favor of 10x Genomics Inc. In parallel German national proceedings based on a patent from the same family, on November 13, 2023, the Munich Regional Court I ordered NanoString to pay a penalty of EUR 60,000 for similar violations of a provisionally enforced permanent injunction.

In the ongoing multinational litigation complex between 10x Genomics, Inc. and NanoString Technologies Inc. (including subsidiaries) comprising many infringement, invalidity, anti-suit injunction, anti-anti-suit injunction, opposition and appeal proceedings, the UPC Local Division Munich has now pronounced one of the first penalty payment orders in UPC history. Earlier this year, following the first UPC preliminary injunction hearing ([BARDEHLE PAGENBERG represents 10x Genomics in first UPC preliminary injunction hearing against NanoString | BARDEHLE PAGENBERG](#)), on September 19, 2023, the panel granted a preliminary injunction against NanoString for infringement of the patent EP/UP 4 108 782. The decision specifically orders NanoString to include an explicit and eye-catching notice on any offer of the infringing products that NanoString's CosMx Spatial Molecular Imager and corresponding decoder probes must not be used for RNA detection in the UPC member states.

NanoString failed to comply with this order by the UPC Local Division in a timely manner. It failed to insert such notices on all relevant webpages. Therefore, on December 5, 2023, the UPC Local Division Munich ordered NanoString to pay a penalty of EUR 100,000. In addition, the court found that NanoString had made false statements relating to certain facts.

In two similar cases, on May 17, 2023, the Munich Regional Court I held that NanoString Technologies Inc. and NanoString Technologies GmbH infringe the European patent

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EP 2 794 928 in Germany (docket nos. 7 O 2693/22 and 7 O 581/22; [BARDEHLE PAGENBERG paves way to successful infringement proceedings for 10x Genomics with anti-anti-suit-injunction | BARDEHLE PAGENBERG; 10x Genomics Wins Permanent Injunction Against NanoString's CosMx Products | 10x Genomics](#)). These decisions also included the order for NanoString to include similar notices concerning the German territory in any offer of the infringing products. NanoString Technologies Inc. and NanoString Technologies GmbH filed an appeal which is pending.

On November 13, 2023, the Munich Regional Court I found that NanoString Technologies Inc. violated the enforced injunction and ordered a penalty payment of EUR 60,000 for non-compliance with the 7 O 2693/22 injunction, because NanoString repeatedly failed to add the notices to all relevant webpages offering the infringing products in Germany.

Both decisions are subject to an appeal by NanoString.

Representatives of 10x Genomics:

BARDEHLE PAGENBERG (Munich, Germany)

[Prof. Dr. Tilman Müller-Stoy](#) (Lead Attorney-at-Law (Rechtsanwalt), Certified IP Lawyer, Commercial Mediator (MuCDR), UPC Representative, Partner)

[Dr. Tobias Wuttke](#) (Attorney-at-Law (Rechtsanwalt), Certified IP lawyer, UPC Representative, Partner)

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Representatives of NanoString Technologies:

Bird&Bird (Duesseldorf/Munich, Germany)

Oliver Jüngst, LL.M. (Attorney-at-Law)

Dr. Moritz Schroeder (Attorney-at-Law)

Munich Local Division

Presiding Judge Dr. Matthias Zigann

Judge Rapporteur: Tobias Pichlmaier

Legally qualified judge: András Kupecz



Technically qualified judge: Eric Enderlin

Munich Regional Court I

Dr. Schön

Mrs. Tözsér

Dr. Schacht M.A.

BARDEHLE PAGENBERG combines the professional expertise of attorneys-at-law, patent attorneys, professional representatives before the European Patent Office, specialized trademark lawyers and qualified technical consultants. Our consulting services are tailored to our clients' individual needs and the specific circumstances of each case.

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