



Press release dated May 20, 2025

## **BARDEHLE PAGENBERG paves the way for global settlement of landmark litigation between 10x Genomics and Bruker/NanoString**

**BARDEHLE PAGENBERG is delighted to announce its successful representation of 10x Genomics and Harvard in the epic and already historic patent litigation spanning the UPC, Germany, the EPO, and the US against Bruker (formerly NanoString) shortly after the EPO upheld a key patent-in-suit, namely EP 4 108 782, in slightly amended form. EP 4 108 782 was the first unitary patent ever asserted at the UPC which led to the court's first ever awarded *inter partes* preliminary injunction (BARDEHLE PAGENBERG represents 10x Genomics in first UPC preliminary injunction hearing against NanoString | BARDEHLE PAGENBERG). By virtue of the settlement, Bruker has agreed to pay USD 68 million in equal quarterly installments between the third quarter of 2025 and the second quarter of 2026, alongside ongoing royalty payments on sales of its spatial biology products throughout the term of the licensed patents.**

The litigation centered on fundamental biotech technology patented by Harvard University and exclusively licensed to 10x Genomics. The European patents at issue were European bundle patent EP 2 794 928 and unitary patent EP 4 108 782, which were asserted by 10x Genomics and Harvard jointly both in proceedings for provisional measures and in main infringement proceedings at the UPC. These cases addressed a myriad of key issues within the new UPC framework as well as its interplay with EPO oppositions.

On the substantive law side, the cases produced the very first substantive decision of the Court of Appeal (UPC\_CoA 335/2023), which has been widely reported as a landmark decision on claim construction. They also clarified how the UPC approaches the issues of infringement and validity assessment, including aligning with auxiliary requests in parallel EPO opposition proceedings. On the procedural law side, *inter alia*, the way in which *inter partes* provisional measures

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proceedings are conducted and the legal test for awarding a preliminary injunction and for urgency were explored.

Other UPC issues which were raised related to anchor defendant jurisdiction, the availability of anti-anti-suit injunctions, penalty proceedings for violation of an injunction, the number of admissible amendments in an application to amend the patent, the test for obviousness, and the first assertion of enforcement damages.

The parallel German patent infringement proceedings were only based on the German part of EP'928 (which was attacked by NanoString with a German nullity action as well as with a UPC revocation action) and included, alongside a permanent injunction awarded in main infringement proceedings, a successful penalty request for violation of the injunction as well as an anti-anti-suit/enforcement injunction to stop an anti-suit/enforcement injunction pursued by NanoString before US courts.

EP'782 was attacked with EPO opposition proceedings but was upheld in slightly amended form by the Opposition Division of the EPO in March 2025, disagreeing with a provisional assessment of the UPC's Court of Appeal in the interim proceedings. Less than two months later, the settlement was concluded and ended all pending global litigation between the parties, including in the US, where US patents 10,472,669, 10,961,566, 10,983,113, 10,996,219, 11,001,878, 11,008,607, and 11,293,917 were asserted against NanoString's GeoMx Digital Spatial profiler, 10,227,639, 11,021,737, 11,293,051, 11,293,052, 11,293,054, and 11,542,554 were asserted against NanoString's CosMx Spatial Molecular Imager and associated instruments, and a counterclaim action was filed against 11,473,142, and 11,377,689, all at the US District Court for the District of Delaware.

In the proceedings concerning the GeoMx products, 10x Genomics was awarded damages of USD 31 million in November 2023.

BARDEHLE PAGENBERG continues to represent 10x Genomics in ongoing UPC main infringement proceedings against Curio Bioscience, in which 10x Genomics had already won a preliminary injunction in April 2024.



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**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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