
CHAMBERS GLOBAL PRACTICE GUIDES

The Unified Patent Court 2025

Definitive global law guides offering
comparative analysis from top-ranked lawyers

**The Hague Local Division:
Law & Practice**

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THE HAGUE LOCAL DIVISION

Law and Practice

Contributed by:

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Covering cases up to and including May 31, 2025

Contents

1. General Information p.5

- 1.1 Basic Information p.5
- 1.2 UPC Judges p.5
- 1.3 Specific Procedural Issues p.5
- 1.4 Regional Division Competence p.5
- 1.5 Central Division Competence p.5
- 1.6 Court of Appeal: Purpose and Procedure p.5

2. Statistical Information p.5

- 2.1 Types of Actions p.5
- 2.2 Substantive Hearings p.7
- 2.3 Case Classification p.8
- 2.4 Time Lines p.8
- 2.5 Interaction Between Central and Local/Regional Divisions p.8

3. Substantive Law p.8

- 3.1 Topics Covered p.8
- 3.2 Leading Cases p.9
- 3.3 Pending Cases p.10
- 3.4 Technically Qualified Judges p.10
- 3.5 Influence of Prior Local Practice on Substantive Legal Decisions p.10
- 3.6 Court of Appeal Substantive Jurisprudence p.10

4. Procedural Issues p.11

- 4.1 Hearing Structure p.11
- 4.2 Key Procedural Issues p.11
- 4.3 Third-Party Access to Documents p.12
- 4.4 Pending Procedural Issues p.12
- 4.5 Influence of Prior Local Practice on Procedural Issues p.12
- 4.6 Court of Appeal Procedural Jurisprudence p.12

5. Economic Issues and Remedies p.12

- 5.1 Case Value and Court Fees p.12
- 5.2 UPC Court Fees Compared to National Courts p.13
- 5.3 Costs Awards p.13
- 5.4 Damages p.13

6. The Future of the UPC p.13

- 6.1 Advantages and Disadvantages of the UPC p.13
- 6.2 Future Trends p.13
- 6.3 The Future of National Patent Litigation p.13
- 6.4 Improvements to the UPC p.14

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La Gro is an independent, full-service law firm based in The Hague, with over 70 associates. Its top-tier IP and technology department handles complex patent litigation, including preliminary injunction and infringement/revocation proceedings. It provides strategic advice on how and where to litigate – at the Unified Patent Court (UPC), before an appropriate lo-

cal division or in national proceedings (with cross-border/long-arm jurisdiction). In addition, (potential) defendants benefit from the firm's in-depth experience in taking proactive measures and from its further strategic insights. The team successfully defended a Spanish medical device manufacturer in the first UPC infringement proceedings before the Local Division Brussels.

Authors



Marleen van den Horst is a partner in the IP and technology group at La Gro. With more than 25 years' experience in complex (cross-border) patent litigation, she is an authority in the patent world, and represents clients before the UPC. Marleen has a track record in all fields of technology, and is internationally renowned for her work in the life sciences, having litigated on multiple patent/SPC and regulatory issues concerning medicinal products (small molecules, biologics). Considered a thought leader, she is frequently asked to speak/moderate at international conferences, UPC seminars and multiple UPC webinars.



Iris Arts is part of La Gro's IP and technology team and its healthcare and life sciences sector group. She specialises in patent law, and gained valuable experience working in a major academic hospital before going into practice. Iris excels at analysing and resolving complex legal issues, and tackles a wide range of intricate matters, including second medical use patents, the application of the concept of plausibility and SPC-related matters. She has extensive knowledge of UPC case law and is a member of the Young Members Committee of LES Benelux.



Benjamin Niemeijer is a partner in the IP and technology group at La Gro. With a strong track record in multi-jurisdictional litigation and deep sector knowledge in pharmaceuticals and life sciences, he is actively involved in high-profile cases before the UPC and national courts. He handles cases regarding medical devices, SPCs and second medical use claims. Benjamin advises leading pharmaceutical companies and academic institutions on licensing, research and development, clinical trials and exploitation agreements. He is an arbitrator in international arbitration cases, and is a member of EPLAW, AIPPI, VIEPA and other professional associations.

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LaGro

Your Legal Business Partner

1. General Information

1.1 Basic Information

Court of First Instance, Local Division (LD)

The Hague

Address

Prinses Beatrixlaan 2, 2595 AL, The Hague, The Netherlands

Postal address

P.O. Box 10366, 2501 HJ, The Hague, The Netherlands

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+31 (0)70 3784460

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contact_the-hague.loc@unifiedpatentcourt.org

Opening times

Monday, Tuesday and Thursday: 9am to 12pm/1pm to 4pm (CET), by prior appointment.

1.2 UPC Judges

The judges appointed in the LD The Hague include Presiding Judge Edger Brinkman and Margot Kokke, both of whom are highly experienced patent judges with a legal and technical background. They also serve as patent judges at the District Court of The Hague, which holds exclusive jurisdiction in patent matters.

1.3 Specific Procedural Issues

In standard essential patents (SEP) cases, the LD The Hague will hold a case management hearing after service of the Statement of Claim and before the Statement of Defence.

1.4 Regional Division Competence

This is not relevant in The Hague.

1.5 Central Division Competence

This is not relevant in The Hague.

1.6 Court of Appeal: Purpose and Procedure

This is not relevant in The Hague.

2. Statistical Information

2.1 Types of Actions

According to the statistics provided in the “Case load of the Court since start of operation in June 2023”, last updated on 31 May 2025, the following have been filed:

- 21 infringement cases;
- ten counterclaims for revocation;
- five applications for provisional measures;
- two applications for preserving evidence; and
- two applications for a cost decision.

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The following proceedings have been published.

- *Plant-e Knowledge B.V. v Arkyne Technologies S.L.* infringement action and counterclaim for revocation, which were both handled by the LD The Hague (application of Article 33 of the Agreement on a Unified Patent Court, or UPCA). The decision on the merits is the first to deal with the doctrine of equivalence within the UPC, providing guidelines to assess infringement based on the doctrine of equivalence. The LD The Hague holds the patent valid and infringed by equivalence. During these proceedings, multiple orders have been handed down relating to several procedural issues, including:
 - (a) request not to translate certain exhibits (R. 13 (q) RoP);
 - (b) application for a change of language (R. 323 RoP);
 - (c) extension of deadline according to R. 331, 334 (a) and 9.3 (a) RoP as the criteria of R. 29 (a) RoP were not met;
 - (d) request to provide security for legal costs (R. 158 RoP);
 - (e) application of Article 33 of the UPCA; and
 - (f) application for protection of confidential information (R. 262a RoP).
- *Amycel LLC v Unnamed Defendant* application for provisional measures (preliminary injunction, or PI). The LD The Hague dismissed the invalidity argument and affirmed the urgency and validity of the patent. The LD granted the PI on the basis that the patent is “more likely than not” infringed, and the defendant is ordered to refrain from direct infringement of the patent in the territories of The Netherlands, Germany, France and Italy. Other applications are:
 - (a) application for re-establishment of rights (R. 320 RoP); and
 - (b) request for simultaneous translation during oral hearings (R. 109 RoP).
- *Abbott Diabetes Care Inc. v Sibio Technology Limited and Umedwings Netherlands B.V.* application for provisional measures regarding EP 283. The LD The Hague finds it on the balance of probabilities more likely than not that EP 283 will be held invalid in proceedings on the merits, due to added matter. Therefore, the application for provisional measures is denied. Other applications are:
 - (a) application for public access to register (R. 262.1 (b) RoP).
- *Abbott Diabetes Care Inc. v Sibio Technology Limited and Umedwings Netherlands B.V.* application for provisional measures based on EP 879. Having regard to the circumstances, the LD The Hague finds that there is still sufficient interest to continue this case, despite a unilateral cease-and-desist declaration. Application is not devoid of purpose (R. 360 RoP). Jurisdiction for Ireland was not contested. The LD grants the PI. Other applications are:
 - (a) application for public access to register (R. 262.1 (b) RoP).
- *Mammoet Holding B.V. v P.T.S. Machinery B.V.*: application for preserving evidence pursuant to R. 192 RoP. The LD The Hague partly granted the requested ex parte order to preserve evidence. Other applications are:
 - (a) request access to Written Report (R. 9 RoP).
- *Data Detection Technologies Ltd. v Doytec Automation Ltd.* application for preserving evidence pursuant to R. 192 RoP. The LD The Hague granted the requested ex parte order to preserve evidence. This order has been handed down by Pierluigi Perrotti, Presiding Judge at the Local Division Milan, who was in charge of extremely urgent affairs.
- *Winnow Solutions Limited v Orbisk B.V.* infringement and counterclaim for revocation, which are both handled by the LD The Hague.

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No final decision has been handed down/published. Other applications are:

- (a) order to produce evidence (R. 190 RoP).
- *Arbutus Biopharma Corporation & Genevant Sciences GmbH v Moderna Inc. et al.* plaintiffs (Genevant and Arbutus) started two separate infringement proceedings against 15 Moderna-related entities across EU/UPC, non-UPC and non-EU jurisdictions, each concerning infringement of a different patent (case 191/25 and 192/25). The LD The Hague ruled that it has jurisdiction to hear infringement claims by Genevant and Arbutus against 15 Moderna entities across multiple jurisdictions. Relying on the “anchor defendant” principle, the LD allowed claims against non-UPC defendants based on their commercial ties to Moderna Netherlands. The LD also confirmed that the opt-out withdrawal for one of the asserted patents (EP 254) was valid. Objections concerning long-arm jurisdiction were deferred to main proceedings. As a result, the case proceeds in full against all defendants. No oral hearing has taken place. Other applications are:
 - (a) application to extend deadlines (R. 9 RoP);
 - (b) application for rectification of an order (R. 353 RoP); and
 - (c) application to review a case management order (R. 333 RoP).
- *Keestrack N.V./Geha Laverman B.V* an infringement proceeding was initiated, but a withdrawal has been requested. The LD The Hague has granted the withdrawal.
- *City Glass and Glazing Private Limited v Maars Holding B.V. and other group companies* City Glass filed an infringement action and Maars filed a counterclaim for revocation. Other applications are:
 - (a) request to provide security for legal cost (R. 158 RoP).

- *Abbott Diabetes Care Inc v Dexcom Inc. and Dexcom International Limited* an infringement action and counterclaim for revocation have been filed, but all parties requested a withdrawal. The LD The Hague allowed these withdrawals.
- *Hand Held Products Inc v Scandit AG and Scandit Inc* an infringement action and counterclaim for revocation have been filed, but parties have reached a settlement and requested a withdrawal. The LD The Hague allowed these withdrawals.
- *KPN v Oppo* this is the first SEP case for the LD The Hague. KPN is accusing Oppo and One Plus of infringing EP 2 387 844 with its smartphones. KPN had previously opted out EP 844 but withdrew the opt-out in March 2024. An interesting development is that the Boards of Appeal have declared EP 844 invalid due to added subject matter.
- *Sol IP v BYD* Sol IP started a cross-border SEP infringement action against multiple defendants, including a Dutch BYD entity as anchor defendant.
- *Cilag GmbH International v RiVOLUTION GmbH* application for provisional measures regarding patent EP 3689262 (R. 206 RoP).

2.2 Substantive Hearings

Based on published case law, it appears that five substantive hearings have taken place before the LD The Hague:

- three related to applications for preliminary injunctions (the *Abbott v Sibio* and *Amycel*-cases); and
- two hearings held in the final relief proceedings of *Plant-e v Arkyne* and *Winnow Solutions Limited v Orbisk B.V.*

2.3 Case Classification

Based on published case law, the cases before the LD The Hague can be classified as follows:

- A – Human Necessities, with seven in total:
 - (a) *Abbott v Sibio and Umedwings* (two cases);
 - (b) *Moderna v Arbutus* (two cases);
 - (c) *Amycel v Unnamed Defendant*
 - (d) *Abbott v Dexcom* and
 - (e) *Cilag GmbH International v RiVOLUTION GmbH*.
- B – Operations; Transporting, with three in total:
 - (a) *Mammoet v P.T.S. Machinery*
 - (b) *Data Detection Technologies Ltd. v Doyotec Automation Ltd* and
 - (c) *Keestrack N.V. v Geha Laverman B.V.*
- E – Fixed Constructions, with one in total:
 - (a) *City Glass v Maars Holding B.V.*
- G – Physics, with two in total:
 - (a) *Winnow Solutions Limited v Orbisk B.V* and
 - (b) *Hand Held Products v Scandit*.
- H – Electricity, with three in total:
 - (a) *Plant-e Knowledge B.V. v Arkyne Technologies S.L.*
 - (b) *KPN v Oppo* and
 - (c) *Sol IP v BYD*.

Most cases have been initiated in Class A, followed by Classes B and H. This differs from the overall trend, where Class H is the most popular IPC class.

2.4 Time Lines

The court schedules of the LD The Hague follow the procedural timelines, with most actions progressing within the expected timeframe. Unlike in certain other Local Divisions, there is no backlog – for example, decisions on preliminary measures, such as in the two *Abbott v Sibio* cas-

es and the *Amycel v Unnamed Defendant* case, were issued within a few months of filing. In final relief proceedings, like *Plant-e v Arkyne*, the schedule followed the indicative timeline closely, with the final hearing taking place within approximately one year. There is no trend of hearings taking longer than one day (R. 113 (RoP)).

2.5 Interaction Between Central and Local/Regional Divisions

Plant-e Knowledge B.V. v Arkyne Technologies S.L.

The infringement action and counterclaim for revocation were both handled by the LD The Hague (application of Article 33 of the UPCA). This approach has been followed in other infringement proceedings where a counterclaim for revocation was brought. However, three cases in which both infringement and revocation were at issue have been withdrawn.

3. Substantive Law

3.1 Topics Covered

Legal topics covered by the LD The Hague to date include:

- preliminary injunctions;
- confidentiality orders;
- (ex parte) evidence preservation;
- security for costs;
- the language of proceedings;
- claim construction;
- the doctrine of equivalents; and
- a successful invalidity defence based on added matter in a PI.

In SEP proceedings, comparable licences have been exchanged during an early-stage case management hearing.

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A key highlight is the order in the *Moderna* case, in which the LD The Hague addressed complex questions of cross-border jurisdiction and confirmed the UPC's competence to hear infringement claims against multiple international defendants, based in various countries, under the "anchor defendant" principle. In the order, the LD The Hague defers the question of "the long-arm jurisdiction" to the main proceedings.

3.2 Leading Cases

Based on published case law, the leading cases are as follows.

Infringement by Equivalence

In *Plant-e v Arkyne Technologies*, the LD The Hague addressed the doctrine of equivalence and adopted the two-step approach. First, it examined whether the contested product literally falls within the scope of the claim, and then it assessed potential infringement by equivalence. The LD followed the approach set forth by the Court of Appeal of The Hague in the so-called *Pemetrexed* case. In paragraph 88, the LD observes that a variation is equivalent to an element specified in the claim if the following four questions are answered in the affirmative.

- Technical equivalence: does the variation solve (essentially) the same problem that the patented invention solves and perform (essentially) the same function in this context?
- Is extending the protection of the claim to the equivalent proportionate to fair protection for the patentee in view of their contribution to the art and is it obvious to the skilled person from the patent publication how to apply the equivalent element (at the time of infringement)?
- Reasonable legal certainty for third parties: does the skilled person understand from

the patent that the scope of the invention is broader than what is claimed literally?

- Is the allegedly infringing product novel and inventive over the prior art?(ie, no successful *Gillette/Formstein* defence)?

Validity Defence (Added Matter) in PI Case

In *Abbott Diabetes Care v Sibio Technology*, the LD The Hague refused to grant provisional measures on the basis that the asserted patent (EP 283) was, on the balance of probabilities, more likely than not to be found invalid for added subject matter. The decision demonstrates the LD's willingness to scrutinise substantive validity objections at the interim stage. It also confirms that the LD follows the EPO case law in applying the golden standard.

Patent Eligibility Under Article 53 (b) of the European Patent Convention

In *Amycel v Unnamed Defendant*, the LD The Hague granted a PI after it had determined that the subject matter of the patent (a mushroom strain) was not excluded from patentability under Article 53 (b) of the EPC. The ruling suggests that the LD The Hague will not presume ineligibility unless clearly established.

Cross-Border Jurisdiction (Arbutus & Genevant v Moderna)

In the two cases between Arbutus & Genevant against Moderna, Moderna filed a preliminary objection contesting the jurisdiction and competence of the UPC and the LD The Hague. In this case, one of the defendants has its domicile in The Netherlands and the other defendants have their respective seats outside the Netherlands, some in Contracting Member States (CMS), some in the EU but outside UPC territory, and others outside the EU.

The LD The Hague states that the UPC is a common court within the meaning of Articles 71a(1) and 71a(2)(a) of Brussels Regulation I bis (BR). Therefore, the UPC has (international) jurisdiction where the courts of a CMS would have jurisdiction in an action within the meaning of Article 32 (1) of the UPCA (Article 71b(1) of the BR). Under Article 7 (2) of the BR, the courts of a CMS have jurisdiction in an infringement action within the meaning of Article 32 (1)(a) of the UPCA against a person domiciled in an EU member state where the harmful event occurred or may occur in that CMS. Pursuant to Article 8 (1) of the BR, entities domiciled in an EU member state may also be sued – where they are one of a number of defendants – in the courts for the place where one of them is domiciled, provided the claims are so closely connected that it is expedient to hear and determine them together, in order to avoid the risk of irreconcilable judgments resulting from separate proceedings. As Spain and Poland are both EU member states, this directly applies. Regarding Moderna Norway, the Lugano Convention is applicable, so the UPC also has jurisdiction.

3.3 Pending Cases

See 2.1 Types of Actions regarding all cases pending before the LD The Hague, to the extent that they can be retrieved from the UPC website at the time of writing (30 June 2025).

3.4 Technically Qualified Judges

The appointment of a technically qualified judge (TQJ) is required when the LD The Hague decides to hear both the action for infringement and the counterclaim for revocation (Article 33 (3) of the UPCA). In other cases it is optional, depending on the request of the parties.

The LD has handled several technically complex cases in which a TQJ was appointed to

the panel. In cases involving technical subject matters, such as biotechnology, diagnostics and industrial processes, a TQJ has been appointed to sit alongside three legally qualified judges. For example:

- in *Abbott v Sibio*, a TQJ participated in the assessment of the likelihood of invalidity based on added matter; and
- in *Amycel*, a TQJ was part of the panel that ruled on the patent eligibility of a biological material.

Overall, there appears to be a pragmatic and subject matter-related approach to panel composition of the LD The Hague, including the decision to include a TQJ in such panel.

3.5 Influence of Prior Local Practice on Substantive Legal Decisions

To some extent, the decisions of the LD The Hague have been influenced by previous local practices in the national Dutch courts. Examples include the following.

Ex Parte Measures

In *Mammoet v P.T.S. Machinery*, the LD The Hague gave an ex parte order for the preservation of evidence under R. 192 RoP. The decision is consistent with the Dutch practice of granting pre-trial evidentiary measures where urgency and proportionality are established.

Doctrine of Equivalence

In *Plant-e v Arkyne*, the LD adopted a similar doctrine of equivalence as earlier provided by the Dutch Court of Appeal of the Hague (*Pem-trexed*).

3.6 Court of Appeal Substantive Jurisprudence

This is not relevant in The Hague.

4. Procedural Issues

4.1 Hearing Structure

It is too early to distinguish certain specific patterns or established practices in the way the LD The Hague structures its hearings. In general, the LD The Hague will start a hearing by providing a short introduction and indicating its initial views regarding the case at hand. This is, however, not a preliminary opinion. Hearings are kept within the anticipated timeframe.

4.2 Key Procedural Issues Cross-Border Jurisdiction

In *Arbutus & Genevant v Moderna et al.*, the LD The Hague considered issues of cross-border and “long-arm” jurisdiction, and upheld its competence to hear infringement claims against multiple defendants, including those domiciled in non-EU and non-UPC Contracting Member States, such as the United States, Switzerland and Norway. The LD applied the “anchor defendant” principle under Article 8 (1) of the BR, finding that all claims were closely connected due to a unified commercial strategy relating to the same product. The LD decided to deal with the “long-arm” jurisdiction in final relief proceedings.

Language of Proceedings

In *Plant-e v Arkyne*, the LD The Hague ruled on a request under R. 323 RoP to change the language of the proceedings from Dutch to English. Although the request was not filed within the standard timeframe, the LD granted the request, deeming the use of Dutch in this instance to be unnecessarily burdensome.

Consolidation of Infringement Action and Counterclaim for Revocation at Hearing

In another procedural decision, in *Plant-e v Arkyne*, the LD The Hague decided, under Article 33 (3)(a) of the UPCA, to hear the infringement

action and the revocation counterclaim together. The LD noted that this would avoid procedural delay and allow the patent to be interpreted consistently by a single panel.

Confidentiality of Commercial Information

Several rulings under R. 262A RoP in the same case (*Plant-e v Arkyne*) demonstrate the LD The Hague’s approach to protecting confidential business information. The LD granted a confidentiality order, restricting access to financial data to legal representatives only, and excluding access by natural persons affiliated with the opposing party. The LD held that information relating to prospective investments and internal forecasts qualified as confidential, and that unrestricted disclosure could distort competition. The orders confirm that protective measures are available under the UPC to safeguard non-public business information.

Re-Establishment of Rights and the Due Care Standard

In *Amycel v Unnamed Defendant*, the LD The Hague considered an application under R. 320 RoP for the re-establishment of rights following the missed deadline for filing a statement of defence. The LD rejected the application, holding that the representative had not exercised all due care, and emphasising the expectation that practitioners implement appropriate procedural safeguards.

Preservation of Evidence (Ex Parte Proceedings)

In the case of *Mammoet Holding v P.T.S. Machinery*, the LD The Hague granted an ex parte order under R. 192 (RoP) for the preservation of evidence. The LD authorised access to business premises and digital records, authorised the appointment of a bailiff and an expert, and imposed conditional penalties. The Order

was granted before full infringement proceedings commenced, reflecting the LD's readiness to grant urgent measures when justified by the circumstances.

4.3 Third-Party Access to Documents

In both *Abbott v Sibio* cases, the LD The Hague granted a law firm access to first-instance LD's documents under R. 262 (1)(b), even while the cases were pending on appeal. The LD confirmed that the conclusion of the first-instance phase triggers a presumption in favour of public access, and that ongoing appellate proceedings do not in themselves justify withholding documents. Requests for confidentiality must be substantiated on a document-specific basis; blanket confidentiality claims were expressly rejected.

4.4 Pending Procedural Issues

No pending procedural issues are known at the time of writing (30 June 2025).

4.5 Influence of Prior Local Practice on Procedural Issues

The LD The Hague has demonstrated strong familiarity with cross-border patent litigation and complex procedural matters – an approach clearly influenced by long-standing national practice in the Netherlands. This is evident in *Arbutus & Genevant v Moderna*, where the court asserted jurisdiction over non-EU and non-UPC co-defendants based on the “anchor defendant” principle. The LD has also shown practical efficiency in granting protective measures, including ex parte orders for evidence preservation – a tool well established in Dutch national practice. Similarly, the LD's approach to preliminary injunction proceedings reflects national influence, particularly in its practice of factoring validity arguments raised by defendants into the assessment of infringement.

In *Amycel v Unnamed Defendant*, the LD The Hague asked questions to a party expert who participated in the hearing online, although he was not considered or treated as a witness. This informal way of asking questions is in line with the previous national practice.

4.6 Court of Appeal Procedural Jurisprudence

As far as is known, there are only a few examples where the Court of Appeal has resolved a difference in the approach of the local, regional or central divisions. For example, this has occurred in relation to third-party access to documents, where the Court of Appeal viewed this differently to the LD The Hague.

5. Economic Issues and Remedies

5.1 Case Value and Court Fees

Regarding the approach of litigants to applying a value to cases, it is important to consider a few specific aspects. The parties are invited to give an estimate of the value of their case, on the basis of which both the court fee and the maximum reimbursement for legal costs are determined by the UPC. Court fees consist of fixed fees (eg, EUR11,000 for infringement actions) plus value-based fees for cases exceeding EUR500,000 in assessed value.

For cases with a value up to EUR250,000, the maximum amount of legal costs reimbursement is, in principle, set at EUR38,000. If a party wishes to avoid paying higher court fees or wishes to limit its exposure to a higher amount of cost reimbursement to the winning party, it may try to mitigate the value of the case as much as it can.

5.2 UPC Court Fees Compared to National Courts

National court fees in the Netherlands are much lower than those of the UPC. In the Netherlands, IP cases are regarded as cases of undefined value and fixed at a low amount, regardless of whether they involve only an infringement claim or also a counterclaim for revocation, or vice versa. The value of the matter is of no importance for the court fee.

5.3 Costs Awards

Costs awards have been made in the LD The Hague. In *Plant-e v Arkyne*, the LD The Hague issued the first substantive cost order in the final relief proceedings, awarding costs up to the applicable ceilings of EUR56,000 for the infringement action and EUR112,000 for the counterclaim for revocation. The LD also ordered a provisional payment of EUR35,000 towards damages and costs.

5.4 Damages

The only cost award so far is the provisional payment of damages ordered in *Plant-e v Arkyne*.

6. The Future of the UPC

6.1 Advantages and Disadvantages of the UPC

There are certain advantages to seize the LD The Hague compared to other local divisions within the UPC.

The LD The Hague has two national UPC judges on the bench in deciding UPC cases. The proven track record of these specialised Dutch patent judges, their thorough assessment of all the invalidity arguments, including in preliminary injunctions proceedings, and their experience in cross-border/long-arm jurisdiction matters

amount to a great advantage. With their extensive experience and their legal and technical backgrounds, they deliver quick and very well-reasoned (PI) decisions. The Dutch patent litigators are equally seasoned and qualified to litigate at the highest level.

6.2 Future Trends

A key trend affecting patent litigation in the UPC and in Europe in the coming years is the growing reliance on the UPC for PIs. Being well known and respected for its high-quality PI judgments, the LD The Hague is expected to have a prominent role in the UPC.

The CJEU's decision in *BSH Hausgeräte v Electrolux* (C 339/22) will further impact European litigation strategy. This decision confirms the ability to consolidate pan-European disputes before a single national court, offering an alternative or complementing UPC litigation.

6.3 The Future of National Patent Litigation

The LD The Hague is expected to gain/maintain a prominent role within the UPC framework. Building on the Netherlands' well-established reputation for high-quality patent litigation, the LD The Hague is recognised for its technical sophistication, legal precision and balanced approach to complex, often multi-jurisdictional, disputes. With particular strength in pharmaceutical, biotech and hi-tech/telecom matters, the Dutch judiciary brings extensive experience that reinforces The Hague's position as a credible and trusted UPC venue.

The more the UPC gains a dominant position in European patent litigation, particularly after the transitional period is over, the less important the Dutch national patent courts will become. They will, however, remain the specialised forum to

litigate national patents in cross-border and/or long-arm jurisdiction proceedings.

6.4 Improvements to the UPC

The following improvements to the functioning of the UPC could be made in the future.

- A better system of legal costs compensation, having regard to the high costs of representation before the UPC. This is especially burdensome for cases of a relatively low value and for SME defendants.
- The publication of decisions in English to enhance the essential accessibility to case law, provided by the UPC. For example, decisions of 100 pages in German in a complex case cannot be accessed by the non-German speaking public, and can also not be fixed with poor machine translations.
- Enhanced procedural clarity for bringing expert evidence into the proceedings as a response to the reply or rejoinder. The speed of the proceedings should not negatively reflect on the quality of final relief proceedings.
- A pure invalidity defence, as opposed to a counterclaim for revocation, should be allowed and facilitated in the UPC system. Not allowing this defence is not in line with the decision in *BSH Hausgeräte v Electrolux* (C 339/22).

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