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## Fidia v. Chemi, Supreme Court (Corte Suprema di Cassazione), 5 April 2012

Daniela Ampollini (Trevisan & Cuonzo) · Sunday, July 29th, 2012

The Supreme Court held that Article 68 (3) IP Code relating to prior use, sets forth both a “quantitative” and a “qualitative” limit, in the sense that it “serves to identify the business behavior which determines the limit of the monopoly granted to the patent holder in respect of the prior user”. Since the prior use of the claimed substance and purification process thereof entails a single business behavior, whereas it was impossible to attribute autonomous economic value to the purification process claimed by the second patent, said prior use could only protect the infringer in respect of the first patent.

Click [here](#) for the full text of this case.

A summary of this case will be posted on <http://www.KluwerIPCases.com>

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This entry was posted on Sunday, July 29th, 2012 at 3:10 pm and is filed under [\(Indirect\) infringement](#), [Case Law](#), [Italy](#), [Prior use right](#)

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