The Patent discloses and claims pharmaceutical compositions comprising an antibody to β-amyloid peptide (a type of protein that builds up in Alzheimer’s disease patients) for the treatment of Alzheimer’s disease. Lilly argued that claim 1 of the Patent was anticipated by an international patent application from 1996 and further relied on Konig and a further piece of prior art but these arguments were rejected together with an Agrevo-type obviousness objection. The latter was rejected on the basis that the judge considered that the issue should be classified as an insufficiency objection.

It could be argued that 2013 is proving to be somewhat unkind to UK patentees when it comes to the issues of sufficiency and priority. On 25 June 2013, in a typically comprehensive judgment running to some 90 pages, Arnold J held that Janssen’s patent was invalid for insufficiency. It remains to be considered whether the Patent makes it plausible that α-4 terminal antibodies will be effective to prevent and/or treat a disease characterised by amyloid deposit and Alzheimer’s disease. Lilly sought an order for revocation of the Patent on grounds of insufficiency, lack of novelty, obviousness and insufficiency and a declaration that dealings in pharmaceutical compositions comprising an antibody to β-amyloid peptide (a type of protein that builds up in Alzheimer’s disease patients) for the treatment of Alzheimer’s disease would not infringe the Patent.

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