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Spain: Sanofi-Aventis v. Hospira, Supreme Court of Spain, First Civil Law Chamber, 182/2015, 14 April 2015

Miquel Montaña (Clifford Chance) · Wednesday, November 11th, 2015

The assessment of inventive step is a legal assessment which can be reviewed by the Supreme Court through what is known as the “cassational appeal”. The Supreme Court confirms the validity and suitability of the “problem-and-solution approach” to assess the inventive step requirement and that it is not sufficient that the expert in the field could have opted for the solution proposed by the patent applicant. The relevant consideration is whether he/she would have made this election (“could-would approach”).

The Supreme Court also confirmed the requirements for indirect infringement.

A [full summary](#) of this case has been published on [Kluwer IP Law](#).

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