

Danish Maritime & Commercial Court awards historically high damages in Quetiapine

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On 17 June 2016 the Maritime and Commercial court declared AstraZeneca's patent DK/EP 0 907 364 invalid, rendering the preliminary injunctions granted against Teva and a number of other competitors void as a result. The issue of damages was set aside for separate adjudication and the Maritime and Commercial court delivered its judgement on this on 24 January 2017.

Teva essentially argued that it should be remunerated to reflect the hypothetical situation that would have been, had the injunction never been granted and that its loss should be calculated on that basis, i.e. that Teva would have had a material proportion of the market for quetiapine.

AstraZeneca argued that, when looking at the hypothetical turn of events if the preliminary injunction had not been granted many different factors would have to be taken into consideration including increased price competition as other generics would have entered the market sooner had there been no injunction.

Teva claimed to have incurred a loss of 150.688.920 kr. in turnover, and 126.275.236 kr. in profits for the period from the preliminary injunction was granted until 6 June 2016.

The court held that the calculations put forward by Teva concerned the Danish market and that the assumptions used by Teva were somewhat uncertain and thus estimated Teva's loss at a 100 mill. kr. being a historically high number.

Reported by Koen Miezenbeek