

Actavis UK Limited v Eli Lilly, Supreme Court of the United Kingdom, [2017] UKSC 48, 12 July 2017

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The Supreme Court concluded that it was appropriate for it to reformulate the so-called Improver (or 'Protocol') questions, which provide guidance as to whether a variant is immaterial where there is no literal infringement. The significant change is the introduction of hindsight into the determination of the second question: "Would it be obvious to the person skilled in the art, reading the patent at the priority date, but knowing that the variant achieves substantially the same result as the invention, that it does so in substantially the same way as the invention?"

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