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Novartis v. Johnson & Johnson, District Court The Hague (Rechtbank Den Haag), 11 February 2009

Mark van Gardingen (Brinkhof) · Wednesday, February 11th, 2009 · Landmark European Patent Cases

Lack of novelty by re-working prior art requires that the re-works must inevitably lead to results falling within the claim of the patent at issue. If choices have to be made for the re-working process, the result is not inevitable. A possible breach of Article 84 EPC (clarity) does not lead to nullity. The Court states that an incorrect formula in the claims does not lead to violation of Article 83 EPC if a person skilled in art can still use the patent without undue burden. Furthermore the Court states that to successfully claim partial priority according to Article 88 (3) EPC, it is sufficient that the priority document discloses ‘elements of’ the patent.

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

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