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Glaxo v. Pharmachemie, District Court The Hague (Rechtbank Den Haag), 08 September 2009

Peter Burgers (Brinkhof) · Tuesday, September 8th, 2009

In these infringement proceedings before the Preliminary Relief Judge of the District Court of The Hague the defendant argued that the claimants should not have received an SPC for valaciclovir, since not valaciclovir, but its parent drug aciclovir is the 'active ingredient' Because aciclovir is not protected by the basic patent, and the market authorization used to apply for the SPC was not the first market authorization, the SPC should be invalidated. The Preliminary Relief Judge dismissed this argument, which was partly based on the European Court of Justice's judgment in the MIT case. According to the Judge, the derivative valaciclovir cannot be equated with a combination of an active ingredient and an inert auxiliary substance, which was the subject of the MIT case.

The full summary of this case has been published on Kluwer IP Law.

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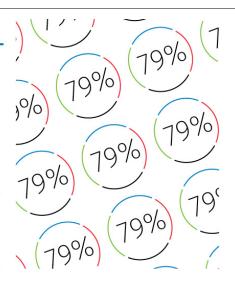
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