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# Kluwer Patent Blog

## Amlodipina, Court of Appeal Barcelona (Audiencia Provincial Barcelona), 15 October 2009

Miquel Montaña (Clifford Chance) · Thursday, October 15th, 2009 · Landmark European Patent Cases

In this judgment the Barcelona Court of Appeal concluded that any ‘preparatory acts’ (for example, submitting samples) conducted prior to the introduction in Spain of the ‘Bolar Clause’, as required by Directive 2004/27, would have been already excluded from the realm of patent infringement by the Experimental Use Exception. The Court rejected a request to ask the preliminary question to the ECJ whether the alleged retrospective application of the Bolar Clause would be contrary to the principle of legitimate expectations. The Court considered that the law that introduced the Bolar Clause did not provide for the ‘retrospective’ application of the Bolar Clause, since this simply clarified the scope of application of the former Experimental Use Exception.

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

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