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Merck v. Teva, Commercial Court Antwerp (Rechtbank van Koophandel te Antwerpen), 20 October 2009

Florence Verhoestraete · Tuesday, October 20th, 2009 · Landmark European Patent Cases

The Antwerp Commercial Court dismissed Merck's claim for injunctive relief against Teva, ruling that Teva's montelukast-based generic medicines do not infringe Merck's European patent (EP 0 737 186) with respect to an improved process for preparation of the active ingredient montelukast, either literally or by equivalents.

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

This entry was posted on Tuesday, October 20th, 2009 at 8:40 am and is filed under Belgium, Case Law, Chemical Engineering, Enforcement, literally fulfil all features of the claim. The purpose of the doctrine is to prevent an infringer from stealing the benefit of an invention by changing minor or insubstantial details while retaining the same functionality. Internationally, the criteria for determining equivalents vary. For example, German courts apply a three-step test known as Schneidmesser's questions. In the UK, the equivalence doctrine was most recently discussed in Eli Lilly v Actavis UK in July 2017. In the US, the function-way-result test is used.">Equivalents, Extent of Protection, Injunction, Scope of protection
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