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Calcium Atorvastatin II, Court of Appeal Barcelona (Audiencia Provincial Barcelona), 30 October 2009

Miquel Montaña (Clifford Chance) · Friday, October 30th, 2009 · Landmark European Patent Cases

After a fresh analysis in light of evidence provided by the complainant, the Barcelona Court of Appeal confirmed the novelty of Calcium Atorvastatin, as it had done in earlier judgments of 2007 and 2008. In addition, this is the first judgment in which the Court confirmed the inventive activity of this product. For its analysis the Court relied heavily on the expert opinions filed by both parties and on a technical opinion issued by the EPO under Article 25 of the EPC. This opinion confirmed the novelty and the inventive activity of the patent. The Court did reject the appeal filed by the patentee against the part of a first instance judgment that revoked several claims of a formulation patent for lack of novelty and/or inventive step. Due to the unusual length of the judgment (65 pages) and the thoroughness in which the Court addressed each of the allegations made by the parties, it is most likely that this decision will become a landmark reference for novelty and inventive activity in years to come.

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

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