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Danish patent case settlements – an informal investigation

Anders Valentin (Bugge Valentin) · Thursday, September 23rd, 2010

In July 2010, the European Commission published a press release on its findings in the Report on the monitoring of patent settlements ([Press release IP/10/887](#)).

Sparked by this survey, we have conducted an informal investigation into patent settlements in Denmark during the period January 2000 until January 2010, which shows that during this period in Denmark an approximate number of (at least) 40 pharmaceutical patent cases were initiated in Denmark. Of those 40 cases 15 were settled prior to a judgement being rendered, although in some cases an preliminary injunction had been granted.

It is not possible through public records in Denmark to ascertain on which terms the cases have been settled and thus it is also not possible to ascertain at whose initiative or – more importantly – for which reasons the parties have decided to settle a case, but it seems that the overall trend in Denmark (as also reported by the Commission) is that the number of settlements is declining over the period in question.

An noteworthy part of the statistics derived from this investigation is that it would appear that only 10 per cent of preliminary injunctions granted in the first instance are ultimately upheld on appeal.

It would be interesting to know from other jurisdictions whether the general picture as regards settlements of pharmaceutical patent cases and preliminary injunction upheld or overturned on appeal is the same in other European jurisdictions

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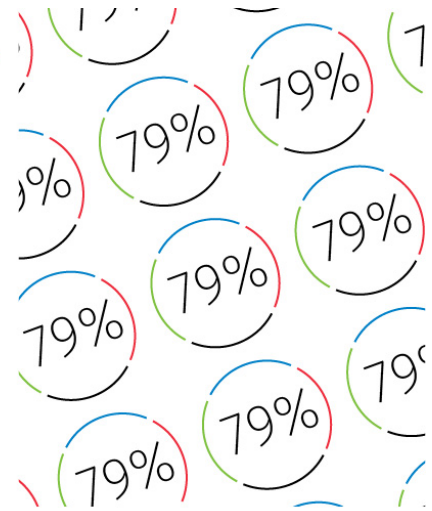
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