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Fluticason, District Court The Hague (Rechtbank Den Haag), 26 January 2011

Peter Burgers (Brinkhof) · Tuesday, February 1st, 2011

The District Court of The Hague revoked Glaxo's European Patent and Supplementary Protection Certificate (SPC) for an inhalable combination of fluticasone and salmeterol due to lack of inventive step. This decision is put in a pan-European perspective, with reference to the UK case law on inventive step, as well as the parallel English, German and Irish proceedings. The District Court systematically discusses the various steps of the PSA (closest prior art, objective technical problem and could-would test) within the EPO framework, citing EPO case law and the EPO Guidelines. In addition, the Court also deals in general and in particular with 'bonus effects' and the requirements and existence of a prejudice.

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

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