

---

# Kluwer Patent Blog

## Short update on the Antitrust case against Pfizer

Daniela Ampollini (Trevisan & Cuonzo) · Tuesday, March 1st, 2011

As many readers of this blog already know, last October the Italian Antitrust Authority ([Autorità garante della concorrenza e del mercato](#) – AGCM), following a complaint filed by Ratiopharm, started investigations against Pfizer aimed at ascertaining whether Pfizer's behaviour in the enforcement of its patent rights on the drug Xalatan amounts to abuse of a dominant position. The case is ongoing and very little is published (and will be published) before the investigations are concluded, which is expected to happen in October 2011. There is however a little development to report. AGCM recently announced that it decided to extend the investigations to Pfizer Inc. Initially, the investigations were launched against Pfizer Italia Srl and Pfizer Health AB, i.e. the Italian subsidiary (and the holder of the Italian MAs on the drug Xalatan) and the registered holder of the patent in question, respectively. However, it now seems that based on the dawn raids that were carried out at Pfizer Italia when the case was started, the Authority collected documentation “showing that the initiatives relating to the application for divisional patent EP ‘168 at the EPO in 2002 and the SPC application at the Italian Patent and Trademark Office in 2009, aimed at realigning the expiry of the rights in Italy with the expiry of the rights in the other European countries (from September 2009 to July 2011), were centrally coordinated and managed by the US company Pfizer Inc., either directly or through other European subsidiaries”. Therefore, Pfizer Inc. is now directly a party to the proceedings which means, in practice, that Pfizer Inc. will officially be included amongst the entities under a duty to provide the requested information to the Authority, as well as amongst the entities who will suffer the sanction, if a sanction is eventually issued. If looked at from a patent law perspective, this decision to join Pfizer Inc. in the case may seem strange, as Pfizer Inc. is not the patent holder, nor is it a licensee marketing the product in Italy. However, this decision is not surprising at all from an antitrust perspective, as under antitrust law entities belonging to the same group are considered to be a unitary subject. And we have to bear in mind that Antitrust authorities always only follow an antitrust approach in carrying out the investigations, even when they should apply (or at least take into account) patent law...

---

*To make sure you do not miss out on regular updates from the Kluwer Patent Blog, please [subscribe here](#).*

## Kluwer IP Law

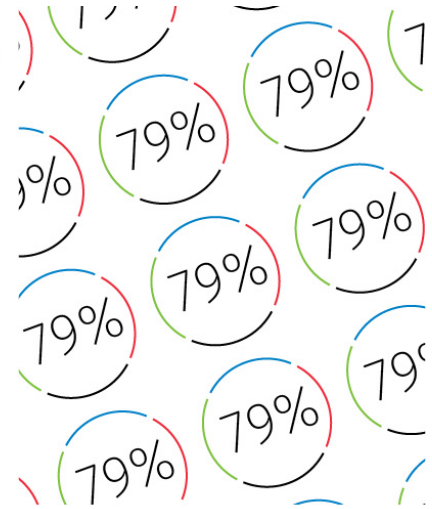
The **2022 Future Ready Lawyer survey** showed that 79% of lawyers think that the importance of legal technology will increase for next year. With Kluwer IP Law you can navigate the increasingly global practice of IP law with specialized, local and cross-border information and tools from every preferred location. Are you, as an IP professional, ready for the future?

Learn how **Kluwer IP Law** can support you.

79% of the lawyers think that the importance of legal technology will increase for next year.

**Drive change with Kluwer IP Law.**

The master resource for Intellectual Property rights and registration.



2022 SURVEY REPORT  
The Wolters Kluwer Future Ready Lawyer  
Leading change

This entry was posted on Tuesday, March 1st, 2011 at 7:09 pm and is filed under [Biologics, Italy](#). You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. Both comments and pings are currently closed.