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IBSA Institut Biochimique SA v. Pharmacia & Upjohn in liquidazione and Pfizer Italia s.r.l., District Court Milan (Tribunale Milano), 26 May 2009

Daniela Ampollini (Trevisan & Cuonzo) · Saturday, June 11th, 2011

The Milan Court revoked a patent on the second medical use of a known drug because excerpts of the protocol of the clinical trials aimed at proving efficacy of the second use had been published before the relevant date in a scientific journal. The Court held that the outcome of the trials – which later became the subject matter of the patent – could not be considered surprising in view of the protocol described in the publication. Furthermore there could have been no prejudice because the first and second use of the known product were aimed at patients having diseases of the same type. In particular the carrying out – as such – of experiments cannot contribute to inventive step.

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

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