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# Kluwer Patent Blog

## Memantin, Supreme Court (Oberster Gerichtshof), 31 August 2010

Christian Gassauer-Fleissner · Saturday, July 30th, 2011

If a supplementary protection certificate (SPC) should have been denied (or granted with limited scope), because the six month application period following the date of first marketing approval has lapsed, it is entirely or partially void. There is a lack of legal interest for a negative declaratory action directed at declaring the non-existence of claims pursuant to §§ 147ss Patent Act (injunction etc.), if the complaint is solely based on the nullity of the SPC or the respective patent. In such case nullity proceedings before the Patent Office are the appropriate action for the purpose sought.

Click [here](#) for the full text of this case. A summary of this case will be posted on <http://www.KluwerIPCases.com>.

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