
Kluwer Patent Blog

Escitalopram, Supreme Court (Oberster Gerichtshof), 16 February 2011

Christian Gassauer-Fleissner · Wednesday, October 12th, 2011

A supplementary protection certificate SPC granted for an enantiomer (escitalopram) cannot be declared void because a prior SPC was granted for the racemate (citalopram) when both the racemate and the enantiomer are protected by individual patents and thus are different products. This must be so because otherwise the enantiomer patent would be invalid for lack of novelty. The patent's expiration and the SPC's entry into force do not constitute reason to lift a preliminary injunction (PI), if the infringing product also falls within the scope of the SPC.

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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