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Pharmaq AS v. Intervet International B.V., Court of Appeal, (Borgarting Appellate Court) 22 December 2011

Lars Erik Steinkjer (Wikborg Rein) · Tuesday, March 13th, 2012

The Court of Appeal dismissed Pharmaq's claim that Intervet's patent claiming deposited virus strains and closely related strains sharing genotypic and phenotypic characteristics was invalid and that its vaccine did not infringe. The court held that the patent only covered the virus in isolated form and that the isolation of the virus strain from nature involved an inventive step. The court further held that the strain used in Pharmaq's vaccine shared the genotypic and phenotypic characteristics which were used in the description to characterize the patented virus strain. As the court did not find any other relevant characteristics, or differences in characteristics between Pharmaq's strain and the claimed strains, the strains were considered closely related and thus infringing.

A summary of this case will be posted on <http://www.KluwerIPCases.com>

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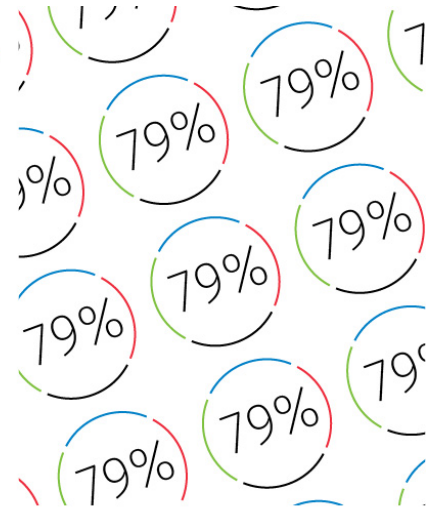
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