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Merck Sharp & Dohme Corp. v. Deutsches Patent- und Markenamt, Court of Justice of the European Union, 8 December 2011

Peter Burgers (Brinkhof) · Friday, March 16th, 2012

The Court of Justice of the European Union ruled that Article 13 of the old SPC Regulation (EEC 1768/92, identical to article 13 of the “new” SPC Regulation (EC469/2009) in conjunction with Article 36 of the Pediatric Regulation (EC 1901/2006), allow for the grant of an SPC of negative duration. The additional term provided by the Pediatric extension commences from the date determined by deducting from the patent expiry date the difference between five years and the time elapsed between the basic patent application and the first market authorization.

Click [here](#) for the full text of this case.

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