
Kluwer Patent Blog

Spanish Patent Office now admits corrections to the term of SPCs

Miquel Montaña (Clifford Chance) · Monday, January 22nd, 2018

In our last blog (*Will the Spanish Patent Office accept the modification of an SPC's term after the Incyte judgment?*), published on 8 January 2018, we raised the question as to whether the Spanish Patent and Trademark Office (“SPTO”) would accept the modification of the term of a supplementary protection certificate (“SPC”) after the judgment of 20 December 2017 of the Court of Justice of the European Union (“CJEU”), and ventured to opine that it was likely.

The SPTO has now confirmed that it will. In particular, through a Notice to Applicants published on their webpage, it informs the public that applications to correct an SPC's term must be filed using a specific form (“Application for correction of material errors-3406X”). The applicant will have to state and prove the date when it was notified of the marketing authorisation and pay the fee corresponding to a “modification”. Once the new expiry date has been published, the SPC holder will be able to download the new title from the page “Consultation of the files of the SPTO” (“C.E.O. Service”), accessible through the SPTO's webpage (www.oepm.es).

The quick reaction of the SPTO in this matter deserves to be warmly praised, as, by permitting the correction of SPC terms pursuant to the *Seattle Genetics* case law, it will improve legal certainty for all stakeholders concerned.

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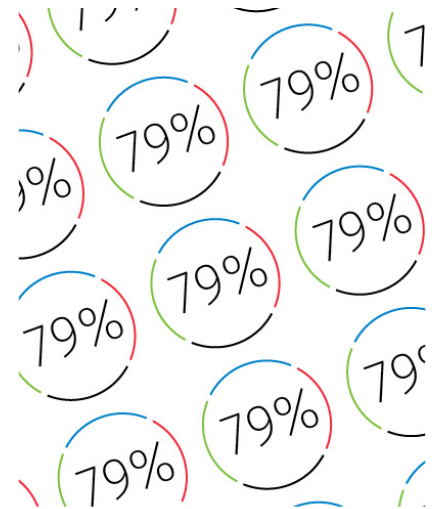
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