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Patent case: Judgment No. 35/2021 of Barcelona Commercial Court No. 5, dated 6 April 2021, Spain

Adrian Crespo (Clifford Chance) · Thursday, August 12th, 2021

In an Iberian validity dispute pitching a Spanish generics manufacturer against Portugal's national pharmaceutical champion Bial Portela, the busy and influential Barcelona Commercial Court No. 5 rules on the "problem-solution approach". In line with other recent decisions, the Court confirms i) that it may depart from the claimant's choice of closest prior art and ii) that an erroneous definition of the objective technical problem will automatically lead to a dismissal of the revocation action. Furthermore, the Court also makes some reflections on the role of the prosecution history for the purposes of ascertaining the technical problem.

Case date: 06 April 2021

Case number: 35/2021

Court Commercial Court of Barcelona

A full summary of this case has been published on [Kluwer IP Law](#).

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