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CJEU in Truvada case: no SPC for A+B (unless "the claims relate necessarily and specifically to that combination")

Wednesday 25 July 2018

Today, the Court of Justice of the European Union ("CJEU") has rendered a long awaited decision in a dispute revolving around the supplementary protection certificate ("SPC") protecting the hiv inhibitor Truvada. With its judgment rendered (to be found [here](#)), the CJEU has now provided much needed clarification on the question of whether "*the product is protected by a basic patent in force*" within the meaning of Regulation (EC) No 469/2009 concerning the supplementary protection certificate for medicinal products (the "SPC Regulation"), which affords drugs an additional term of protection on top of the standard twenty years provided by the European Patent Convention ("EPC").

Summarised, a combination product is eligible for an SPC, if the claims in the underlying patent relate necessarily and specifically to that combination of active ingredients (even if the combination of active ingredients of which that product is composed is not expressly mentioned in the claims of the basic patent).

[Read more.](#)

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