

The return of SPC referrals: Merck's SPC application leads to CJEU questions before the UK Court, while the Dutch patent office rejects it on contrasting grounds

The UK Patents Court has referred two questions to the CJEU regarding the interpretation of the SPC Regulation (Merck C-567/16). This article analyses the High Court decision, the first instance decision by the UK IPO and the contrasting parallel decision by the Dutch Patent Office.

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After a period of relative calm in the SPC field (compared to recent years), Mr Justice Arnold has referred questions to the Court of Justice of the European Union (CJEU) seeking clarity on the interpretation of Regulation (EC) No. 469/2009 (the SPC Regulation). The UK IPO has now reported the exact form of the questions referred and indicated that the deadline for submissions to the CJEU (by parties and Member States) is 22 February 2017.

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