INFORMATION ON UNPUBLISHED DECISIONS

Reports of Cases

Order of the Court (Eighth Chamber) of 9 February 2012 — Novartis v Actavis UK

(Case C-442/11)

(The first subparagraph of Article 104(3) of the Rules of Procedure — Medicinal products for human use — Supplementary protection certificate — Regulation (EC) No 469/2009 — Articles 4 and 5 — Sole active ingredient for which such a certificate is granted — Scope of protection — Medicinal product containing more than one active ingredient, including the active ingredient which is the subject of a certificate)

Approximation of laws — Uniform legislation — Industrial and commercial property — Patent right — Supplementary protection certificate for medicinal products (European Parliament and Council Regulation No 469/2009, Arts 4 and 5) (see para. 23, operative part)

Re:

Reference for a preliminary ruling — High Court of Justice (Chancery Division) — Interpretation of Articles 4 and 5 of Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products (OJ 2009 L 152, p. 1) — Scope of the certificate — Protection only of medicinal products containing the protected active ingredient alone or protection also of medicinal products containing the protected active ingredient in combination with another active ingredient.

Operative part

Articles 4 and 5 of Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products must be interpreted as meaning that, where a ‘product’ consisting of an active ingredient was protected by a basic patent and the holder of that patent was able to rely on the protection conferred by that patent for that ‘product’ in order to oppose the marketing of a medicinal product containing that active ingredient in combination with one or more other active ingredients, a supplementary protection certificate granted for that ‘product’ enables its holder, after the basic patent has expired, to oppose the marketing by a third party of a medicinal product containing that product for a use of the ‘product’, as a medicinal product, which was authorised before that certificate expired.