

France

“Allergy Treatment”

European Patent Convention, Art. 38 – *Teva v. Sepracor*

Decision of the Paris District Court
(Tribunal de grande instance)
6 October 2009

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In order to comply with the requirement of sufficient disclosure for an application in the field of pharmacy, it is not sufficient merely to indicate the result without any information on how this was achieved and came about. In the case at issue, the description contained no technical information in this respect, be it by way of experiments or by a plausible explanation that would imply an inventive activity. Absence of the above information points to a speculative application that does not show an inventive step. The subsequent furnishing of experimental results cannot alter this conclusion, as otherwise it would become possible to patent mere ideas or suggestions. Rather, inventive activity must be established at the filing date.