European Union

“Daiichi Sankyo and Sanofi-Aventis Deutschland”

**Treaty on the Functioning of the European Union, Art. 207;
Agreement on Trade-Related Aspects of Intellectual Property
Rights, Arts. 27, 70 – *Daiichi Sankyo Co. Ltd, Sanofi-Aventis
Deutschland GmbH v. DEMO Anonimos Viomikhaniki kai
Emporiki Etairia Farmakon***

**Decision of the European Court of Justice (Grand Chamber)
18 July 2013 – Case No. C-414/11**

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1. Article 27 of the Agreement on Trade-Related Aspects of Intellectual Property Rights, constituting Annex 1C to the Agreement establishing the World Trade Organization (WTO), signed at Marrakesh on 15 April 1994 and approved by Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986–1994), falls within the field of the common commercial policy.
2. Article 27 of the Agreement on Trade-Related Aspects of Intellectual Property Rights must be interpreted as meaning that the invention of a pharmaceutical product such as the active chemical compound of a medicinal product is, in the absence of a derogation in accordance with Article 27(2) or (3), capable of being the subject-matter of a patent, under the conditions set out in Article 27(1).
3. A patent obtained following an application claiming the invention both of the process of manufacture of a pharmaceutical product and of the pharmaceutical product as such, but granted solely in relation to the process of manufacture, does not, by reason of the rules set out in Articles 27 and 70 of the Agreement on Trade-Related Aspects of Intellectual Property Rights, have to be regarded from the entry into force of that agreement as covering the invention of that pharmaceutical product.

Official headnotes.

Available at <http://curia.europa.eu>.