European Union

“Royalty Pharma Collection Trust”

Decision of the European Court of Justice (Fourth Chamber)

30 April 2020 – Case No. C-650/17 (ECLI:EU:C:2020:327)

*Royalty Pharma Collection Trust v. Deutsches Patent-
und Markenamt*

Regulation (EC) No. 469/2009, Art. 3(a)

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Keywords Supplementary protection certificate (SPC) for medicinal products · Conditions for obtaining such a certificate · Concept of a “product protected by a basic patent in force” · Assessment criteria

1. Article 3(a) 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 a product is protected by a basic patent in force, within the meaning of that provision, if it corresponds to a general functional definition used by one of the claims of the basic patent and necessarily comes within the scope of the invention covered by that patent, but is not otherwise indicated in individualised form as a specific embodiment of the method of that patent, provided that it is specifically identifiable, in the light of all the information disclosed by that patent, by a person skilled in the art, based on that person’s general knowledge in the relevant field at the filing date or priority date of the basic patent and on the prior art at that date.
2. Article 3(a) of Regulation No 469/2009 must be interpreted as meaning that a product is not protected by a basic patent in force, within the meaning of that provision, if, although it is covered by the functional definition given in the claims of that patent, it was developed after the filing date of the application for the basic patent, following an independent inventive step.

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