C/2026/2881

8.6.2026

Request for a preliminary ruling from the Sø- og Handelsretten (Denmark) lodged on 30 March 2026 – Genmab A/S v Ankenævnet for Patenter og Varemærker

(Case C-262/26, Genmab)

(C/2026/2881)

Language of the case: Danish

Referring court

Sø- og Handelsretten

Parties to the main proceedings

Applicant: Genmab A/S

Defendant: Ankenævnet for Patenter og Varemærker (Danish Board of Appeal for Patents and Trade Marks)

Questions referred

1. Must Article 1(b) and [Article] 3(b) of Regulation (EC) No 469/2009 ([1]) of the European Parliament and of the Council of 6 May 2009 be interpreted as meaning that a supplementary protection certificate can be granted for a product consisting of a new combination of active ingredients which has been granted a marketing authorisation in combination, notwithstanding the fact that the combination of active ingredients is not contained in the same physical pharmaceutical form, but instead constitutes a loose combination of active ingredients to be administered separately?

2. If the answer to the first question is in the affirmative, can a variation of type II, within the meaning of Commission Regulation (EC) No 1234/2008 ([2]) of 24 November 2008, to a marketing authorisation pursuant to Directive 2001/83/ EC of a new combination of active ingredients which are not contained in the same physical pharmaceutical form, but instead constitute a loose combination of active ingredients to be administered separately, satisfy the condition laid down in Article 3(b)?

([1]) 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).

([2]) Commission Regulation (EC) No 1234/2008 of 24 November 2008 concerning the examination of variations to the terms of marketing authorisations for medicinal products for human use and veterinary medicinal products (OJ 2008 L 334, p. 7).