

Case C-518/10

**Yeda Research and Development Company Ltd
and Aventis Holdings Inc.**

v

Comptroller General of Patents, Designs and Trade Marks

(Reference for a preliminary ruling
from the Court of Appeal (England and Wales) (Civil Division))

(Article 104(3), first subparagraph, of the Rules of Procedure — Medicinal products for human use — Supplementary protection certificate — Regulation (EC) No 469/2009 — Article 3 — Conditions for obtaining a certificate — Concept of a ‘product protected by a basic patent in force’ — Criteria — Marketing authorisation — Medicinal product placed on the market containing only one active ingredient whereas the patent claims a combination of active ingredients)

Order of the Court (Fourth Chamber), 25 November 2011 I - 12211

Summary of the Order

*Approximation of laws — Uniform legislation — Industrial and commercial property — Patent law — Supplementary protection certificate for medicinal products — Conditions for granting — Product covered by a basic patent in force
(European Parliament and Council Directive 469/2009, Art. 3(a))*

Article 3(a) of Regulation No 469/2009 concerning the supplementary protection certificate for medicinal products must be interpreted as precluding the competent industrial property office of a Member State from granting a supplementary protection certificate where the active ingredient specified in the application for such a certificate, even though identified in the wording of the claims of the basic patent as an active ingredient forming

part of a combination in conjunction with another active ingredient, is not the subject of any claim relating to that active ingredient alone.

(see para. 39, operative part)