

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders the European Commission to pay the costs.

(¹) OJ C 252, 27.8.2011.

**Judgment of the Court (Grand Chamber) of 18 July 2013
(request for a preliminary ruling from the Polimeles
Protodikio Athinon — Greece) — Daiichi Sankyo Co.
Ltd, Sanofi-Aventis Deutschland GmbH v DEMO
Anonimos Viomikhaniki kai Emporiki Etairia Farmakon**

(Case C-414/11) (¹)

*(Common commercial policy — Article 207 TFEU —
Commercial aspects of intellectual property — Agreement
on Trade-Related Aspects of Intellectual Property Rights
(TRIPs) — Article 27 — Patentable subject-matter —
Article 70 — Protection of existing subject-matter)*

(2013/C 260/09)

Language of the case: Greek

Referring court

Polimeles Protodikio Athinon

Parties to the main proceedings

Applicants: Daiichi Sankyo Co. Ltd, Sanofi-Aventis Deutschland GmbH

Defendants: DEMO Anonimos Viomikhaniki kai Emporiki Etairia Farmakon

Re:

Request for a preliminary ruling — Polimeles Protodikio Athinon — Interpretation of Articles 27 and 70 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) annexed to the Agreement establishing the World Trade Organisation (OJ 1994 L 336, p. 214) — Distinction between fields covered by Community law and those within the competence of the Member States — Patents — Chemical and pharmaceutical products

Operative part of the judgment

1. Article 27 of the Agreement on Trade-Related Aspects of Intellectual Property Rights, constituting Annex 1C to the Agreement establishing the World Trade Organisation (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.

(¹) OJ C 298, 8.10.2011.

**Judgment of the Court (Third Chamber) of 18 July 2013
(request for a preliminary ruling from the Supreme Court
of the United Kingdom — United Kingdom) — Mark
Alemo-Herron and Others v Parkwood Leisure Ltd**

(Case C-426/11) (¹)

*(Transfer of undertakings — Directive 2001/23/EC —
Safeguarding of employees' rights — Collective agreement
applicable to the transferor and to the employee at the time
of the transfer)*

(2013/C 260/10)

Language of the case: English

Referring court

Supreme Court of the United Kingdom

Parties to the main proceedings

Applicants: Mark Alemo-Herron, Sandra Tipping, Christopher Anderson, Stacey Aris, Audrey Beckford, Lee Bennett, Delroy Carby, Vishnu Chetty, Deborah Cimitan, Victoria Clifton, Claudette Cummings, David Curtis, Stephen Flin, Patience Ijelekhai, Rosemarie Lee, Roxanne Lee, Vivian Ling, Michelle Nicholas, Lansdail Nugent, Anne O'Connor, Shirley Page, Alan Peel, Mathew Pennington, Laura Steward

Defendant: Parkwood Leisure Ltd