

# PATENT AND PHARMA UPDATE - JUNE 2017

16 June 2017 | UK  
Legal Briefings

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Our regular [patent and pharma update](#) aims to keep you informed of recent developments in United Kingdom and European law relating to patents and the pharmaceutical industry.

A summary of the key themes are below.

## **UPC UPDATE**

*UPC commencement postponed – Preparatory Committee announces that 1 December 2017 start date cannot be maintained*

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## **UK COURT TAKES TOUGH STANCE ON PARTY UNWILLING TO TAKE WORLDWIDE LICENCE ON FRAND TERMS**

*The UK High Court has handed down its first decision determining FRAND royalties, and provided clear guidance as to the rights and obligations of parties to licensing negotiations and litigation relating to standard essential patents*

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## **FURTHER CONSIDERATION OF SPCS**

*Four recent cases have dealt with the requirements to obtain an SPC. In three of these cases, Arnold J has considered the meaning of Article 3(a) of the SPC Regulation which requires that for an SPC to be granted, the relevant "product" must be "protected by a basic patent". In the fourth case, Arnold J considered the meaning of Article 3(d) of the SPC Regulation and whether an SPC can be granted for a new and inventive formulation of an old active ingredient*

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## **COURT OF APPEAL JUDGMENT ON EMPLOYEE COMPENSATION - SHANKS V UNILEVER**

*The Court of Appeal has considered the meaning of "outstanding benefit" in relation to a claim for employee compensation under s.40 of the Patents Act 1977*

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## **HOW TO CONSTRUE A PATENT - RECENT DEVELOPMENTS**

*A string of recent English court decisions have grappled with issues of patent construction considering, in particular, how a notional skilled person would interpret a divisional patent or the impact of a reference in a patent to comparative examples of prior art*

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## **PRIOR ART IN THE INTERNET AGE**

*Two recent cases (one in the EPO and the other in the UK Court of Appeal ) deal with establishing the existence of prior art on the internet*

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## **"WE'LL SUE YOU IF YOU DON'T STOP ..." MORE FLEXIBILITY TO THREATEN IP PROCEEDINGS UNDER THE NEW UNJUSTIFIED THREATS LEGISLATION IN THE UK**

*The new Intellectual Property (Unjustified Threats) Act 2017 confirms what can be a threat whilst providing for "permitted communications" or communications for "permitted purposes" which cannot be threats*

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[Read the full update](#)

## **KEY CONTACTS**

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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