HIGH COURT OF AUSTRALIA

4 December 2013

APOTEX PTY LTD v SANOFI-AVENTIS AUSTRALIA PTY LTD & ORS

[2013] HCA 50

Today the High Court, by majority, held that methods of medical treatment of the human body are patentable inventions within the meaning of s 18(1) of the *Patents Act* 1990 (Cth).

Sanofi-Aventis Deutschland GmbH, the second respondent, was the registered owner of a patent which claimed a method of preventing or treating psoriasis by the administration of the compound leflunomide. Apotex Pty Ltd, the appellant, intended to supply leflunomide in Australia, under the trade name "Apo-Leflunomide", for the treatment of rheumatoid arthritis and psoriatic arthritis. Almost every person with psoriatic arthritis has or will develop psoriasis.

The respondents commenced proceedings in the Federal Court of Australia claiming, among other things, that the appellant would infringe the patent by supplying Apo-Leflunomide to treat psoriatic arthritis. By cross-claim, the appellant sought to have the patent revoked as it did not claim a patentable invention under s 18(1) of the *Patents Act.* The primary judge found that the patent was valid. The Full Court of the Federal Court dismissed the appellant's appeal concerning the validity of the patent.

By special leave, the appellant appealed to the High Court. The High Court, by majority, held that the patent claimed a "manner of manufacture" within the meaning of s 18(1) of the *Patents Act* and thus a patentable invention.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*

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