

IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

No S 97 of 2014

BETWEEN:

ALPHAPHARM PTY LTD
ACN 002 359 739
Appellant

and

H LUNDBECK A/S
First Respondent

COMMISSIONER OF PATENTS
Second Respondent

ASPEN PHARMA PTY LTD
ACN 004 118 594
Third Respondent

SANDOZ PTY LTD
ACN 075 449 553
Fourth Respondent

APOTEX PTY LTD
ACN 096 916 148
Fifth Respondent



APPELLANT'S CHRONOLOGY

Part I:

This chronology is in a form suitable for publication on the internet.

Part II:

DATE	EVENT	REF
13 June 1989	Australian Patent No 623144 (Patent) applied for by the First Respondent (Lundbeck)	216 FCR 508; [2013] FCAFC 129 (Full Court Decision) at [9]

Date of document: 16 May 2014
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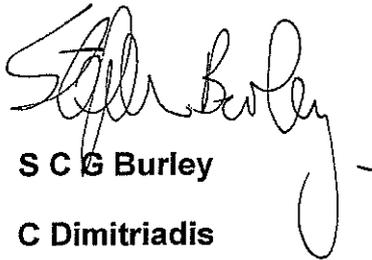
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File: KAO/JEE:02-5507-4092

DATE	EVENT	REF
9 December 1997	Lundbeck's local subsidiary obtains inclusion of its CIPRAMIL product in the Australian Register of Therapeutic Goods (ARTG)	Full Court Decision at [5]
27 January 1999	The extension of term provisions in Part 3 of Chapter 6 of the <i>Patents Act</i> 1990 (Cth) (Act) (including section ss 70 and 71) commence	Full Court Decision at [60]
26 July 1999	Deadline by which Lundbeck is required to file any application to extend the term of the Patent based on the inclusion of CIPRAMIL in the ARTG (6 months after 27 January 1999)	Full Court Decision at [60]
16 September 2003	Lundbeck's local subsidiary obtains inclusion of its LEXAPRO product in the ARTG	Full Court Decision at [10]
22 December 2003	Lundbeck files an application to extend the term of the Patent based on the inclusion of LEXAPRO in the ARTG	Full Court Decision at [28]
27 May 2004	The Commissioner of Patents (the Commissioner) grants the extension of term applied for by Lundbeck, extending the term of the Patent by 5 years to 13 June 2014	Full Court Decision at [28]
6 July 2005	The Appellant, Alphapharm Pty Ltd (Alphapharm), commences proceedings in the Federal Court seeking, <i>inter alia</i> , removal of the extension of term of the Patent	Full Court Decision at [29]
7 July 2005	Alphapharm notifies the Commissioner of the earlier inclusion of CIPRAMIL in the ARTG	Full Court Decision at [29]
19 May 2006	The Commissioner issues a decision confirming Lundbeck's application to extend the term of the Patent should have been based on the inclusion of CIPRAMIL, and not LEXAPRO, in the ARTG	2012) 132 ALD 648; [2012] AATA 851 (Tribunal Decision) at [16]
5 June 2006	Lundbeck and Alphapharm appeal from the decision of the Commissioner to the Federal Court	Tribunal Decision at Annexure "A"
24 April 2008	Lindgren J delivers reasons for judgment, finding that Lundbeck's application to extend the term of the Patent should have been based on the inclusion of CIPRAMIL in the ARTG and was filed out of time	Full Court Decision at [32]
11 June 2009	The Full Court delivers reasons for judgment on Lundbeck's appeal, upholding Lindgren J's findings on the extension of term issue	Tribunal Decision at [23]

DATE	EVENT	REF
12 June 2009	The Full Court makes orders consequent upon its reasons for judgment Lundbeck applies to the Commissioner for an extension of time within which to file a second application to extend the term of the Patent, this time based on the inclusion of CIPRAMIL in the ARTG	Full Court Decision at [33]
13 June 2009	The 20 year term of the Patent expires	Full Court Decision at [9]
Mid-June 2009	Alphapharm and the Third to Fifth Respondents launch their generic pharmaceutical products	Full Court Decision at [34]
3 August 2009 and following	Alphapharm and the Third to Fifth Respondents oppose Lundbeck's application for an extension of time	Tribunal Decision at Annexure "A"
11 December 2009	The High Court refuses Lundbeck's application for special leave to appeal from the decision of the Full Court	Full Court Decision at [35]
9 February 2010	The Register is amended to remove the extension of term of the Patent	Full Court Decision at [36]
1 June 2011	The Commissioner grants the extension of time sought by Lundbeck, dismissing Alphapharm's and the Third to Fifth Respondents' oppositions	(2011) 92 IPR 628; [2011] APO 36 at [95]
28 June 2011	Alphapharm and the Third to Fifth Respondents apply for review of the Commissioner's decision in the Administrative Appeals Tribunal (Tribunal)	Tribunal Decision at Annexure "A"
4 December 2012	The Tribunal affirms the Commissioner's decision to grant the extension of time sought by Lundbeck	Tribunal Decision at [111]
21 December 2012	Alphapharm and the Third to Fifth Respondents appeal to the Full Court from the Tribunal's decision	Amended Notice of Appeal
18 November 2013	The Full Court dismisses the appeal, affirming the Tribunal's decision	Full Court Decision at [158]
16 December 2013	Alphapharm files an application for special leave to appeal to the High Court from the Full Court Decision	Application for Special Leave to Appeal
11 April 2014	High Court grants special leave to appeal, limited to the ground concerning the existence of the power to grant an extension of time	Order Granting Special Leave to Appeal

DATE	EVENT	REF
24 April 2014	Alphapharm files its Notice of Appeal in this proceeding	Notice of Appeal

DATED: 16 May 2014



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