

GREECE

**Infringement by
equivalence affirmed**

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While the doctrine of equivalents exists in theory in most Greek legal textbooks, judgments applying this theory in practice are scarce in Greece. A recently issued judgment by the Athens Court of First Instance in preliminary injunction proceedings is an important addition to this rather small number of judgments.

The dispute at issue arose when a foreign pharmaceutical company filed a preliminary injunction application against a Greek pharmaceutical company, which manufactured a pharmaceutical solution for export abroad, claiming infringement of its patented manufacturing process.

The defendant argued that its manufacturing process was different highlighting, *inter alia*, a difference in the order of the steps performed for the preparation of its pharmaceutical solution compared to the patented process.

The Court was not convinced by the defendant's line of defence. After providing an analysis of the doctrine of equivalents theory, the judgment found that both processes employ the same material and that the steps performed are the same. The judge added that the main features of the invention were present in both processes and that the change in the order of the process steps by the defendant had no significance for the final result.

A preliminary injunction was thus granted ordering the defendant to cease any productive activity infringing the patent, to recall the manufactured products and to provide the claimant with all information necessary to identify any parties involved in the distribution and marketing of the infringing products abroad. Furthermore the Court ordered the provisional seizure of any infringing products found in the possession of the

defendant or any other party deriving rights therefrom.

A further interesting aspect of this judgment is that the products were not manufactured to be sold in Greece but were only intended to be exported for sale in foreign markets. The grant of a preliminary injunction against the manufacturer may therefore constitute an effective strategy in preventing those sales in a larger number of countries.