



Quiz

Implications of the extension of patent terms

1. What was Justice Beach's view in regard to whether or not a patent 'ceases' for the purposes of the *Patent Act 1990* (NSW) when the term of the patent expires?
 - a. That a patent 'ceases' to exist for the purposes of the *Patent Act 1990* (NSW), when it expires;
 - b. That a patent does not 'cease' to exist for the purposes of the *Patent Act 1990* (NSW), when it expires;
 - c. Justice Beach referred the decision to Justice Jagot for judgement;
 - d. Justice Beach referred the decision to the Full Federal Court for judgement.
2. Under which section of the *Patents Act 1990* (NSW), did Sandoz argue that Lundbeck was barred from bringing infringement proceedings due to the provision that a patentee cannot take infringement proceedings in the period of time where a patent ceases and when it is restored?
 - a. Section 223(10)
 - b. Section 223(9)
 - c. Section 79
 - d. Section 120(2)
3. What was Justice Jagot's decision in relation to the infringement proceedings?

- a. That the above defense did not apply and the patent was valid and infringed
 - b. That the above defense applied and therefore the patent was invalid and not able to be infringed
 - c. That Sandoz had been granted a license by the Commissioner and therefore, the patent was not infringed
 - d. Both B and C
4. What was Lundbeck's primary argument in regard to why the license should not be granted by the Commissioner?
- a. That the Commissioner was bound by the decision of Justice Jagot and therefore, should find in Lundbeck's favour
 - b. That Sandoz did not meet the causation and timing requirements in relation to the grant of the Licence
 - c. That it had been awarded \$27 million dollars in the infringement proceedings and as such, the grant of the license would be a \$27 million dollar windfall for Sandoz
 - d. All of the above.
5. How did Justice Middleton find in relation to Lundbeck's application to be released from its undertaking to Justice Beach that it would not appeal its decision until the license application was determined in full?
- a. That the license application had been determined in full and therefore Lundbeck was entitled to appeal;
 - b. That nothing had changed from the time in which the original undertaking was given and therefore Lundbeck could not be released from its undertaking
 - c. That since the purpose of Lundbeck's request to be released was to bring both proceedings together, procedurally it was in the best interests of the case to release Lundbeck from its undertaking
 - d. None of the above

Answers:

1. A 2. A 3. A 4. C 5. B