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Reverse Payment Controversy: Interaction between Competition Law and Patent Law

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Abstract

In Europe and in the United States, the reverse payment settlements reached between pharmaceutical manufacturers have been heard over and over again. Reverse payment settlement refers to the payment made to the generic drug manufacturers in exchange for delaying generic drug's entrance into market. Interestingly, Europe and the United States provide different answers as to construing the reverse payment settlement as a matter *presumptively illegal* or as a matter to be judged based on *rule of reason* when it comes to ruling whether or not a reverse payment settlement is in violation of anti-competition law. In recent years, EU Commission ruled most cases related to reverse payment settlement *presumptively illegal*. In 2013, however, the Supreme Court of the United States used *rule of reason* in *Actavis*. Both of them concurrently abandoned the "Scope of the Patent" test. With the discussions stated above, this paper focused on the difference between Europe and

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the United States regarding reverse payment settlements for the reference of Taiwan.

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