

SOUTH AFRICA / JUDGMENT

Astellas Pharma Incorporated v Medpro Pharmaceutica (Pty) Ltd and Others (Leave to Appeal) (2023/021642) [2024] ZACCP 2 (6 August 2024) [2024] ZACCP 2

COURT

Court of the Commissioner of Patents

BEFORE

L.A. Retief

CASE / FILE NUMBER

2023/021642

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IN THE COURT OF THE COMMISSIONER OF PATENTS

FOR THE REPUBLIC OF SOUTH AFRICA

Patent No. 2011/02406CDP

Case No. 2023/021642

- (1) REPORTABLE: NO
- (2) OF INTEREST TO OTHERS JUDGES: NO
- (3) REVISED

DATE: 06 AUGUST 2024

SIGNATURE

In the matter between:

ASTELLAS PHARMA INCORPORATED Applicant and MEDPRO PHARMACEUTICA (PTY) LTD
First Respondent CIPLA MEDPRO (PTY) LTD Second Respondent THE REGISTRAR OF PATENTS
Third Respondent This judgment is prepared and authored by the Judge whose name is reflected
as such and is handed down electronically by circulation

to the parties / their legal representatives by email and by uploading it to the electronic file of this
matter on CaseLines.

The date for handing down is deemed to be 06 August 2024.

SHORT REASONS AND JUDGMENT: LEAVE TO APPEAL

1. The First and Second Respondents [respondents] applied for leave to appeal to the Supreme Court of Appeal alternatively the Full Bench of the Gauteng Division of the High Court, Pretoria, against the whole judgment and orders 1 to 3 and 5 dated 26 June 2024 in which this Court dismissed the Respondents' opposition to the Applicant's application for leave to amend a patent, permitting the patent to be so amended.
2. The Respondents seek leave in terms of section 17(1)(a)(i) and (ii) of the Superior Courts Act, 10 of 2023 [Superior Courts Act].
3. This Court has heard the argument, considered the grounds raised in the Respondents' application for leave to appeal and reconsidered the reasoned judgment and does not find the Respondents' argument compelling and accordingly finds that the threshold of section 17(1)(a) (i) and (ii) have not been met.

In the premises the following order:

1. Leave to appeal is dismissed with costs, which costs are to be taxed on scale B.

L.A. RETIEF

JUDGE OF THE HIGH COURT

GAUTENG DIVISION, PRETORIA

Appearances:

For the 1st and 2nd Respondents: Adv A Franklin SC Cell: 079 299 3792 Email:

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Russell.Bagnall@adams.africa Date of hearing: 24 July 2024 Date judgment delivered: 06 August 2024

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ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZACCP/2024/2.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/astellas-pharma-incorporated-v-medpro-pharmaceutica-pty-ltd-and-others-unknown-topic-accp-2024>

Prepared on 11 October 2026 · Esheria