C/2025/1126

24.2.2025

Action brought on 15 January 2025 – Teva Pharmaceutical Industries and Teva Pharmaceuticals Europe v Commission

(Case T-19/25)

(C/2025/1126)

Language of the case: English

Parties

Applicants: Teva Pharmaceutical Industries Ltd (Tel Aviv, Israel), Teva Pharmaceuticals Europe BV (Amsterdam, Netherlands) (represented by: D. Tayar and J. Killick, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— Annul in whole or in part Decision C(2024) 7448 final of the European Commission dated 31 October 2024 in the case AT.40588 - Teva Copaxone (the 'Decision');

— Reduce the level of fine imposed on the applicants, in the event the Decision is not annulled in its entirety;

— Adopt the measures of organisation of procedure or measures of inquiry specified, or any other such measures as the Court deems necessary;

— Order the Commission to pay the costs of the present proceedings.

Pleas in law and main arguments

In support of the action, the applicants rely on six pleas in law.

1. First plea in law, alleging that the Decision has erred in its assessment of market definition, most notably by failing properly to consider economic substitutability based on the guidance given in Case C-176/19 P, *Commission* v *Servier and Others*.

2. Second plea in law, alleging that the Decision has erred in finding Teva dominant based on an incorrect market definition. In any event, and even assuming a hypothetical market limited to glatiramer acetate, the duration of dominance is overstated in Italy, Spain, Poland, and the Netherlands, as Teva was not able to act to an appreciable extent independently in that hypothetical market during the dates claimed in the Decision.

3. Third plea in law, alleging that the Decision has erred in finding that Teva abused its dominant position by misusing the divisional patent system. Among other problems, the Decision has failed to examine and has misconstrued the relevant legal and factual context of the EPO system, and as a result has incorrectly found Teva's use of divisional patents protecting Copaxone to be abusive, when in fact Teva's patent filings were perfectly legitimate, and consistent with competition on the merits. In addition, the Decision has failed to demonstrate that the conduct was capable of having anticompetitive effects.

4. Fourth plea in law, alleging that the Decision has erred in finding that Teva abused its dominant position by disparaging its competitors, because the Decision has not demonstrated that Teva disseminated any communications which, *in concreto*, contained objectively misleading information likely to discredit those competitors.

5. Fifth plea in law, alleging that the Commission has breached Teva's fundamental rights of defence by failing to record or by inadequately recording numerous meetings that between the Commission and the complainants.

6. Sixth plea in law, alleging that the Decision has erred in law and breached the principles of good administration and proportionality in its calculation of the fine.