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# Revival of Reach Through Claims

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Michael Caine

[mcaine@davies.com.au](mailto:mcaine@davies.com.au)



INTELLECTUAL PROPERTY

[davies.com.au](http://davies.com.au)

- What are “reach-through” claims?
  - EPO definition: Claims attempting to obtain protection for a chemical product (and also uses thereof, compositions thereof, etc.) by defining that product functionally in terms of its action (e.g. agonist, antagonist) on a biological target such as an enzyme or receptor
- 2001 Trilateral Project B3b “Mutual understanding in search and examination”
- Report entitled “Comparative study on biotechnology patent practices” detailing results of a comparative study on “reach-through” claims
- FICPI Forum Venice in November 2004 session on Reach Through Claims

- Decision of German Federal Court of Justice (Dr Peter Meier-Beck) 13 September 2013
- Royalty Pharma Collection Trust, Wilmington (United States of America)
- Claim under consideration was:
  - Use of inhibitors of the enzymatic activity of dipeptidyl peptidase (DPP IV) for lowering the blood sugar level, below the glucose concentration characteristic of hyperglycemia, in the serum of a mammalian organism with diabetes mellitus

Discussed scenario below with practitioners and examiners in CN, JP and KR

## **Claim 1**

A method for lowering levels of endogenous metabolite M in a patient with disease Y by administering an inhibitor of enzyme Z.

## **Disclosure**

- High levels of endogenous metabolite M in the blood is main cause of disease Y,
- Known methods for treating disease Y were highly invasive leading to poor compliance with treatment.
- The inventors had found that a particular protein P is important for regulating levels of metabolite M, and that this protein P is deactivated by enzyme Z.
- They state that inhibition of enzyme Z is expected to improve stability of the protein P leading to better control of levels of endogenous metabolite M. This, in turn, is expected to assist in treatment of disease Y.