



Damage Related to the Performance of a Distribution Contract

SITUATION

A company developed several patents in the pharmaceutical field and entrusted their exploitation and distribution to a third party. Differences of opinion arose as to the strategy to adopt in the face of the arrival of competitors (loss of monopoly).

The holder of the rights commenced proceedings against its distributor before the Paris Commercial Court, claiming damages of almost 100 million euros for failure to fulfil its obligation to market the product diligently.

OUR ROLE

FTI Consulting was instructed by the respondent distributor to analyse the expert's report submitted in support of the rights holder's claim.

Our work focused in particular on the following aspects:

- analysis of public studies on the impact of the loss of monopoly on the sales of a drug;
- reproduction of the calculation model (not provided by the plaintiff's expert);

- opinion on the relevance of the assumptions of the counterfactual scenario in terms of changes in market share, sales prices, etc.;
- consistency tests of the results obtained.

Our analyses were developed in an independent expert report which was communicated to the court.

OUR IMPACT



Based on market research, we showed that the claim was based on unjustified assumptions resulting in an order of magnitude that was not plausible.

The reproduction of the claimant's detailed calculations revealed errors and inconsistencies which usefully supported our conclusions.



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