

Secretary of State for Health and others (Respondents) v Servier Laboratories Ltd and others (Appellants)

Case ID: UKSC 2019/0172

Case summary

Issue

Whether the "dealing requirement" is a constituent part of the tort of causing loss by unlawful means.

Facts

The Respondent ("Servier") was granted a patent ("the Patent"), which related to medical drugs, by the European Patent Office ("EPO"). After a challenge to the Patent, which was upheld by the Court of Appeal in 2008, the EPO Technical Board of Appeal revoked the Patent. The Appellants ("the NHS") claim damages from Servier on the basis of the unlawful means tort because, the NHS alleges, Servier obtained the Patent from the EPO and subsequently defended the Patent in both the EPO and English courts on the basis of representations about the Patent's novelty. Servier, the NHS alleges, knew these representations to be false or were made with reckless indifference to their truth. This is said to have caused economic loss to the NHS, as it has not been able to buy cheaper drugs.

Judgment appealed

[\[2019\] EWCA Civ 1160](#)

Parties

Appellant(s)

Secretary of State for Health and another

Respondent(s)

Servier Laboratories Ltd and others

Appeal

Justices

Lord Reed, Lord Hodge, Lord Lloyd-Jones, Lord Briggs, Lord Kitchin, Lord Sales, Lord Hamblen

Hearing start date

14 Apr 2021

Hearing finish date

15 Apr 2021

Watch hearing

14 April 2021 [Morning session](#) [Afternoon session](#)

15 April 2021 [Morning session](#) [Afternoon session](#)

Judgment details

Judgment date

2 July 2021

Neutral citation

[2021] UKSC 24

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