

# European Intellectual Property Review

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#### Equivalents Unchained 1

In *Actavis v Eli Lilly*, handed down on 12 July 2017, the UK Supreme Court overturned previous and longstanding House of Lords case law on the issue of patent claim scope and infringement. This Opinion considers whether the Supreme Court was right to do so, what it means for patent law practitioners, and how the UK lower courts might apply the decision.

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#### The EU Commission's Proposal to Reform Copyright Limitations: A Good but Far Too Timid Step in the Right Direction 4

The European Commission's planned copyright reform proposes to adapt EU law to the challenges emerging in the Digital Single Market (DSM). The European Commission would like to develop a—much needed—strategy to take copyright into the 21 century and make it functional to the DSM. In particular, new mandatory exceptions and limitations should contribute to improving the digital environment's creative ecosystem. However, the goal of the proposal of lowering barriers to research and innovation in the EU DSM should be pursued more decisively by expanding the reform's scope. This reform should be an opportunity to consider also additional exceptions and limitations, reflect on the future design of an opening clause, and achieve true harmonisation of the DSM by declaring mandatory all limitations and exceptions provided in past EU copyright instruments. Against this background, this article would like to provide a preliminary assessment of the introduction of new exceptions and limitations for Text and Data Mining (TDM), teaching, and preservation of cultural heritage by drawing attention to selected aspects of the reform and considering room for improvement where necessary.

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OLASUPO OWOEYE AND  
OLUWABUSAYO OWOEYE

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In *Bayer Intellectual Property GmbH v Ajanta Pharma Ltd*, the Delhi High Court weighs public interest with an injunction in an infringement suit pertaining to a drug patent on new grounds. The decision is functionally a compulsory licensing arrangement, although it is characterised as voluntary licensing. Moreover, the decision represents a dramatic expansion in the scope of patents that fall under the public interest exception to the grant of patents under the Indian patent law. The decisive ruling has implications for future cases in India, where courts could now refuse to grant injunctions for patent infringement based on a very broad economic rationale.

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