



Damage Resulting From Unfair Competition

SITUATION

Following the market authorisation (MA) of a new drug, a pharmaceutical company distributed communication materials to health professionals. According to a competitor, these materials did not comply with the regulations in force and were disparaging towards its own medicines.

The competitor commenced proceedings against the pharmaceutical company before the Paris Commercial Court, claiming lost profits estimated at several million euros on the basis of unfair competition.

OUR ROLE

FTI Consulting acted as an independent expert giving its opinion on the damages claimed from the pharmaceutical company that produced the disputed communication.

Our work focused on the following areas:

- analysis of the relevant market and its dynamics;
- opinion on the relevance of the methodology used by the opposing expert;
- alternative analysis of the impact of the disputed documents (multi-criteria approach);

- critical review of the financial assumptions (carry-over rate, margin rate, etc.).

Finally, we prepared a detailed expert report outlining our analyses and conclusions for the court.

OUR IMPACT



Beyond the financial parameters, our work also focused on the analysis of the causal link from an economic perspective.

Our analyses showed that the damage was not justified in principle (positive approach), and that in any case it would be overvalued in its quantum (negative approach).



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