

**Glaxo –v- Dowelhurst**  
**Pharmaceuticals – Parallel Imports**

After four years of litigation, Medihealth and Dowelhurst have once again secured a victory in their ongoing battle with Glaxo, Boehringer Ingelheim and Eli Lilly as to the manner in which imported pharmaceuticals can be repackaged for the UK market.

The Court of appeal decided that if was necessary for Dowelhurst and Medihealth to rebox product to obtain effective access to the UK market. Boehringer Ingelheim's appeal on passing-off was similarly dismissed. Questions relating to the style of packaging importers may adopt have been referred to the European Court of Justice – the second reference in this case.

Had Glaxo, Eli Lilly and Boehringer Ingelheim succeeded, they would have been able to hinder the importation of their own products into the UK by asserting their trade mark rights. Parallel imports are estimated to save the NHS and taxpayers more than £ 100 million per annum.

In giving his judgement Jacobs LJ said:

*“Sometimes I think the law may be losing a sense of reality in this area- we are, after all, only considering the use of the owner's trade mark for his goods in perfect condition. The pickle the law has got into would, I think, astonish the average consumer.”*

Medihealth's spokesman, Mike Retter, says: *“I am delighted that the Court of Appeal has confirmed our right to rebox. We hope that our right to provide high-quality low-cost products for patients and pharmacists will now be fully recognised. We are looking forward to the ECJ's further clarifications.”*

**For more information please contact:**

**Anna McKay or Clare Tunstall at Roiter Zucker, solicitors for Dowelhurst and Medihealth (020 7328 9111)**

**Mike Retter, spokesman for Medihealth (07768 616 590)**