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# Biologics & Biosimilars

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## Supplementary protection certificates (SPCs) in Europe – What is the ‘basic patent’ and what is the ‘product’?

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SPC squatting and SPCs for biologics are a hot topic in Europe following a recent slew of decisions from the courts. First, Supplementary Protection Certificates in Europe are similar to, but not quite the same as, Patent Term Extensions in the US. The author will explore some of the differences between the two systems, and in particular he will examine who may apply for an SPC and on the basis of which patent. The SPC Regulation requires that the ‘product’ the subject of an SPC application must be protected by a ‘basic patent’. In the field of antibodies, is the ‘basic patent’ that patent which claims the antibody in question, or is the ‘basic patent’ that patent which claims the DNA sequence of the protein antigen, or both? Second, only one SPC is permitted per ‘product’. The author will explore how this might apply to biologics and biosimilars – is a biosimilar the same ‘product’ as the original?

### Biography

Tom Carver specializes in Biotech and Pharmaceutical patent litigation and has been involved in some of the most significant patent cases in the UK in recent years. He has published many articles on patent law issues, including in the *CIPA Journal* (the official journal of the Chartered Institute of Patent Attorneys in the UK).

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