

## WINNER

# SJ Berwin

## STEPHEN KON

*Advising Generics and Scand Pharm on their complaint to the European Commission concerning AstraZeneca's prescription drug Losec*

**SJ Berwin's advice to its clients Generics and Scand Pharm focused on AstraZeneca's Losec, one of the biggest-selling prescription drugs in the world. Stephen Kon's team set out to demonstrate that AstraZeneca was in a dominant position and had acted abusively in relation to Losec.**

Not only did the case address antitrust, but also, crucially, IP.

A key component was the extent to which a dominant company should be prevented from prosecuting IP rights, in circumstances where those rights had been obtained through misrepresentations. The SJ Berwin team had to demonstrate why competition law should intervene in these circumstances. The firm successfully proved to the Commission why AstraZeneca's conduct amounted to a misrepresentation as a matter of fact and related to it a complex legal analysis, going back to basic principles of competition law, as well as drawing analogies with US case law.

The Commission's decision to find in favour of Generics and Scand Pharm was its first Article 82 decision in the pharmaceutical industry and resulted in a €60m fine for AstraZeneca. SJ Berwin competition assistant Cameron Firth supported Stephen Kon throughout the deal.



Stephen Kon (centre) accepts the Competition award from *The Legal 500s* Mairead Keohane

LEGAL BUSINESS AWARDS FACTFILE... LEGAL BUSINESS AWARDS FACTFILE... LEGAL BUSINESS AWARDS FACTFILE... LEGAL BUSINESS AWARDS FACTFILE...

Previous winners of this award have included: **FRESHFIELDS BRUCKHAUS DERINGER** in 2005; **SLAUGHTER AND MAY** in 2003. *LB* says: This marks the third time that SJ Berwin has picked up the Competition Team of the Year award, following the firm's successes in 1998 and 2001.

## HIGHLY COMMENDED

### ALLEN & OVERY

#### Mark Friend

Alliance UniChem's challenge of the OFT's decision to clear the merger between Phoenix and East Anglian Pharmaceuticals was the first to challenge an OFT clearance decision on largely procedural grounds. The Allen & Overy team showed that the OFT's decision was based on a number of factual assumptions about UniChem, which the OFT had not verified with the company. A&O applied to the Competition Appeal Tribunal to have the OFT decision reviewed. The CAT ultimately quashed it.

### CLEARY GOTTlieb STEEN & HAMILTON

#### Nicholas Levy

In June 2005, the European Commission and Coca-Cola reached a historic settlement that ended the Commission's six-year investigation into the company's commercial practices. Cleary Gottlieb Steen & Hamilton advised the company throughout and helped to ensure that Coca-Cola avoided statements of objections and, potentially, an adverse decision.

### DENTON WILDE SAPTE

#### Sam Szezinger

Denton Wilde Sapte was instructed by the Racecourse Association and the owners of 34 member racecourses in their appeal against an OFT infringement decision, concerning the joint sale of interactive betting rights. Szezinger and his team successfully argued that market conditions forced the Racecourse Association to sell the rights collectively, and therefore that there had been infringement of the competition rules. The Competition Appeal Tribunal referred to the OFT's case as 'the world that never was' and 'a triumph of theory over commercial reality'.

### MONCKTON CHAMBERS

#### Paul Lasok QC

Monckton has confirmed its position as one of the leading competition sets in the UK with a succession of instructions on the most high-profile competition cases of the year. Among them, chambers acted in the *Racecourse Association v OFT* and *JJ Burgess v OFT*. The number of tenants at Monckton also grew considerably in 2005, with the set adding a Scottish silk and Irish senior counsel to its ranks.

presented by **THE LEGAL 500 – EUROPE, MIDDLE EAST & AFRICA**

---

**Now in its 15th edition, *The Legal 500 – Europe, Middle East & Africa* analyses the practices of some 3,000 law firms in the key financial centres around the region.**

**Congratulations to the winner of Competition Team  
of the Year 2006, SJ Berwin**

**To all those who made the shortlists, this in itself is a huge  
achievement and reflects the quality of submissions  
received this year.**

---

*The*  
**LEGAL**  
**500** **EUROPE**  
**MIDDLE**  
**EAST &**  
**AFRICA**