

17 January 2014

# **Assogenerici with Pavia e Ansaldo obtains Pfizer's condemnation for abuse of a dominant position**

**Confirmation of the administrative fine imposed by the Italian Antitrust Authority on Pfizer for obstructing the entrance of latanoprost**

**Milan, 17 January 2014** - Pavia e Ansaldo assisted Assogenerici, the association of the manufacturers of generics in Italy, in the proceedings before the Consiglio di Stato (Supreme Administrative Court), against Pfizer Italia, its relevant European parent company as well as the American one, that found Pfizer companies responsible for abuse of a dominant position and imposed on them a fine of more than EUR 10 million for putting in place anticompetitive behaviours, aimed at preventing or at least delaying the entry of competitors into the market of medicinal products for the treatment of glaucoma (latanoprost) in Italy, causing a huge loss to the National Health Service.

The administrative judge allowed the appeal of the Italian Antitrust Authority (AGCM) and of Assogenerici, on January 15, 2014, confirming the heavy administrative fine imposed on Pfizer's companies by the AGCM on January 11, 2012, thereby revoking in its entirety the judgment of the Administrative Court of TAR Latium of September 3, 2012, which had annulled that measure.

Assogenerici was assisted by partners Gian Paolo Di Santo, head of Industrial and Intellectual Property Department, Stefano Grassani, head of the Competition Department and Nico Moravia, head of Administrative Law Department.

*"This is the first time in Italy that a misuse of patent law in the pharmaceutical industry is carefully scrutinized in order to assess and establish an abuse of a dominant position,"* said Gian Paolo Di Santo, partner at Pavia e Ansaldo heading the Industrial and Intellectual Property department, *"The sole precedent in Europe had so far been the AstraZeneca case (ECJ decision of December 6, 2012 in case C-457/10P), but this Pfizer Italia case potentially appears even more*

*interesting, as it might give some hints on how competition law may help to tackle unfair practices such as the implementation of the so called “patent thickets” and “evergreening” policies by the originators, which are practices that had been denounced also by the European Commission”.*