

**BRISTOWS**

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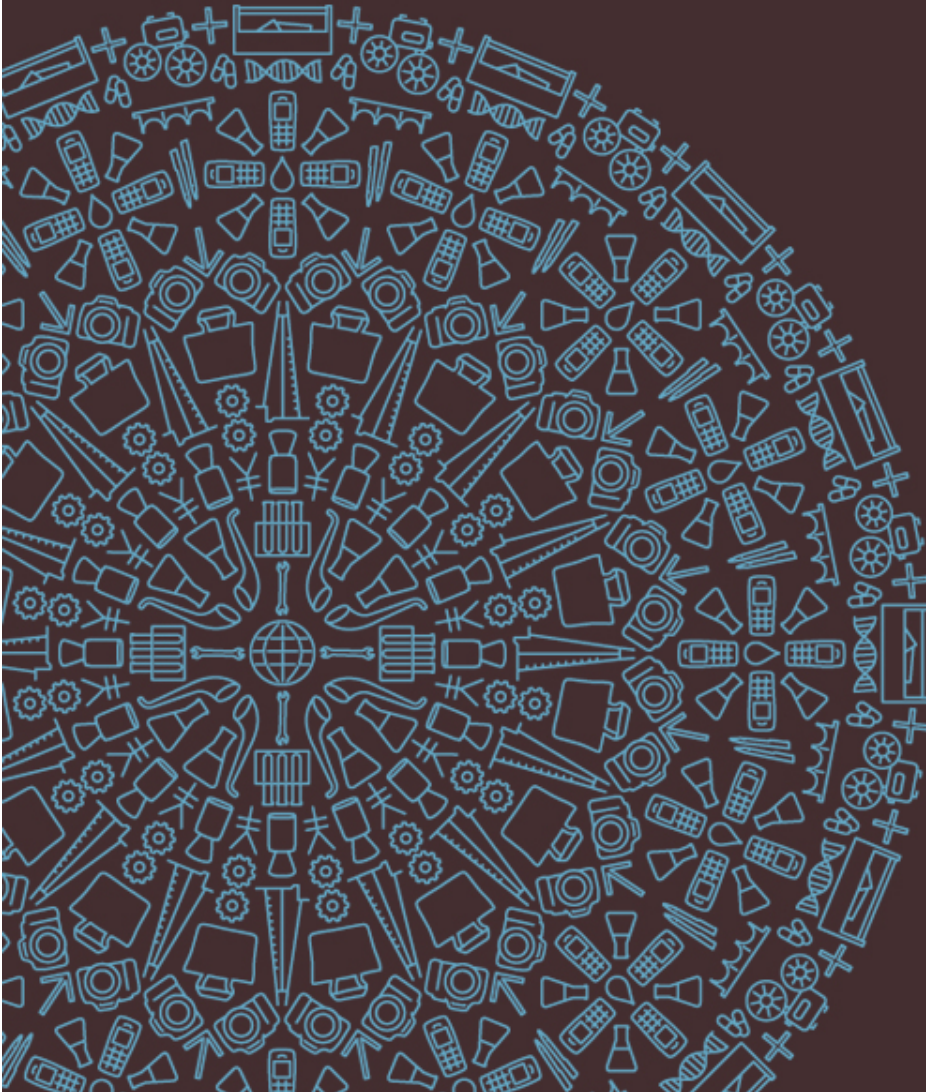
**Fordham IP Law  
Institute**

**23<sup>rd</sup> Annual Conference,  
Cambridge**

**Session 5b – Second  
Medical Use**

**INTRODUCTION**

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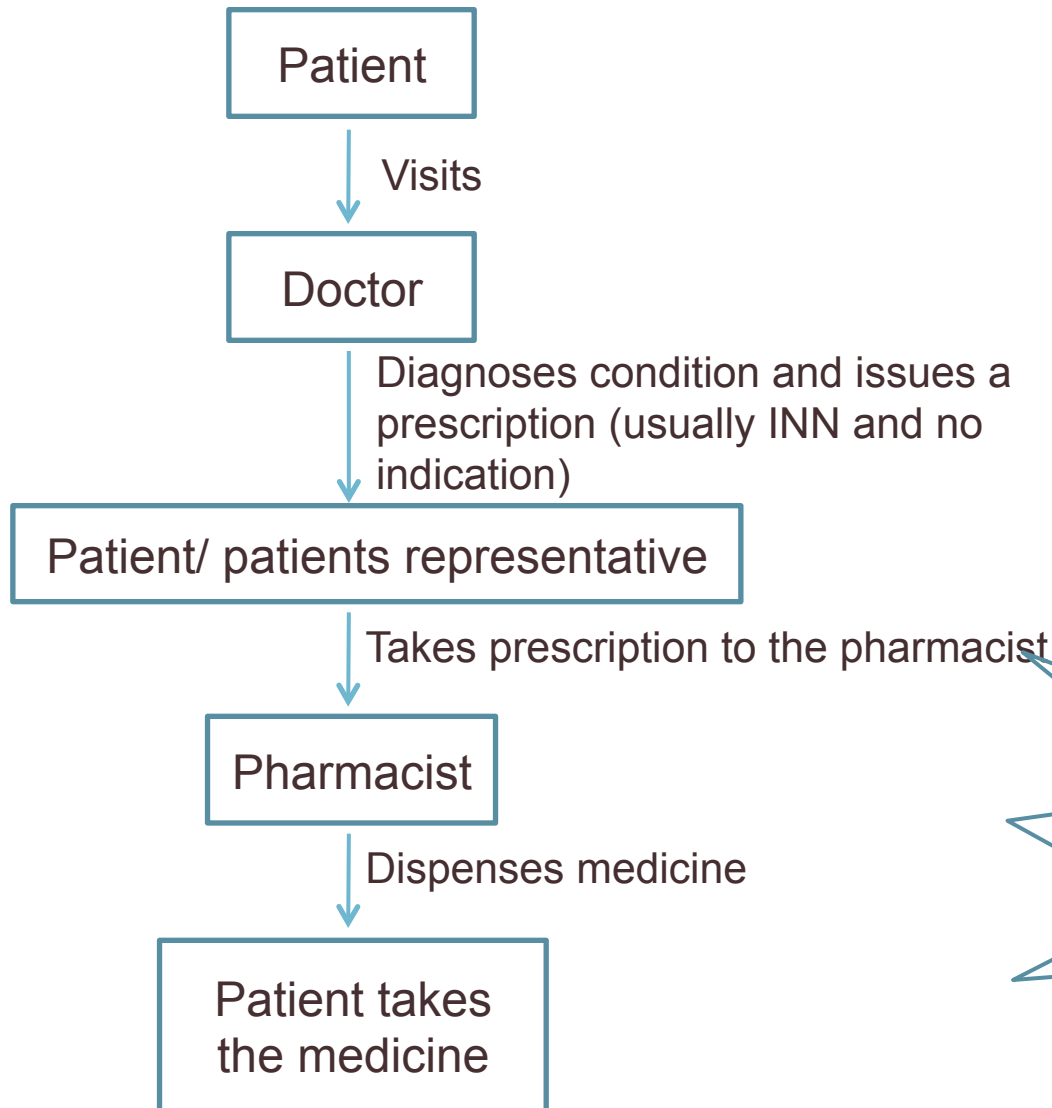
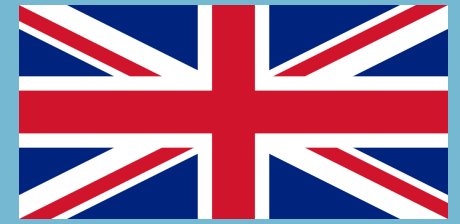


## Setting the Scene

- Most countries around the world including all the larger markets for medicines (US, JP, EU...) allow patents to be granted for novel and inventive second medical uses
- Most countries also allow generics to carve-out patented indications from their label. In an ideal world this would allow them to compete for sales for the non-patented indication.

BUT...

# The Prescribing and Dispensing of Medicines in the UK



**Pharmacist does not know the indication for which the medicine is being dispensed**

**Pharmacist is incentivised financially to dispense generic medicines where available**

## (Some of) The Issues

- How should second medical use patents be construed?
- Who is potentially liable for infringement?
- What is the appropriate relief?
- Can patent law alone provide the solution?
- Upon whom should any onus fall to ensure that a skinny-label medicine is not dispensed for a patented indication?

Thank you for your attention

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