



1.12 Patent protection costs

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CA

Background

Velazquez Pharma has a registered patent on a currently marketed drug. Uccello Medicines Ltd copies the drug's active ingredient and sells the drug during the patent protection period. Velazquez goes to trial and is likely to win the case, but it has to pay costs for its attorneys and other legal charges.

Relevant guidance

Subsequent expenditure on an intangible can only be capitalised if it enhances the expected future economic benefits of the intangible. [IAS 38 para 20].

Should legal costs relating to the defence of pharmaceutical patents be capitalised?

Solution

Velazquez should not capitalise patent defence costs, because they maintain rather than increase the expected future economic benefits from an intangible asset. Such costs should not be recognised in the carrying amount of an asset under paragraph 20 of IAS 38. Patent defence costs should be expensed as incurred.

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