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# Claim interpretation – Europe/UK

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# Scope of protection - EP

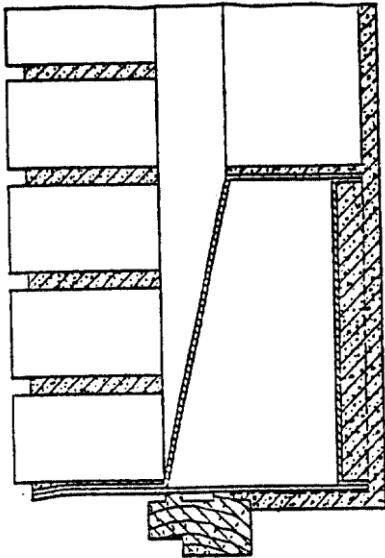
- Scope of protection of patent is based on claims
- Description and drawings may be used to interpret claims
- the claims must neither be interpreted in a strict literal sense, nor be used as a mere guideline to the scope of protection as derived from the specification as a whole
  
- Left to courts of contracting states how to interpret claims

# Interpretation of claims - UK

- Up until recently no doctrine of equivalence in UK
- UK adopted purposive approach
  - Interpretation of the claims from the perspective of the person skilled in the art to whom the specification was addressed

# Interpretation of claims - UK

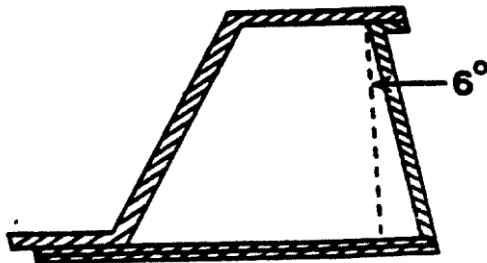
Fig. 1



Claim called for

A lintel [...] with a rear member that extends vertically [...]

Fig 2



# Interpretation of claims - UK

- Eli Lilly v Actavis UK Supreme Court decision brought in doctrine of equivalence
- Claims related to the use of **pemetrexed disodium** in the manufacture of a medicament for use in combination therapy for inhibiting tumor growth in mammals wherein said medicament is to be administered in combination with **vitamin B12** or a pharmaceutical derivative thereof
- Actavis product was pemetrexed free form and other salts (but not disodium salt)

# Interpretation of claims - UK

- Scope of protection now extends beyond the language of the claims to include immaterial variants
  - Is the infringing feature essential to the inventive concept
- Prosecution history can now be taken into account in certain circumstances

Thank you!