

Becton Dickinson Receives Successful *Inter Partes* Review Decision

OCTOBER 8, 2014

On September 25, 2014, WilmerHale client, Becton, Dickinson and Company (BD), earned a significant victory in an *Inter Partes* Review (IPR) before the US Patent Office's Patent Trial and Appeal Board (the Board) in the form of a Final Written Decision declaring unpatentable all challenged claims of US Pat. No. 5,704,914 (the '914 patent). The Decision came as the result of a suit filed against BD by One StockDuo in December 2012, which alleged that two families of BD catheters—Nexiva™ and Insyte™ Autoguard™ BC—infringed the '914 Patent.

This successful IPR was filed by WilmerHale on behalf of BD on April 4, 2013, which marked the first time that BD had used an IPR as part of a litigation strategy. The team then requested a stay of the litigation the very next day, which the judge denied. On October 1, 2013, the Board entered a Decision on Institution determining that there was a reasonable likelihood that the challenged claims were invalid. The district court judge granted a renewed motion to stay the district court case.

After oral arguments on July 7, 2014, the Final Written Decision was entered by the Board on September 25, 2014. The district court is now in the process of determining the future of the district court action.

The WilmerHale team representing BD on this matter includes Partners [William McElwain](#) and [David Cavanaugh](#), Special Counsel [Heath Brooks](#), Senior Associate [Heather Petruzzi](#), Associate Rob Arcamona and former Counsel Stuart Allen.