

Braintree Labs Defeats Novel Labs in Ongoing Patent Infringement Case

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On June 2, 2015, WilmerHale obtained a significant victory for Braintree Laboratories, Inc. (Braintree) in a patent infringement matter at the US District Court for the District of New Jersey. Following a three-day bench trial in February 2015, US District Judge Peter G. Sheridan found that Braintree proved by a preponderance of the evidence that the proposed generic product of defendant Novel Laboratories, Inc. (Novel) would infringe the five asserted claims of Braintree's US Patent No. 6,946,149 (the '149 patent) if marketed and sold.

Braintree, a privately-owned pharmaceutical company, sued Novel for patent infringement in March 2011 after it received a Paragraph IV letter from Novel regarding Novel's Abbreviated New Drug Application (ANDA) to the US Food and Drug Administration. Novel's ANDA sought approval to make and sell a generic version of Braintree's SUPREP Bowel Prep Kit product, a colonoscopy preparation product covered by the '149 patent, before the expiration of the '149 patent.

Following a six-day bench trial in February 2013, Judge Peter Sheridan found that Novel had not proven by clear and convincing evidence that the asserted claims of the '149 patent, are invalid for obviousness, anticipation or indefiniteness. The court had earlier entered summary judgment for Braintree on its infringement claim and dismissed Novel's counterclaims.

Novel appealed that finding and certain underlying claim constructions to the US Court of Appeals for the Federal Circuit. The Federal Circuit reversed two of the claim constructions, vacated the infringement finding, and remanded the case to the district court for further factual findings on the issue of infringement, in light of the revised claim constructions. The trial on remand was held in February, with the court issuing its Opinion on June 2, 2015, finding for Braintree that Novel would infringe five claims of the '149 patent.

The WilmerHale team on this matter included Partners [Jack Regan](#), [Colleen Superko](#), [Chris Noyes](#), and [Mark Fleming](#); Counsel [Anna Lumelsky](#); Senior Associate Jennifer Brown; and Associate [Michael Greene](#).