

---

## Gen-Probe Walks Away with Patent Victory

2005-09-30

WilmerHale won a significant case for client Gen-Probe Incorporated when the US Court of Appeals for the Federal Circuit affirmed that a patent owned by plaintiff-appellant, Enzo Biochem, Inc., was invalid under the on-sale bar.

The patent at issue claimed compositions and methods related to DNA assays, specific to the detection of gonorrhea. The Court held that a contract between Enzo and another company—under which Enzo was obligated to provide that company with a percentage of its requirements for gonorrhea-specific DNA assays—constituted a “commercial offer for sale” under the relevant statute, and that Enzo’s DNA assay was “ready for patenting” more than one year before it filed its patent application.

William Lee argued the appeal and was assisted on the brief by William McElwain, Henry Wixon, Nina Tallon and Gregory Lantier.

To learn more about Gen-Probe, click [here](#).