

Katten's IP Litigation Team Prevails at Trial, Securing Patent Win for Mylan Pharmaceuticals

March 15, 2024

On March 7, following their successful appeal of the case in November 2023 and obtaining a favorable claim construction decision from the district court on remand, Katten's Intellectual Property Litigation team secured a trial win regarding its client's generic alternative to Veletri, a pulmonary arterial hypertension drug.

On February 20, the district court held a trial to determine whether the pH levels of the bulk solution used to form Mylan Pharmaceutical's (Mylan) generic drug were covered by the asserted claims of two separate patents. In a 65-page decision issued less than two weeks after the conclusion of trial, the district court ruled in Mylan's favor on all counts, holding that not only was Mylan correct in the plain and ordinary meaning of the claims (namely, that pH must be measured at standard temperature), but also that Actelion failed to meet its evidentiary burden of proving infringement as well as its burden to prove equivalence. Furthermore, the court found that Actelion's "urged pH measurement" would have rendered the patent claims indefinite and therefore, invalid.

The Katten team included Intellectual Property Partners Deepro R. Mukerjee, global chair of the Intellectual Property practice, Lance Soderstrom, national co-chair of Patent Litigation, and Jitty Malik, along with Counsel Christopher West and Associate Jillian Schurr. The trial win concludes a lengthy procedural posture that has been widely followed by major media outlets throughout the country.

["Viatris generic hypertension drug does not violate J&J patents, US court says," Reuters, March 15, 2024](#)

Also see:

[Precedent-Setting Patent Win in Federal Circuit Creates Media Buzz From Bloomberg Law, Reuters, and More](#)

["Actelion Veletri Patent Win Wiped Out by Federal Appeals Court,"](#) *Bloomberg Law, November 6, 2023

["Viatris US court win reopens path to generic of J&J hypertension drug,"](#) Reuters, November 6, 2023

["Fed. Circ. Gives Viatris 2nd Shot In Actelion Patent Fight,"](#) *Law360, November 6, 2023

["CAFC Orders Review of Extrinsic Evidence to Determine Proper Limit of Claimed pH Range,"](#) IPWatchdog, November 6, 2023

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