

### Another Precedent-Setting Remand from the Federal Circuit Garners Media Attention

April 2, 2024

On April 1, Katten's Intellectual Property Litigation team drew substantial media coverage for securing a precedent-setting appeal on behalf of Mylan Laboratories Ltd. (Mylan), subsidiary of Viatris, in the patent infringement case involving the companies' generic drug paliperidone palmitate for adult schizophrenia.

In 2018 and 2019, respectively, Johnson & Johnson (J&J) sued Teva and Mylan for patent infringement over the companies' proposed generic versions of the drug. In 2021, a federal district court determined that the J&J patent covering a dosing regimen for its brand-name drug was not invalid. Teva and Mylan appealed. As reported by *Reuters*, the Federal Circuit panel threw out that decision and determined that the only remaining patent covering J&J's drug may indeed be invalid, sending the case back to a New Jersey federal court for reconsideration.

In the precedential opinion issued on Monday, Judge Sharon Prost of the Federal Circuit wrote that the federal district court's obviousness analysis was legally flawed and that it had misunderstood J&J's patent to include a narrow limitation that the claimed drug-dosing regimens were suitable for a general population rather than an individual patient, thus setting the bar too high for Teva/Mylan's burden of proof. "Given the scope of the claims here, it was important for the court to recognize the distinction and focus its findings on single patient administration," the opinion explained. "The district court did not do so."

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 Appeals and Critical Motions Partner Eric Werlinger and Intellectual Property Associate Jillian Schurr.

["J&J's Schizophrenia Drug Patent Win Wiped Out by Fed. Circuit,"](#) \**Bloomberg Law*, April 1, 2024

["Fed. Circ. Revives Challenges To J&J Schizophrenia Drug,"](#) \**Law360*, April 1, 2024

["3 Takeaways From Revived Obviousness Case On J&J Patent,"](#) \*Law360, April 17, 2024

["Teva, Viatris win new chance to challenge J&J schizophrenia drug patent,"](#) Reuters, April 1, 2024

["District court erred in finding Teva Pharmaceuticals had not proven invalidity of Janssen Pharmaceuticals patent related to injectable schizophrenia drug,"](#) Wolters Kluwer, April 1, 2024

["Teva and Viatris Granted Opportunity to Contest J&J's Patent for Schizophrenia Drug,"](#) Analyzing Market, April 2, 2024

["Obviousness and Pharmaceutical Method of Treatment Claims,"](#) Patently-O, April 1, 2024

["CAFC Sends Janssen Schizophrenia Treatment Claims Back to District Court for New Obviousness Analysis,"](#) IPWatchdog, April 1, 2024

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