

Hasty Provisional Costs Millions in Lost Revenue: Lessons from *Enanta v. Pfizer*

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In patent preparation practice, a common temptation for some is to cut corners on early filings by providing too low a provisional budget or insufficient time between disclosure and making a filing. Clients frequently push for a quick, low-cost "provisional" patent application to secure an early filing date before a conference presentation, publication or funding round. However, a recent Federal Circuit decision in *Enanta Pharmaceuticals, Inc. v. Pfizer, Inc.*¹ serves as a multimillion-dollar warning: treating provisional applications as mere "quick-and-dirty" placeholders can destroy an otherwise valuable patent portfolio.

The dispute centered on Enanta's U.S. Patent No. 11,358,953, which claimed antiviral compounds directed at inhibiting coronavirus replication. When Enanta sued Pfizer for infringing on these claims — specifically targeting Pfizer's COVID-19 treatment, Paxlovid — Pfizer countered that Enanta's patent was invalid due to intervening prior art.

To defeat Pfizer's prior art defense, Enanta needed to anchor its patent priority date to a provisional patent application filed on July 20, 2020. However, the application contained a critical flaw. The provisional patent application defined a specific chemical substituent range as containing a two-to-12 carbon structure (C2–C12). In contrast, the subsequent nonprovisional patent application and its granted claims broadened that range to a one-to-12 carbon structure (C1–C12), successfully capturing the exact chemical structure used in Pfizer's commercial product.

Between the provisional filing and the nonprovisional filing, Pfizer publicly disclosed the C1-substituent compound it was using in its product. Because the provisional application only disclosed a C2 lower limit, the court ruled that it failed to provide adequate written description support for the C1 structure claimed later.

Enanta argued that the "C2" notation in the provisional was an obvious typographical error that should have naturally read "C1". The Federal Circuit flatly rejected this argument, affirming summary judgment of patent invalidity. The court emphasized that a patentee cannot claim priority for subject matter it never actually described. In a striking analogy, the court noted that the difference between a C1 compound, such as a toxic methanol, and a C2 compound, such as a consumable ethanol, proves that adjacent chemical integers cannot be glossed over casually; a disclosure of one does not inherently encompass the other. Because the provisional application lacked support for C1, the Enanta patent lost its priority date, and Pfizer's intervening disclosure invalidated the patent claims.

The *Enanta v. Pfizer* decision illustrates the immense risk of treating provisional applications with casual indifference. While "coversheet provisionals" still have a narrow, tactical place in limited circumstances — such as preventing an immediate, imminent public disclosure from ruining novelty — innovators need to devote the time, attention and proper financial resources to ensure their most

important technologies are well protected from the outset. Provisionals should never be drafted on a low-cost, hasty basis if broad, foundational protection is expected.

For corporate decision-makers and startup founders, saving a few thousand dollars upfront by demanding a rushed or low-cost provisional can ultimately invalidate an entire asset class. Clients need to understand that a provisional patent application requires the same rigorous drafting, care and strategic foresight as a regular nonprovisional application.

This case also underscores a broader workflow lesson: While artificial intelligence (AI) was not cited as a factor in drafting the documents at issue in *Enanta*, modern patent preparation practice increasingly relies on AI-generated drafts. Some companies reportedly seek patent applications handled on a “low-cost” basis by eliminating most or all human supervision, while others have reportedly insisted that AI can handle the task for a lower price point than before. In both cases, they may fail to appreciate that the judgment of a human patent practitioner produces quality work product that stands a much greater chance of protecting what could be one of their most valuable assets. Whether a draft is produced by a human practitioner or with the assistance of an AI tool, the ultimate safeguard remains experienced human review and rigorous professional judgment by a patent practitioner.

Moving forward, patent owners and practitioners alike may be adjusting their budgets and expectations, but everyone should consider the risks of a process so low cost that it involves minimal human judgement. Careful proofreading and thorough technical review of provisional filings are not just best practices — they are essential prerequisites to safeguarding valuable commercial exclusivity.

¹ *Enanta Pharmaceuticals, Inc. v. Pfizer Inc.*, No. 2025-1427 (Fed. Cir. June 23, 2026).