Phil Woo in Law360 on Patent Law Changes in 2017

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Law360 quoted Haynes Boone Partner Phil Woo in a report on major rulings by the U.S. Supreme Court and the U.S. Court of Appeals for the Federal Circuit that reshaped patent law in 2017. The courts made key alterations to venue rules, patent exhaustion and *inter partes* reviews under the America Invents Act, *Law360* reported.

Among the cases reviewed was *Helsinn Healthcare SA v. Teva Pharmaceuticals USA Inc*.

Law360 reported that, in this May decision, the Federal Circuit ruled that the on-sale bar rule can render patents invalid even if the invention is not publicly disclosed by a sale, a holding that could put many patents at risk.

The decision interpreted changes made in the AIA in 2011 to the on-sale bar, which holds that sales of an invention more than a year prior to the patent filing are prior art that can be used to invalidate a patent. The court said that if a sale is public, it triggers the bar, even if the details of the invention are kept secret.

If a company made public sales, such as arrangements with manufacturers, but did not disclose information about the invention in an effort not to run afoul of the on-sale bar, "that could come back to haunt you," said Woo of Haynes Boone.

"There could be a whole swath of patents that could get knocked out on on-sale bar grounds," he said. ...

Excerpted from *Law360*. To read the full article, click here.