

Haynes and Boone Wins Final ITC Determination Against Patent Infringer for Client PTS Diagnostics

April 17, 2020 Robert Ziemian, Charles Jones, Richard Rochford, Tiffany Cooke

PRACTICES Patents, Litigation, Intellectual Property Litigation

The U.S. International Trade Commission (ITC) issued a Final Determination on April 16, 2020, finding that ACON Laboratories, Inc. and ACON Biotech (Hangzhou) Co. infringed two of PTS Diagnostics' key patents.

The PTS Diagnostics patents asserted in the Investigation cover PTS Diagnostics' CardioChek family of lipid analyzers and PTS Panels test strips, which are made in the U.S. and have been used to screen more than 140 million patients worldwide.

The ITC is a U.S. federal agency charged by Congress to investigate unfair trade practices that impact U.S. domestic industries. The ITC's Final Determination concluded that ACON Laboratories, Inc. and ACON Biotech (Hangzhou) Co.'s importation of (ACON) 3-1 Lipid Panels violated Section 337 of the Tariff Act because the devices infringe PTS Diagnostic's U.S. Patent Nos. 7,087,397 and 7,625,721. The ITC determined that a limited exclusion order prohibiting ACON from importing the ACON's 3-1 Lipid Panels into the U.S. is proper.

The ITC found that ACON's 3-1 Lipid Panels infringe claim 19 of the '397 patent and claims 1, 4, 6, 8, and 15 of the '721 patent. Further, the ITC found that the two patents are valid, rejecting all of ACON's arguments to the contrary. The ITC concluded that ACON's importation into the U.S., sale for importation, or sale in the U.S of the ACON 3-1 Lipid Panel's violated section 337 of the Tariff Act.

The final determination followed extensive briefing and an earlier ruling by an ITC administrative law judge, who likewise concluded that ACON Laboratories, Inc. and ACON Biotech (Hangzhou) Co. infringed PTS Diagnostics' patents.

Haynes Boone partners Ken Parker and [Robert Ziemian](#) led the trial team that obtained the victory for PTS Diagnostics. The team also included Haynes Boone Partners [Charlie Jones](#) and [Rich Rochford](#), Counsel Aaron Taggart; and Associates [Tiffany Cooke](#) and Eva Zhao, as well as Jim Altman and Kandis Gibson of Foster, Murphy, Altman & Nickel, PC.

"Today's determination is the culmination of a long, hard-fought battle," said Parker, a partner in the firm's IP Litigation Practice. "The ITC properly recognized the damage done to PTS' valuable patents, and I could not be more thrilled for our client."

Law360 reported on the determination. To read the article, click [here](#).

Haynes Boone is an international corporate law firm with offices in Texas, New York, California, Charlotte, Chicago, Denver, Washington, D.C., London, Mexico City and Shanghai, providing a full spectrum of legal services in energy, technology, financial services and private equity. With more than 575 lawyers, Haynes Boone is ranked among the largest U.S.-based firms by *The National Law Journal*, *The American Lawyer* and *The Lawyer*.

Haynes Boone is listed among the nation's leaders in ITC Section 337 investigations, according to the 2020 ITC Intelligence Report from Patexia Inc., an intellectual property analytics company. The report states that Haynes Boone is among the Top 20 Most Active firms representing complainants.