Sivinski in IP Watchdog: Vanda v. West-Ward: This Time, Dosage Adjustment Claims are Patent Eligible Subject Matter

May 16, 2018 Stephanie Sivinski

PRACTICES Patent Litigation, Patents, Intellectual Property

The Federal Circuit's decision in *Vanda Pharmaceuticals Inc. v. West-Ward Pharmaceuticals*, No. 2016-2707, addresses the complicated topic of patent eligibility in the pharmaceutical space. The case confirms that amending an Abbreviated New Drug Application (ANDA) to address a patent issued after the original ANDA's filing can infringe the later-issued patent. The decision also upheld the district court's decision finding Vanda's personalized medical treatment claims patent eligible under § 101.

Much of the decision compares Vanda's claims to those found ineligible for patent protection in the U.S. Supreme Court's decision in *Mayo Collaborative Services v. Prometheus Laboratories*, 132 S. Ct. 1289 (2012). While the ultimate patentability conclusions are opposite, the claims in *Vanda* and *Mayo* are very similar, highlighting the thin—and often unpredictable—line that divides eligible and ineligible subject matter. Generic drug manufacturers must account for this unpredictability in gauging their litigation risks. …

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