

## Winston & Strawn Achieves Victory on Behalf of Teva Pharmaceuticals

FEBRUARY 12, 2013

Winston & Strawn achieved a win for firm client Teva Pharmaceuticals (“Teva”) against Bristol Myer’s Squibb (“BMS”). After a four-day trial, the court held that BMS’s patent on a new chemical compound was invalid as obvious.

The case arose when Teva filed an FDA application seeking to sell a generic version of BMS’s Hepatitis-B drug, Baraclude®, which generates approximately \$1.2 billion annually in global sales and approximately \$240 million annually in the U.S. In an attempt to stop Teva, BMS sued for infringement of its patent covering a chemical compound called “entecavir,” which is the drug’s active ingredient.

On behalf of Teva, Winston & Strawn argued that the patented “new” compound was not an “invention” at all, and instead was just an obvious variation of an old compound. The case went to trial before the U.S. District Court for the District of Delaware in October 2012.

On February 12, 2013, the court ruled in favor of Teva, invalidating as “obvious” the patent on a “new” chemical compound. The Delaware judge issued a 170-page opinion agreeing with Winston & Strawn’s analysis at every turn. The court relied heavily on a crushing cross-examination of BMS’s expert by Winston & Strawn partner [George Lombardi](#), noting that “the powerful admissions” Mr. Lombardi extracted “severely undercut BMS’s arguments,” and that “as to almost every significant portion” of our obviousness defense, “Teva’s position was not only bolstered by the opinion of its expert, Dr. Heathcock, but also by the testimony of BMS’s expert.” The court concluded that Teva’s evidence “was multi-faceted and compelling,” and that “[t]he force of this evidence was clear, and it was convincing.”

The trial team was headed by partner George Lombardi, and supported by Chicago partners Ivan Poullaos and Julia Mano Johnson, as well as associate J.R. McNair.

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J.R. McNair