

Saiber Wins Trial, Helps Secure Judgment of Non-infringement for Generic Pharmaceutical Company

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Saiber LLC, in conjunction with its Chicago patent co-counsel at Rakoczy Molino Mazzochi Siwik LLP, recently secured a judgment of non-infringement in favor of its client Apotex in a patent infringement suit instituted by plaintiff Schering Corporation (now Merck), following a two-week bench trial before United States District Judge Peter G. Sheridan in the District of New Jersey. Apotex is one of the world's foremost generic pharmaceutical companies.

In its lawsuit, Schering had alleged that Apotex's generic mometasone furoate nasal spray product infringed Schering's patent, and sought to prevent Apotex's marketing of a generic equivalent to Schering's Nasonex® branded mometasone furoate product. Following the trial, which included testimony from numerous live witnesses, and extensive post-trial briefing and arguments, Judge Sheridan issued a detailed 46-page opinion which concluded that Apotex's product does not infringe Schering's patent. Specifically, Judge Sheridan accepted Apotex's arguments that "Schering failed to present credible evidence sufficient to meet its burden of proof by a preponderance of the evidence standard."

In light of the prominence of decisions in the District of New Jersey in patent pharmaceutical matters, Judge Sheridan's decision could have a long-range impact on other cases in the field.

Arnold B. Calmann, Jeffrey Soos and Jakob B. Halpern were part of Saiber's successful trial team.