

Federal Circuit Affirms Axinn's Trial Victory for Alvogen

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Intellectual Property

In Axinn's latest victory for its client Alvogen, the United States Court of Appeals for the Federal Circuit affirmed a district court decision invalidating patents asserted against Alvogen under the Hatch-Waxman Act. After a bench trial in 2018, the United States District Court for the District of Delaware granted judgment to Alvogen Malta Operations, Ltd. ("Alvogen") over patents related to Persion Pharmaceuticals LLC's ("Persion") hydrocodone extended-release capsules, Zohydro®. Persion sued Alvogen for patent infringement over two patents claiming methods of treating patients that have mild or moderate hepatic impairment with an extended-release hydrocodone dosage form.

Axinn was the lead trial counsel, and the district court ruled that the patent claims asserted by Persion were invalid as obvious under 35 U.S.C. § 103, and for failure to satisfy the written description requirement of 35 U.S.C. § 112(a). The decision removed Persion's patents as a barrier to Alvogen bringing its lower-cost generic product to market more than a decade before the patents were set to expire. Persion appealed and, on December 27, 2019, the Federal Circuit ruled in Alvogen's favor on obviousness without reaching the written description issue. The Axinn team included Matt Becker, Chad Landmon, Ted Mathias, and Thomas Hedemann.