

Axinn Successfully Obtains Dismissal for Zydus Pharmaceuticals

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October 13, 2015

Axinn successfully obtained the dismissal of an amended complaint brought against its client, Zydus, in ongoing patent litigation concerning generic versions of Abilify® (aripiprazole). Otsuka markets Abilify® and filed an amended complaint against Zydus adding infringement allegations related to U.S. Patent No. 8,759,350.

Axinn attorneys filed a motion to dismiss the allegations relating to the '350 patent, and the U.S. District Court for the District of New Jersey granted this motion on October 13. Specifically, the Court dismissed Otsuka's direct and contributory infringement claims with prejudice. The Court also dismissed Otsuka's induced infringement claim without prejudice, concluding that the amended complaint did not offer allegations directed at intentional or specific actions necessary to plead induced infringement. Otsuka may amend its induced infringement claim, but the Court cautioned Otsuka to consider "the litany of evidentiary deficiencies identified in the Court's TRO Opinion." Axinn previously succeeded in obtaining a denial of Otsuka's TRO motion on the '350 patent in April.

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