

Axinn's Client Awarded Attorneys' Fees in "Exceptional" PIV Case

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PRACTICE AREAS

Intellectual Property

In Axinn's latest victory for its client Alvogen, a Delaware federal district court granted in part Alvogen's motion for attorneys' fees. Alvogen's generic version of the medication Uceris® had been accused of infringing a patent owned by Cosmo Technologies Ltd. At trial, Alvogen prevailed on its motion for a judgment of noninfringement under Rule 52(c) made at the close of Plaintiffs' case-in-chief, which was "a truly rare occurrence (and nearly-unprecedented for the undersigned Judge)." The Federal Circuit summarily affirmed the district court's decision on January 14, 2019. On March 27, 2019, the district court found this case was "exceptional" under 35 U.S.C. § 285 and awarded Alvogen its attorneys' fees incurred after the pretrial conference. The district court based its decision on "the substantive weakness of Plaintiffs' claims of infringement" and Plaintiffs' "unreasonable" and prejudicial litigation conduct, including their "last-minute without-warning decision" to drop two other patents just two business days before trial. The Axinn team included Matt Becker and Jason Murata.