

ISSN 2044-7175

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Published monthly by Informa Law, Christchurch Court, 10-15 Newgate Street, London EC1A 7AZ

Print managed by Paragon Customer Communications

Stock images courtesy of www.shutterstock.com

This magazine is printed on paper from sustainable sources.

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WELCOME TO THE FEBRUARY ISSUE OF INTELLECTUAL PROPERTY MAGAZINE



Billed as one of the biggest US patent cases of 2019, the Supreme Court of the US (SCOTUS) delivered its verdict in *Helsinn Healthcare v Teva Pharmaceuticals* as this issue went to press.

In a unanimous opinion written by Justice Thomas, SCOTUS affirmed the US Court of Appeals for the Federal Circuit's decision, holding that "a commercial sale to a third party who is required to keep the invention confidential may place the invention 'on sale' under the AIA." Basically holding that Helsinn's decision to enter into a confidential licensing and distribution agreement with MGI Pharma for its anti-nausea drug Aloxi, kick-started the on-sale bar provision of the America Invents Act invalidating Helsinn's patents for the drug.

As Fried Frank says, "The court's decision highlights the intellectual property risks that companies must consider in entering into joint ventures and other types of marketing arrangements"; turn to p12 for more reaction and analysis.

Staying with the US, the growing popularity of the Middle District of Florida as a venue to litigate in is discussed on p48. It is a district I confess I have not taken much notice of before, with Delaware and the Eastern District of Texas tending to dominate the discussion when talking about patent venue hotspots. So why is it becoming more popular? Well I imagine the weather doesn't hurt!

Brinks Gilson & Lione's Alex Fernandez also says the court has established local rules that push parties to either settle or promptly reach trial. Most, if not all of the judges in the district strictly enforce the timelines set forth in the local rules.

Fernandez notes that, "As a result, despite one of the heaviest dockets in the country, the court has its judicial house in order. Just as importantly, the Middle District of Florida's judges and juries have proved thoughtful and respectful of intellectual property rights. This is best illustrated by the district's consistently high patentee favorability ratings."

This is just a smattering of some of our content. We have a focus section on luxury brands, with the conversation dominated unsurprisingly by countering counterfeits. We also have a spotlight section on Australia, whose IP legislation is being closely scrutinised and amended. Hope you enjoy the issue!

Maura O'Malley

Maura O'Malley, Editor

INTELLECTUAL PROPERTY MAGAZINE'S ADVISORY PANEL

Intellectual Property Magazine's advisory panel is made up of private practice and in-house lawyers around the world. Each panel member specialises in one or more areas of intellectual property, and has an important role in advising the editor on the content and direction of IPM. Membership is reviewed annually.

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