

News

BEN CLARK, LEIF OLSON AND GEORGE CHEN DISCUSS REVERSAL OF THE U.S. COURT OF APPEALS FOR FEDERAL CIRCUIT'S DECISION IN LAW360

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Senior Trial Counsel Ben Clark, Associate Leif Olson and Partner George Chen, of BCLP's Intellectual Property and Technology Disputes practice, were [published in Law360](#) discussing the Supreme Court's reversal of the U.S. Court of Appeals for the Federal Circuit's decision in *Hikma Pharmaceuticals USA Inc. et al. v. Amarin Pharma Inc.* on June 4.

The authors argue that the decision could well have implications beyond the pharmaceutical industry. Because the Court relied on broader patent and copyright precedents, the ruling may reshape inducement analogous claims across multiple areas of law by requiring plaintiffs to show active encouragement of wrongful conduct rather than relying on ambiguous statements or passive conduct. They note that the ruling could make it more difficult for plaintiffs to rely on routine marketing statements as evidence of inducement and may influence how courts evaluate similar claims in patent, copyright, and other areas of law.

"In short, the consequences of Hikma may prove anything but skinny," the authors write.

"Intellectual property practitioners and attorneys practicing in other areas of indirect liability should take note: The active steps framework the court announced has the potential for broad application well beyond the pharmacy shelf. What began as a dispute over a generic drug label may ultimately reshape how courts evaluate inducement claims across patent, copyright and other doctrines — a lesson that even a skinny label can carry wider consequences."

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