

“Partnering with clients to achieve winning results”

2009 was a banner year for Budd Lerner’s Intellectual Property Group.

Every case concluded in 2009 ended with either a favorable final judgment or a favorable settlement permitting our client to launch its product prior to expiration of the patents in suit.

Three cases were won with favorable judgments entered following the filing of motions for summary judgment. The appeal of one of the three favorable judgments was heard by the Federal Circuit, and that judgment was affirmed.

Intellectual Property Year-in-Review

December 2009

Andrew J. Miller, Esq.

AstraZeneca v Dr. Reddy’s Laboratories

In March 2009, Budd Lerner IP Group client **Dr. Reddy’s Laboratories** (DRL) obtained summary judgment in a hard fought ANDA dispute concerning Omeprazole Magnesium (Prilosec OTC) in the Southern District of New York. There, following a summary judgment procedure which included a written claim construction argument, DRL obtained summary judgment of non-

infringement. AstraZeneca v Dr. Reddy’s Laboratories, 2007 Civ. 6790 (Hon. Colleen McMahon). On December 11, 2009, the Federal Circuit heard the appeal from DRL’s summary judgment in this case. On December 15, 2009, the Federal Circuit summarily affirmed. AstraZeneca v Dr. Reddy’s Laboratories, 2009-1312 (Lourie, Linn and Moore, Circuit Judges). ■

Budd Lerner IP Group Celebrates the Conclusion of a Year of Extraordinary Results for Its Clients



Stat Medical Devices v. Gluco Perfect, LLC

In May 2009, we obtained a favorable judgment for our client, **Gluco Perfect**. In that case, venued in the Southern District of Florida, the IP Group

filed a summary judgment motion maintaining that our client did not infringe the patents in suit and/or that those patents were invalid. After requesting several adjournments,

the plaintiff ultimately dismissed its complaint with prejudice. Stat Medical Devices v. Gluco Perfect, LLC, 2007 Civ. 20720 (Hon. William M. Hoeverler). ■

Eli Lilly v. Dr. Reddy’s Laboratories

In September 2009, the IP group obtained a favorable judgment in a case involving Fluoxetine 90, filed in the District of

New Jersey. In that case, judgment was obtained eight months after the complaint was filed following an early motion

for summary judgment of non-infringement. Eli Lilly v. Dr. Reddy’s Laboratories, 2009 Civ. 192 (Hon. Garrett E. Brown). ■

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Budd Lerner Intellectual Property Practice Group

The attorneys in Budd Lerner's Intellectual Property Practice Group have broad experience and expertise in all key practice areas of intellectual property law relating to patents, trademarks, copyrights, trade secrets, false advertising, unfair competition and antitrust (patent misuse). The firm offers clients a full range of legal services in the intellectual property area including litigation; patentability, validity and infringement opinions; licenses and technology transfer agreements; intellectual property counseling; due diligence reviews and IP audits.

Our practice focuses on the pharmaceutical industry where we assist clients with product development, design around work, opinions, and when required, litigation. We recognize that the success of our clients' product portfolios turn on early market entry at a reasonable legal cost. For example, in the pharmaceutical area, we work with our clients' development teams to design non-infringing API processes and finished dosage formulations to avoid litigation and permit early market entry. When litigation is required, however, our team members are among the most experienced available, having represented many brand name and generic companies both prosecuting and defending cases involving small molecule and biotech products. Recently, our pharmaceutical practice has focused on representing generic pharmaceutical companies in Hatch-Waxman cases. The Group is currently litigating almost a dozen such cases ■

"As our year ends, we recognize our IP litigators who brought home these victories. We also salute our clients' design around teams, and our IP Group attorneys and technical advisors who work with clients designing around patents and developing the non-infringing products which lead to successful results."

Andrew J. Miller, Esq.

Andrew Miller is the head of the firm's Intellectual Property Group. Mr. Miller handles litigation and complex corporate business arrangements, most often in the pharmaceutical industry. He served as General Counsel for a generic pharmaceutical company and has a deep understanding of the legal issues in that industry. Mr. Miller also served as an



Assistant United States Attorney litigating disputes for federal agencies, including the FDA. He has litigated numerous Hatch-Waxman

(ANDA) cases as well as a variety of other matters in the pharmaceutical industry ranging from complex business torts to trademark, trade secret and contract actions. He also frequently represents pharmaceutical companies in corporate transactions ranging from supply agreements to complex licensing and joint venture arrangements. ■