

Wiley Rein Files *Amicus* Brief in *AstraZeneca AB v. Mylan Pharmaceuticals Inc.*

January 7, 2015

On January 5, 2015, Wiley Rein LLP, on behalf of The Generic Pharmaceutical Association (GPhA), submitted an *amicus* brief in support of Mylan's petition for interlocutory appeal in the District of Delaware, in *AstraZeneca AB v. Mylan Pharmaceuticals Inc.*

Mylan's interlocutory appeal stems from the first opinion to determine where personal jurisdiction may be exercised over an ANDA filer in light of *Daimler v. Bauman AG*, the recent Supreme Court case narrowing the exercise of general jurisdiction over defendants. The district court agreed that Mylan, incorporated in West Virginia, could not be haled into a Delaware court under *Daimler*, but asserted specific jurisdiction over Mylan primarily based on Mylan's mailing of the statutorily-required paragraph IV notice letter to plaintiff in Delaware. The district court agreed that the opinion satisfied the requirements for interlocutory review; Mylan is now awaiting the Federal Circuit's decision on whether to accept the appeal.

The district court's exercise of personal jurisdiction has far-reaching implications for the pharmaceutical industry and specifically, dozens of GPhA members, potentially permitting an ANDA filer to be sued in any state where a patentee or NDA holder designates an agent to receive notice of the applicant's FDA filing. GPhA supports Mylan's position that the district court improperly exercised personal jurisdiction over Mylan based on its statutorily-required activities.

The Wiley Rein team that prepared the brief is Patent Group chair James H. Wallace Jr., Intellectual Property Practice partners Eric H. Weisblatt and Mark A. Pacella, and associate A. Claire Frezza.

Practice Areas

Intellectual Property
Patent