

TOP INTELLECTUAL PROPERTY LAWYERS 2019

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SPECIALTY

Patent litigation

Carsten scored several big victories for his clients during the past year, including two in successive months.

In late January, Carsten led a team of Wilson Sonsini Goodrich & Rosati attorneys to secure a win in the U.S. Court of Appeals for the Federal Circuit for United Therapeutics Corp. and Supernus Pharmaceuticals Inc.

His clients sought to overturn a district court ruling that backed the U.S. Patent and Trade Office's regulatory reduction of a patent term adjustment for the oral pulmonary hypertension drug Orenitram. *Supernus Pharmaceuticals Inc. et al v. Iancu*, 2017-1357 (U.S. Fed. Cir., Jan. 23, 2019).

Though the district court found in the patent office's favor, Carsten convinced the Federal Circuit that the patent term adjustment went beyond the limitations allowed by statute, securing at least an additional one and a half years of patent term for the drug.

"It was the nerdiest victory in the wonk sense," Carsten said.

Just a month before that major brand-



side victory, Carsten and his Wilson Sonsini team won on behalf of generic medications in a much different appellate forum, the Patent Trial and Appeal Board.

Ruling in favor of Carsten's client Mylan Pharmaceuticals Inc., the PTAB invalidated patents held by Sanofi-Aven-

tis for a long-acting insulin glargine vial product, freeing up insulin formulations for treatment of diabetes that would have otherwise expired in 2023 at the earliest. *Mylan Pharmaceuticals Inc. v. Sanofi-Aventus Deutschland GmbH*, IPR2017-01526 (PTAB, Dec. 12, 2018).

"The record supports that an ordinarily skilled artisan would not have suspected insulin glargine to behave differently than other insulins, due to the differences in amino acids between them, when exposed to hydrophobic surfaces," the PTAB noted in its ruling.

The terminology and methodology at the center of most patent fights – particularly in the PTAB – require not just a winning legal argument, Carsten said, but an informed scientific one.

"They know the science in and out. You can't fake it. You can't stand up there as a litigator and think, 'I'm just going to charm them,'" Carsten said. "You need to have the nuts and bolts of the scientific concepts down, or it's going to be a major red flag for the panel."

— Steven Crighton