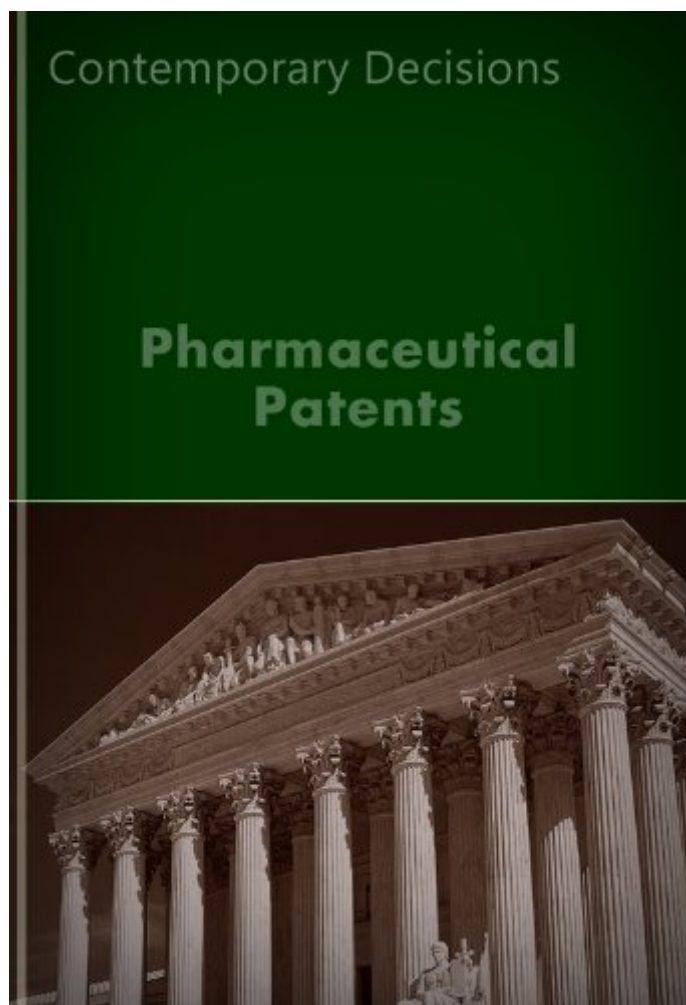


The book was found

Pharmaceutical Patents (Intellectual Property Law Series)



Synopsis

This casebook contains a selection of 143 Federal Court of Appeals decisions that address issues surrounding pharmaceutical patent disputes. The decisions span from 2005 to the date of publication. Most of the decisions were issued by the Federal Circuit and they are organized by year of issuance. For each year, the decisions are listed in the order of frequency of citation. The most cited opinions appear first.

• Newly discovered results of known processes directed to the same purpose are not patentable because such results are inherent. It matters not that those of ordinary skill heretofore may not have recognized the inherent characteristics of the prior art. *In re Montgomery*, 677 F. 3d 1375 (Fed. Cir. 2012)

• A district court will not lose jurisdiction simply because the period of possible first generic market entry arrives. While the initial burden of establishing the trial court's jurisdiction rests on the party invoking that jurisdiction, once that burden has been met courts are entitled to presume, absent further information, that jurisdiction continues. If a party to an appeal suggests that the controversy has, since the rendering of judgment below, become moot, that party bears the burden of coming forward with the subsequent events that have produced that alleged result. The "heavy burden of persuading" the court that a case is moot lies with the party asserting mootness. *Dey Pharma, LP v. Sunovion Pharmaceuticals Inc.*, 677 F. 3d 1158 (Fed. Cir. 2012)

• A district court has discretion to award reasonable attorney fees to a prevailing party in a patent case if the court determines that the case is "exceptional." 35 U.S.C. Â§ 285. *MarcTec, LLC v. Johnson & Johnson*, 664 F. 3d 907 (Fed. Cir. 2012) When deciding whether to award attorney fees under Â§ 285, a district court engages in a two-step inquiry. First, the court must determine whether the prevailing party has proved by clear and convincing evidence that the case is exceptional. If the district court finds that the case is exceptional, it must then determine whether an award of attorney fees is justified. *Ibid.* A case may be deemed exceptional under Â§ 285 where there has been willful infringement, fraud or inequitable conduct in procuring the patent, misconduct during litigation, vexatious or unjustified litigation, conduct that violates Federal Rule of Civil Procedure 11, or like infractions. *Ibid.* Absent litigation misconduct or misconduct in securing the patent, a district court can award attorney fees under Â§ 285 only if the litigation is both: (1) brought in subjective bad faith; and (2) objectively baseless. Under this standard, a patentee's case "must have no objective foundation, and the plaintiff must actually know this. Whether a case is objectively baseless requires an "objective assessment of the merits." *Ibid.*

Book Information

File Size: 4013 KB

Print Length: 3060 pages

Simultaneous Device Usage: Unlimited

Publisher: LandMark Publications (August 17, 2012)

Publication Date: August 17, 2012

Sold by: Digital Services LLC

Language: English

ASIN: B008ZFCTP6

Text-to-Speech: Enabled

X-Ray: Not Enabled

Word Wise: Enabled

Lending: Not Enabled

Enhanced Typesetting: Not Enabled

Best Sellers Rank: #520,744 Paid in Kindle Store (See Top 100 Paid in Kindle Store) #26

in Kindle Store > Kindle eBooks > Law > Family & Health Law > Health Law #29 in Kindle Store

> Kindle eBooks > Law > Intellectual Property > Patent, Trademark & Copyright #68 in Books >

Law > Intellectual Property > Patent, Trademark & Copyright > Patent

[Download to continue reading...](#)

Pharmaceutical Patents (Intellectual Property Law Series) Governance of Intellectual Property Rights in China and Europe (Elgar Intellectual Property and Global Development series) Intellectual Property: The Law of Trademarks, Copyrights, Patents, and Trade Secrets Intellectual Property in the New Technological Age 2017: Vol. I Perspectives, Trade Secrets and Patents Intellectual Property in the New Technological Age 2017: Volume I: Perspectives, Trade Secrets & Patents Real Estate: Passive Income: Real Estate Investing, Property Development, Flipping Houses (Commercial Real Estate, Property Management, Property Investment, ... Rental Property, How To Flip A House) The Law and Regulation of Franchising in the EU (Elgar Intellectual Property Law and Practice series) Emanuel Law Outlines for Intellectual Property (Emanuel Law Outlines Series) The Law and Practice of Trademark Transactions: A Global and Local Outlook (Elgar Intellectual Property Law and Practice series) Intellectual Property Law (Quickstudy: Law) Intellectual Property Law Answer Book (Practising Law Institute Library of Treatise Titles) (Re)structuring Copyright: A Comprehensive Path to International Copyright Reform (Elgar Monographs in Intellectual Property Law series) Celebrity Bar Exams - Con law Criminal law Evidence Contracts Wills Real Property: Law school books / Law school exams Intellectual Property and Competition Law: The Innovation Nexus Essentials of Intellectual Property: Law, Economics, and Strategy Early-Stage Technologies:

Valuation and Pricing (Intellectual Property-General, Law, Accounting & Finance, Management, Licensing, Special Topics) Intellectual Property (Quick Study: Law) Intellectual Property Law for Engineers and Scientists Emanuel Law Outlines: Intellectual Property Intellectual Property Law: Text, Cases, and Materials

[Contact Us](#)

[DMCA](#)

[Privacy](#)

[FAQ & Help](#)