

*Sanofi-Synthelabo Inc., and Bristol-Myers Squibb Sanofi Pharmaceuticals Holding Partnership, v. Apotex, Inc. and Apotex corp.*

Preliminary Injunction Decision.

In a lengthy and overdue opinion, a panel of the Federal Circuit has affirmed the trial court's grant of preliminary injunctive relief, going into an extensive discussion of the pharmaceutical and chemical patent law defenses raised by appellant. Of more general interest to the patent community,

- (a) the Supreme Court eBay decision concerning "irreparable harm" is not deemed necessary for discussion as the panel factually distinguishes eBay at p. 22 n.9;
- (b) the public policy factors argued by the generic drug industry were held to be outweighed by the innovation incentive of the patent system, pp. 23-24; and
- (c) the panel factually distinguished an unclean hands attack bottomed on the Supreme Court's Precision Instruments case, p. 26