

Daily Journal

APRIL 18, 2012

INTELLECTUAL PROPERTY 2012

TOP 75 INTELLECTUAL PROPERTY LITIGATORS



Wayne Barsky

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Century City

Barsky views the coming changes in the patent landscape — the result of the America Invents Act — as part of a process.

“Starting in the ‘90s, laws have been changing to harmonize our laws with the rest of the world and their patent systems,” he said.

“I think the most recent legislation is just another installment. It’s generating quite a bit of controversy, but it depends on whose ox is being gored.”

Meanwhile, Barsky is keeping busy dealing with high-stakes litigation, as well as serving as national co-chair of his firm’s 125-lawyer intellectual property practice group.

Among his significant cases, Barsky is lead counsel for Merck-Serono, Pfizer and EMD Serono in a patent infringement action

filed in July 2010, alleging that the manufacture and sale of a genetically engineered blockbuster drug for the treatment of multiple sclerosis infringes a patent held by Biogen. *Biogen IDEC v. EMD Serono Inc.*, 10-CV-02760 (D. N.J.)

At issue are products with more than \$3 billion in annual worldwide sales.

The case is expected to go to trial sometime next year.

Barsky also is lead counsel for the nonprofit Kennedy Institute in an action brought by Abbott Laboratories and Abbott Biotechnology, challenging certain Kennedy patents related to the treatment of rheumatoid arthritis.

The case is in its early stages, Barsky said, with billions of dollars of sales of the biological Humira at issue. *Abbott Laboratories v. Kennedy Institute*, 11-CV-2541 (D. N.Y.).

“There is an enormous amount at stake for the companies involved,” Barsky said of the two cases. “Both present cutting-edge issues for the industry.”

A self-proclaimed “science wonk,” Barsky considers the litigation “a fascinating area of science, in which living organisms are turned into factories for the production of critical human proteins.”

“The scientists involved are quite creative individuals,” he added.

— Pat Broderick