

MEDIA MENTION

Mary Sylvia Discusses Federal Circuit Ruling on Roche's Boniva Drug Patents

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Mary Sylvia, a partner in Wiley Rein's Intellectual Property Practice, was quoted in an April 15 article published in *BioWorld Today* about a split decision by the U.S. Court of Appeals for the Federal Circuit that invalidated two patents owned by Hoffmann-La Roche Inc. on the grounds of obviousness.

The Federal Circuit upheld the lower court decision that claims related to administering a larger, monthly dose of the osteoporosis drug ibandronate, commercially known as Boniva, were obvious, even though the monthly dose yielded better results than a daily dose. The majority wrote that although the monthly dose increased bone mass density levels more effectively than its daily counterpart, there had been a reasonable expectation of success with the monthly dose. The ruling is a win for several drug manufacturers seeking to offer generic versions of Boniva.

The majority essentially "strengthened the obvious-to-try standard that is applied at the time of invention and weakened the use of 'unexpected results,' which are often evident well after the time of the invention," Ms. Sylvia said. The decision "signals a potential change in the weight given secondary considerations of non-obviousness" and has implications on the life cycle of drug patenting, she added.

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