

Kelley Drye Successfully Defends Novartis in Pfizer Case

October 3, 2006

Kelley Drye obtained a significant win for Novartis Consumer Health and its employee, Walter Lehneis, in a case brought by Pfizer, Inc. Pfizer sought to prevent Novartis from hiring and employing defendant Lehneis, on the theory that he would inevitably disclose and misappropriate trade secrets of Pfizer Consumer Healthcare in his new position.

Defendant Lehneis had been Brand Manager for Pfizer's Zantac (an H2 antagonist used to combat heartburn) and assumed the position of Brand Manager for Novartis' RX to OTC switch of a different type of "heartburn" product, Prevacid, a proton pump inhibitor, when that product comes off patent several years in the future.

Kelley Drye defeated Pfizer's attempt to obtain a Temporary Restraining Order after a full briefing and oral argument. Pfizer then requested and obtained expedited discovery and pursued a Motion for a Preliminary Injunction. Judge Kenneth C. MacKenzie of New Jersey State Superior Court denied Pfizer's motion, citing plaintiff's failure to demonstrate any actual use or disclosure of its trade secrets or that defendant Lehneis was likely to disclose such, and further stating that the injunction must be denied because such relief cannot be based on speculation and conjecture, which was all that plaintiff presented.