

The National Law Journal Quotes Partner on Zydus Pharmaceuticals Case

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The National Law Journal reported on the October 27 filing of the declaratory judgment action, *Zydus Pharmaceuticals USA Inc. v. Eli Lilly and Co.* The complaint seeks a ruling that Zydus is free to market a generic version of Strattera, an attention deficit disorder drug.

In September 2007, Eli Lilly sued Actavis Elizabeth LLC, Zydus and seven other companies, alleging patent infringement. Zydus entered into a consent judgment with Eli Lilly in December 2007. In August of this year, the Court ruled that Eli Lilly's patent was invalid and Eli Lilly filed an appeal. In September, the Court issued an injunction barring the remaining defendants from marketing a generic version of Strattera, pending the appeal. The Court also denied Eli Lilly's motion to add Zydus as a named defendant. Zydus argues it is no longer a party to the Actavis case and is not subject to the injunction applying to the other seven defendants.

In the article, it was explained that it is common for generic companies to launch at risk during the pendency of an appeal if they've already received FDA approval.

Kelley Drye partner **Joseph A. Boyle** and associate **Vincent P. Rao II** are representing Zydus in this matter.