

MDMA - FINNEGAN CASE UPDATE

Title: Finnegan Case Update: Medicines Co. and the On-Sale Bar

In *Medicines Co. v. Hospira, Inc.*, 827 F.3d 1363 (Fed. Cir. 2016) (en banc), the U.S. Court of Appeals for the Federal Circuit clarified the standard for triggering the “on-sale” bar to patent validity. Under patent law, the offer for sale or sale of a product that embodies a patent more than one year prior to filing an application for the patent may bar patentability and has been coined the “on-sale bar.” In this case, The Medicines Company (the patentee) contracted with third-party Ben Venue Laboratories to manufacture Angiomax[®]—an anticoagulant—more than one year prior to filing a patent application for the drug. The Federal Circuit held that the manufacturing agreement was a contract for service—i.e., the manufacture of Angiomax[®]—not a sale of the drug itself, and thus did not trigger the on-sale bar. The decision provides guidance to the medical device industry on the time that companies can begin manufacturing products with respect to when they file for patents to protect the intellectual property in those products. Further discussion of the decision can be found on [Finnegan’s Federal Circuit IP Blog](#).