



US Appellate Court boosts ‘diagnose and treat’ claims

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Journal of Intellectual Property Law & Practice, jpy091, <https://doi.org/10.1093/jiplp/jpy091>

Abstract

Vanda Pharmaceuticals Inc v West-Ward Pharmaceuticals, US Court of Appeals for the Federal Circuit, 126 USPQ2d 1266 (2018), 13 April 2018

The US Court of Appeals for the Federal Circuit clarified that, at least in special circumstances, a ‘diagnose and treat’ claim is both patent-eligible and enforceable.

Patentability of medical diagnosis claims has been severely curtailed in the US by the 2012 US Supreme Court decision in *Mayo Collaborative Services v Prometheus Labs, Inc* 566 US 66 (2012) (Mayo). This is in contrast to the situation at the European Patent Office (see Brian Amos and Alan D Miller, ‘Differing Diagnoses for European and US Patents. *Nature Biotechnology*’ (2017) 35(4) *Nat Biotechnol*...

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