



## Benjamin F. Jackson

Associate

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Benjamin F. (“Ben”) Jackson is an associate in the Firm’s Litigation department. He has experience in complex commercial litigation with a focus on antitrust, intellectual property litigation, and white collar investigations. Mr. Jackson also maintains an active and varied pro bono practice. He currently serves as a member of the Banking Law Committee of the New York City Bar Association.

From 2015 to 2016, Mr. Jackson served as a law clerk to the Hon. Robert D. Sack of the United States Court of Appeals for the Second Circuit. From 2014 to 2015, he served as a law clerk to the Hon. Katherine B. Forrest of the United States District Court for the Southern District of New York. Before attending law school, he was a consultant in the financial services practice of a global strategy consulting firm.

### **Representative Matters**

#### ***Complex Commercial Litigation***

- Defense of a European bank in an industry-wide investigation and private class action asserting antitrust and related contract claims based on alleged collusion and manipulation of a benchmark rate for interest rate swaps and swaptions.
- Defense of a leading contact lens manufacturer in a nationwide antitrust class action involving allegations of anticompetitive pricing.
- Defend innovator pharmaceutical company against antitrust claims brought by biosimilar manufacturer and class action plaintiffs relating to pricing and contracting practices for the innovator’s blockbuster biologic drug.

#### ***Intellectual Property***

- Plaintiff-side representation of a university and a scientist in an arbitration proceeding concerning the inventorship of a breakthrough biotechnology.
- Representation of an innovator pharmaceutical company in connection with patent claims against the foreign manufacturer of a biosimilar version of the innovator’s blockbuster drug.

#### ***White Collar Defense and Investigations***

- Defense of an executive of a foreign division of a Fortune 500 company in a Foreign Corrupt Practices Act (FCPA) investigation conducted by the U.S. Department of Justice.
- Representation of a medical device manufacturer in a fraud and False Claims Act investigation conducted by the U.S. Department of Justice.

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- Representation of an individual real estate developer in a public integrity investigation conducted by the U.S. Department of Justice.
- Defense of a real estate development and management company in a securities fraud investigation conducted by the Manhattan District Attorney's Office.
- Representation of a commercial and residential real estate company in a campaign finance investigation conducted by a state commission.

## **Pro Bono**

- Served as co-lead trial counsel in federal jury trial of former Rikers Island inmate's excessive force claims against four individual correction officers.
- Plaintiff-side representation (in conjunction with the Legal Aid Society) of the New York City Council and several public housing tenants' organizations in a lawsuit that successfully prevented the New York City Housing Authority (NYCHA) from leasing land within eight NYCHA communities to allow for the construction of market-rate housing without following the procedures mandated by state law.

## **Education**

- Harvard Law School (J.D., *magna cum laude*, 2013)
  - Forum Chair, *Harvard Law Review*
  - Best Overall Team and Best Brief, Ames Moot Court Competition
- Washington University in St. Louis (A.B., *summa cum laude*, 2008)
  - Editor in Chief, *Washington University Political Review*
  - Arnold J. Lien Honorary Scholar

## **Admissions**

- U.S. District Court, Southern and Eastern Districts of New York
- New York

## **Professional Activities**

MEMBERSHIPS: New York City Bar Association (Banking Law Committee); American Bar Association

SPEAKING ENGAGEMENTS: "Cost-Effective and Time-Efficient Commercial Litigation in New York's Commercial Division," Bloomberg BNA Webinar (March 26, 2018)

## **Publications**

- Contributor to Biologics Blog and NY Commercial Division Blog
- Co-author, New York Commercial Division Practice Guide, Chapter VI: Discovery in the Commercial Division (available on Bloomberg Law)
- Co-author, "Fed. Circ. Case May Change Biosimilar IPR Strategy," *Law360* (April 2018)
- Co-author, "When Is A Working Capital Agreement A Loan? It Depends," *Law360* (June 1, 2017)
- Co-author, "Court Dismisses Claim Against Chinese Firm Due to Lack of Personal Jurisdiction," *New York Law Journal* (March 30, 2017)
- *Censorship and Freedom of Expression in the Age of Facebook*, 44 N.M. L. Rev. 121 (2014)

- Note, *Danger Lurking in the Shadows: Why Regulators Lack the Authority to Effectively Fight Contagion in the Shadow Banking System*, 127 Harv. L. Rev. 729 (2013)
- Recent Case, *U.S. Bank National Ass'n v. Ibanez*, 941 N.E.2d 40 (Mass. 2011), 125 Harv. L. Rev. 827 (2012)

## Publications

April 13, 2018

**Fed. Circ. Case May Change Biosimilar IPR Strategy**

June 2, 2017

**When Is A Working Capital Agreement A Loan? It Depends**

March 30, 2017

**Court Dismisses Claim Against Chinese Firm Due to Lack of Personal Jurisdiction**

## Biologics Blog

Biologics Blog is a source of insights, information and analysis related to biologics, including the legal developments, trends and changing regulation that impact the biotechnology industry. Patterson Belknap represents biotechnology, pharmaceutical and healthcare companies in a broad range of patent litigation matters, including patent infringement cases, PTO trial proceedings, patent licensing and other contractual disputes. Our team includes highly experienced trial attorneys with extensive technical knowledge, many of whom have advanced scientific degrees and industry experience in fields such as molecular biology, biochemistry, chemistry, statistics and nuclear engineering.

**Federal Circuit Dismisses Momenta IPR Appeal for Lack of Standing and Mootness After Momenta Abandons Orenzia® Biosimilar**

February 11, 2019

Last week, the Federal Circuit issued its long-awaited opinion in *Momenta Pharmaceuticals, Inc. v. Bristol-Myers Squibb Co.*, No. 2017-1694, slip op. (Fed. Cir. Feb. 7, 2019). While many had hoped the decision would provide clarity on whether a biosimilar maker who...

**Bill Requiring Disclosure of Biosimilar Settlement Agreements to the FTC and DOJ Becomes Law**

October 29, 2018

Earlier this month, the President signed into law the Patient Right to Know Drug Prices Act (Public Law 115-263). The Act mainly focuses on eliminating so-called “gag clauses” that prevent pharmacists from telling patients when paying for a drug out...

**New Arguments in *Momenta* On Standing to Appeal IPR Loss Before Filing a Biosimilar Application**

September 12, 2018

In *Momenta Pharmaceuticals, Inc. v. Bristol-Myers Squibb Co.*, No. 17-1694 (Fed. Cir. argued Dec. 5, 2017), BMS challenges Momenta’s standing to appeal a PTAB decision upholding the validity of BMS’s patent relating to a formulation of Orenzia® (abatacept) in an...

## **FDA Withdraws Draft Guidance on Evaluating Analytical Similarity Following Industry Criticism**

June 27, 2018

Analytical studies to demonstrate that a biosimilar is highly similar to its reference product are central to the biosimilar development and approval process. For this reason, there have been calls from industry for more guidance from FDA on its expectations...

## **Win or Go Home? Standing to Appeal PTAB Decisions Upholding Patentability to the Federal Circuit Before Submitting a Biosimilar Marketing Application**

April 6, 2018

Biosimilar developers have been aggressive in filing petitions for inter partes reviews (IPRs) of biologics patents before the Patent Trial and Appeal Board (PTAB), many of them preceding the filing of a marketing application. Such early IPRs are attractive to...

## **Republican Healthcare Bill Would Leave BPCIA Untouched**

March 9, 2017

In public debates over the Affordable Care Act (ACA), also known as Obamacare, biosimilars are rarely, if ever, mentioned. But the U.S. biosimilar statute, the Biologics Price Competition and Innovation Act (BPCIA), was in fact enacted as part of Obamacare...

## **Genentech's BPCIA Complaint Against Amgen Dismissed**

March 1, 2017

Today, Judge Gregory Sleet of the U.S. District Court of Delaware orally dismissed Genentech's lawsuit against Amgen alleging violations of the BPCIA. Judge Sleet did not issue a written opinion, but his order states that the case is dismissed without...