

Pharmaceuticals

With dozens of clients in the pharmaceutical and biopharmaceutical industries, Fross Zelnick has extensive expertise in all aspects of global clearance, filing, and enforcement strategies for drug brand names. There are more than a dozen successful drugs widely advertised and in use today whose brand names were cleared and protected by our firm.

Our extensive knowledge in the pharmaceutical sector enables us to develop sophisticated approaches to U.S. and global trademark clearance and registration and to respond quickly to the time-sensitive issues that frequently arise. We partner closely with our clients and branding agencies, using cost-effective and innovative strategies to enable our clients to simultaneously navigate market testing, regulatory approval and market authorization with the FDA, EMA, and other agencies.

We represent many leading pharmaceutical companies and have successfully cleared many brand name not only for drugs, but also for vaccines and medical devices. Because we know many of the in-house counsel at the major industry players, we are frequently able to obtain consents or negotiate co-existence agreements to clear potential roadblocks to the adoption of a proposed brand name.

Most importantly, we also understand the time constraints and high stakes associated with bringing a drug to market and securing regulatory approval. We know that choosing the wrong pharmaceutical brand name may have serious adverse consequences and that our clients cannot afford missteps. Our lawyers are skilled at identifying potential sound-alike and look-alike issues that are unique to pharmaceutical trademark clearance. We are also well-versed in Phonetic and Orthographic Computer Analysis (POCA) scores and understand the FDA's level of scrutiny and how to accommodate both the FDA and PTO approaches for evaluating which brand names can co-exist in the marketplace.

Strengths that Matter to our Clients:

- Our extensive knowledge of all aspects of trademark practice, both in the US and globally, enables us to overcome many of the challenges that could prevent our clients from securing the trademark registrations they need to go to market. Crucially, we also know when a particular proposed brand name is a lost cause and are not afraid to say so.

- Our combined knowledge of both trademark prosecution practice and the regulatory approval process enables us to give highly specialized advice to ensure our clients adopt a brand name that is both available for use legally and eligible for regulatory approval.
- We have an entire department of lawyers dedicated exclusively to international trademark practice. This enables our lawyers to work with foreign counsel in equal partnership, which in turn ensures that our clients are getting the sophisticated but practical advice they need.
- Our extensive knowledge of trademark law in both the US and internationally makes our firm uniquely well positioned to develop effective brand protection strategies globally and within our client's budgets.
- We evaluate sales data from the Pharmaceuticals In Use (PIU) database to provide practical trademark clearance advice in a field crowded with unused marks
- We develop innovative and cost-effective trademark filing strategies so our clients can maximize the time to prove use in the U.S. Our clients find this extremely beneficial given the lengthy and unpredictable time it can take to bring a drug to market.

Decisions

Asuragen, Inc. v. Accuragen, Inc.

McNeil-PPC, Inc. v. Walgreen Co.

Wyeth v. Fempro, Inc.

Inwood Laboratories v. Ives Laboratories

Representative Experience

- We were involved in the protection and clearance of the following brand name drugs and vaccines currently on the market: OPDIVO, ENTYVIO, ELIQUIS, ABILIFY, ORENCIA, MENVEO, YERVOY, BARACLUDE, REYATAZ, ADCETRIS, NINLARO, ERBITUX, SPRYCEL, BELVIQ, ATRIPLA
- In-house trademark counsel at many major industry players are Fross Zelnick alumni