

Bartlit Beck Wins Summary Judgment, Defeating \$10 Billion Antitrust Claims Against Bayer Corp.

Bayer Cipro Antitrust (2005)

In the country's most watched patent/antitrust case, Fred Bartlit, Peter Bensinger and Mike Valaik secured a complete dismissal of class action plaintiffs' \$10 billion antitrust case in the MDL action pending in the Eastern District of New York. Plaintiffs' claims related to Bayer's 1997 settlement of a generic drug maker's "Hatch-Waxman" challenge to the validity of Bayer's patent on the blockbuster antibiotic "Cipro." Antitrust plaintiffs alleged that it was an antitrust violation for Bayer to pay to settle the case even though the generic admitted infringement. Plaintiffs claimed that consumers were entitled to damages because but for the settlement, they would have paid less for Cipro. Judge Trager granted Bayer's motion for summary judgment finding that it is not an antitrust violation for the brand to pay to settle on terms within the exclusionary effect of the patent.

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