

# HERBERT SMITH FREEHILLS SECURES PATENT APPEAL VICTORY FOR GILEAD

15 November 2016 | London  
Deals and cases

---

Herbert Smith Freehills has won a high value patent dispute in the English Court of Appeal on behalf of US pharmaceutical company Gilead Sciences, Inc.

Gilead was sued for patent infringement in the UK by Idenix (now Merck) in 2014 in relation to Gilead's revolutionary hepatitis C treatment, sofosbuvir. Compared to previous treatments, sofosbuvir-based regimens offer a higher cure rate, fewer side effects and a greatly reduced duration of therapy.

Gilead counterclaimed for a declaration that the patent was invalid and applied for an early trial date. The application was successful and a three week trial was heard, less than seven months after proceedings were issued. Judgment was handed down by Arnold J on 1st December 2014, who found in Gilead's favour on substantially all of the pleaded grounds of invalidity. The judge noted in his judgment that "the parties and their representatives are to be congratulated on having brought such a complex patent case on for trial so swiftly and so efficiently".

Idenix appealed Arnold J's decision and the Court of Appeal heard the case over a 4 day hearing in July 2016. In its decision, handed down on 8 November, Patten, Kitchin and Floyd LJ did not overturn any of Arnold J's conclusions, holding that the patent was invalid on multiple grounds of invalidity.

The Herbert Smith Freehills team advising Gilead on the appeal was led by London Intellectual Property partner Sebastian Moore, assisted by senior associate Alex Freelove and associates Andrew Wells and Emily Bottle.

In addition, Herbert Smith Freehills is acting for Gilead in parallel proceedings in Australia, led by Melbourne Intellectual Property partner Shaun McVicar.

Gilead's Counsel were Justin Turner QC, Andrew Lykiardopoulos QC, Tom Moody-Stuart QC and William Duncan.

Jones Day represented Idenix. Their counsel were Andrew Waugh QC, Piers Acland QC and Stuart Baran.

### **About Herbert Smith Freehills**

Operating from over 26 offices across Asia Pacific, EMEA and North America, Herbert Smith Freehills is at the heart of the new global business landscape providing premium quality, full-service legal advice. We provide many of the world's most important organisations with access to market-leading dispute resolution, projects and transactional legal advice, combined with expertise in a number of global industry sectors, including energy, natural resources, infrastructure, technology and financial services. [www.herbertsmithfreehills.com](http://www.herbertsmithfreehills.com)

Follow us on Twitter @HSFPRESSOFFICE

## **MEDIA CONTACT**

For further information on this news article, please contact:

**CARL PHILIP BRANDGARD,  
COMMUNICATIONS MANAGER**

LONDON

Tel: +44 20 7466 3244

Email: [carlphilip.brandgard@hsf.com](mailto:carlphilip.brandgard@hsf.com)