

Motion To Dismiss Denied In ANDA Case Where Generic Drug Manufacturer Imposed Unreasonable Conditions On Accessing ANDA Filing Pre-Suit.

In *In re Cyclobenzaprine Hydrochloride Extended-Release Capsule Patent Litigation*, 2010 U.S. Dist. Lexis 23046 (D. Del. March 12, 2010), Judge Robinson denied a motion to dismiss for lack of subject matter jurisdiction. The defendant argued that the plaintiff lacked an adequate Rule 11 basis for alleging infringement. The plaintiff responded that it was effectively denied access to the defendant's ANDA filing because of unreasonable restrictions imposed by the defendant on accessing the filing. Judge Robinson extended the reasoning of the Federal Circuit's decision in *Hoffman La Roche v. Invamed Inc.*, 213 F.3d 1359 (Fed. Cir. 2000) and held that subject matter jurisdiction existed.