Supreme Court Dismisses Closely Watched Patent Case

On June 22, the U.S. Supreme Court issued a "non-decision" in *Laboratory Corporation of America Holdings v. Metabolite Laboratories*, a case closely watched by the patent bar. At issue in *Metabolite* was the patentability of a claim to detecting vitamin deficiencies -- specifically, whether the claim covered unpatentable "natural phenomena." A majority of the justices dismissed the case on the grounds that the Court had improvidently granted the writ of certiorari because the lower courts had not adequately addressed the issue.

Justice Stephen Breyer dissented, joined by Justice John Paul Stevens and Justice David Souter. In Justice Breyer's view, the importance of resolving the issue outweighed the benefits of waiting for another case in which the lower courts had more thoroughly addressed the issue. With respect to the merits, Justice Breyer found that the claim at issue, which involved testing blood for presence of a substance and making a correlation with the test result to determine whether a vitamin deficiency exists, covers unpatentable natural phenomena. Justice Breyer acknowledged, however, the difficulty of drawing the line between unpatentable natural phenomena on the one hand, and patentable processes on the other. The dissent strongly suggests that the claim at issue was too broad.

You may expect to see this issue remain a matter of controversy, returning to the Supreme Court's docket in the not-so-distant future. In the meantime, you may also expect to see lower courts struggle with what amounts to a line-drawing exercise between pure and applied science, or even more broadly, between science and technology. At stake is not only the viability of patents covering medical technologies, but virtually every other technological discipline -- not to mention business method patents.

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