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## **LITIGATION NOTE: Crowell & Moring Client Agilent Successfully Rebutts Preliminary Injunction Because Patent Likely Invalid**

**New York – October 4, 2019:** In October 2018, plaintiff Waters Corporation filed for a preliminary injunction against Crowell & Moring’s client, Agilent, for it to cease selling InstantPC™ reagent, which is used during the development of biopharmaceuticals or biologics. Oral arguments were held last December. On Friday, September 20, 2019, the District of Delaware denied Waters’ motion for a preliminary injunction.

The dispute surrounds mass spectrometry reagents used in the critical pathway for biologic drug development and FDA submissions. The plaintiff, Waters, sued Agilent on a patent that allegedly covers our client’s technology. Agilent contended, among other things, that the patent is invalid and that, as such, Waters is not entitled to any damages or injunctive relief. Waters subsequently filed a preliminary injunction motion seeking to stop the sale, distribution, and manufacture of the accused products. After briefing, the parties had oral argument on this preliminary injunction motion in December 2018. The District of Delaware issued a ruling that not only denies the preliminary injunction, but holding that Agilent raised serious validity defenses. In fact, the court noted in the opinion that “. . . Plaintiffs have not established a likelihood of success as to validity. . .” on two of the myriad invalidity defenses raised by Agilent. Given this finding, the court chose not to address the other validity challenges Agilent made when denying the motion for a preliminary injunction.

In addition, the court found that public interest weighed against an injunction because Agilent’s reagents are used “during the development of biopharmaceuticals or biologics,” which constitutes a “strong countervailing public interest in allowing [Agilent’s] products to remain available for drug development and regulatory approval. . .”

Crowell & Moring LLP represented Agilent as lead counsel in the matter. The team included partners [Anne Li](#) and [Jim Stronski](#); counsel [Chiemi Suzuki](#); associates [Robert Kornweiss](#), [Karla Arias](#), [Michelle Chipetine](#), and [Siri Rao](#). The team had additional support from local counsel [Travis Hunter](#), [Chad Shandler](#), and [Alexandra M. Ewing](#) of [Richards, Layton & Finger, PA](#).

The case is *Waters Corporation et al v. Agilent Technologies Inc.*, case number *1-18-cv-01450* in the U.S. District Court for the District of Delaware.

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