

Intellectual Property & Technology Update

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June 2011 No. 4

US Supreme Court Invalidates Vermont's Prescription Restraint Law

The US Supreme Court recently rendered its decision invalidating Vermont's prescription restraint law, which prevented the sale of information about individual doctor's prescribing records without the doctor's permission. IMS Health Inc., SDI Health LLC and Source Healthcare Analytics, three companies that sell this type of information, challenged the Vermont law. The Pharmaceutical Research and Manufacturers of America, the pharmaceutical industry's trade group, also joined the lawsuit, as the Vermont law prohibits pharmaceutical companies from using this information for sales and marketing purposes.

The opinion holds that the law imposes a restraint on information held in the hands of a private speaker, and that even if the information were regarded as governmental, it discriminates on the basis of speakers in a manner that requires "heightened scrutiny." At the close of his opinion, Justice Kennedy anticipates future legislation that may attempt to regulate targeted use of data: "The capacity of technology to find and publish personal information, including records required by the government, presents serious and unresolved issues with respect to personal privacy and the dignity it seeks to secure. In considering how to protect those interests, however, the State cannot engage in content-based discrimination to advance its own side of a debate."

Blank Rome prepared an amicus brief in this matter to ensure the critical impact on the biotechnology industry would be brought to the Court's attention. Blank Rome has an interest in assisting with the unique business challenges and opportunities facing its clients and their industries. Our team is equipped to provide full-service support to our clients, including the following:

- strong intellectual property protection and defense including technology transfer
- all corporate and transactional matters, large and small
- securities offerings, public and private
- complex lending transactions with the nation's leading players in lending, leasing and specialty finance
- identifying venture capital opportunities
- regulatory advice and compliance matters
- representation of clients in any necessary litigation
- legislative monitoring, advocacy and government relations

Our intellectual property team draws on a variety of practices and the members of the group have diverse backgrounds and one goal—we help our clients succeed.

For further information, or for help and questions regarding the application process, please contact your relationship attorney at Blank Rome.

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