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Choate Submits Amicus Brief to the US Supreme Court on behalf of Nobel Laureate Sir Gregory Paul Winter and Interested Scientists in Amgen v. Sanofi et al.

On February 10, 2023, Choate submitted an amicus brief to the U.S. Supreme Court on behalf of Sir Gregory Paul Winter and other interested scientists in support of Sanofi and Regeneron in Amgen v. Sanofi et al, No. 21-757. The case involves the law of enablement for patents and whether the Federal Circuit Court of Appeals correctly interpreted the law when it invalidated Amgen's patents directed to broad classes of antibody drugs called PCSK9 inhibitors.

Over a dozen amicus groups, including law professors, industry organizations, small biotechnology companies, large pharmaceutical companies, and the USPTO and Solicitor General, have submitted briefs in support of Sanofi and Regeneron, arguing that the high court should reject Amgen's attempt to change the enablement standard and uphold the Federal Circuit's decision to invalidate Amgen's patents.

Working with Dr. Winter, who received the Nobel Prize in Chemistry for his pioneering work on monoclonal antibodies, Choate wrote an amicus brief to provide the Supreme Court with information and scientific perspectives concerning (1) the unpredictability of antibody design and engineering, including methods of generating and testing antibodies for a particular function; (2) the lack of guidance provided by Amgen's patents, and indeed, the additional hurdles created by Amgen's claims to make and use the claimed class of antibodies; and (3) the devastating impact of overbroad, purely functional claims like Amgen's on antibody development and innovation for pharmaceutical drugs.

The case is set for oral argument on March 27, 2023.

Choate's amicus team was led by partner, Sophie Wang, and included Eric Marandett, Jillian Gately, Timothy J. Conklin, and Olivia L. Campbell.

This story was covered in the February 13, 2023 Law 360 article, "Feds, Nobel Prize Winner Back Sanofi At High Court IP Fight," by Dani Kass.

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