

## MVP: Steptoe & Johnson's John Molenda

By Dani Kass

*Law360 (November 15, 2019, 6:03 PM EST)* -- Steptoe & Johnson LLP partner John Molenda won a long-fought patent victory on behalf of Sanofi and Regeneron, while separately preparing to take Apotex to trial against both Pfizer and Celgene, earning him a spot among Law360's 2019 Life Sciences MVPs.

### ***HIS BIGGEST ACCOMPLISHMENT THIS YEAR:***

In August, a Delaware federal judge overruled a jury and invalidated the patents Amgen Inc. had asserted against Sanofi and Regeneron Pharmaceuticals. Alongside attorneys from various firms, Molenda defended the French drugmaker and its partner through two trials and an appeal in this case, before taking home this win.

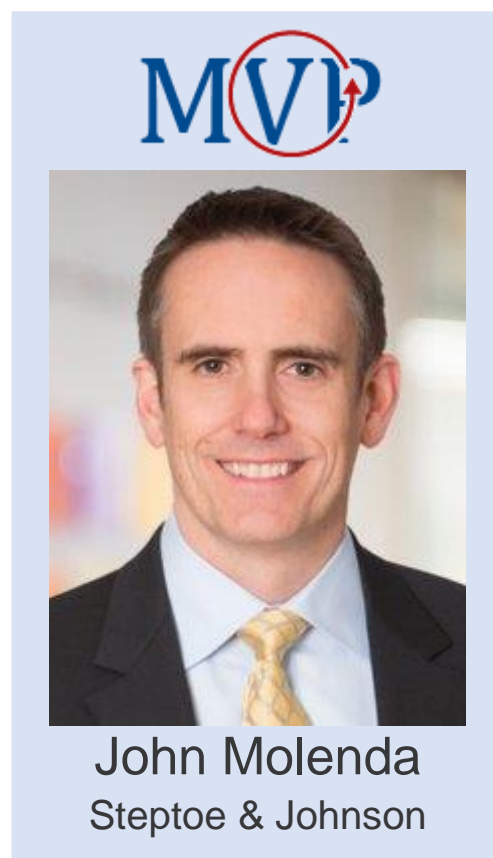
"Winning the Amgen v. Sanofi case was a huge accomplishment," he said. "I've been involved in that case for almost seven years now. I was there through the prelitigation, through our first trial, through the appeal and back for a second trial. To prevail was extremely exciting."

Amgen had accused Sanofi and Regeneron of infringing two patents by selling their blockbuster high cholesterol treatment Praluent. In 2016, Amgen won the first trial, but the Federal Circuit gave Sanofi and Regeneron another chance.

Molenda called that appellate ruling "one of the most important biotech/pharma cases over the past five to 10 years," at least as it relates to written descriptions in patents. He said it reshaped the law as it applies to antibodies like those in Amgen's patents.

Back at the trial court, the second jury said two of the claims in an Amgen's patent didn't meet written description requirements, but three other claims across two patents held up. Then U.S. District Judge Richard G. Andrews overturned that latter ruling in a judgment as a matter of law, finding the claims failed to meet enablement requirements, and teeing up another appeal that's just getting started now.

Throughout the litigation, Sanofi and Regeneron never had to pull Praluent off the market, which



Molenda called a win. They were enjoined at one point, but were able to get that stayed, and then they won the case, so it never went into effect.

"From a business perspective that was huge, because this whole time one of the concerns everyone had is: Can we remain on the market and serve patients?" he said. "We were able to do that."

#### ***HIS BIGGEST CHALLENGE THIS YEAR:***

Molenda, who co-leads Steptoe & Johnson's health and life sciences practice, as well as the New York office's intellectual property practice, said balancing that litigation with the rest of his caseload was a particular challenge.

"We pulled it off, but it was not easy," he said.

Notably, he's also defending generic-drug maker Apotex Inc. as it's being sued by Celgene Corp. in New Jersey and Pfizer Inc. in Delaware. Pfizer has accused Apotex of infringing patents for its renal cell carcinoma drug Inlyta by attempting to sell a generic version. A trial is expected next year.

The lead case in the Celgene litigation is also in the discovery stage, heading toward depositions. There, Apotex stands accused of infringing patents covering the blockbuster cancer drug Revlimid with its proposed generic.

Molenda said a key part of his practice is being able to represent branded drugmakers like Sanofi and Regeneron, and high-value generic-drug makers like Apotex, which many firms shy away from given what they perceive as conflict-of-interest risks.

"I didn't want to have a situation where I couldn't serve all of my clients in a way that I wanted to, so to me it was important to treat clients as clients as opposed to brand or generic," he said "The real issue was how can we help add the most value for our clients. That's an important feature of what we do at Steptoe, that we represent both, and we've been able to navigate that very well."

#### ***OTHER NOTABLE WORK:***

Molenda said he also regularly does appellate work, both in life sciences and in other kinds of technology. In July, he got the Federal Circuit to affirm that the Patent Trial and Appeal board rightly invalidated claims from two Corning Optical Communications LLC fiber optic patents, in a win for client Panduit Corp.

He also argued one of the first pharmaceutical inter partes review appeals, also on behalf of Apotex. The patent owner, Pfizer unit Wyeth LLC, ended up taking home victory, but Molenda said he's still "very proud" of the case.

While an associate at Orrick Herrington & Sutcliffe LLP in the early 2000s, Molenda worked on a patent case involving polymerase chain reactions, used to copy and amplify DNA. Applera Corp. v. MJ Research Inc. was his first trial, and he got to write the direct examination for Nobel Prize winner Kary Mullis, he said.

"From a biotech standpoint, [working with Mullis] was really cool," Molenda said.

#### ***WHY HE'S A LIFE SCIENCES ATTORNEY:***

Throughout his academic career, Molenda said he was torn between science and humanities. His

undergraduate degrees from Vanderbilt University were in chemistry and history, and he pursued chemistry through a master's degree and a Ph.D. at the same university, focusing on iron chelation therapy.

But while doing postdoctoral research at New York University — looking at DNA structure — his interest in humanities was reawakened, so he headed to the University of Michigan for law school.

"I really missed my humanities side," he said. "I loved the writing, I like argument, I like discussing things."

***HIS ADVICE FOR JUNIOR ATTORNEYS:***

Molenda stressed the importance of mentorship, encouraging younger attorneys to seek out those whose career paths they want to follow and start working with them.

"It's easy to get lost in the shuffle in a big law firm, and I know a number of people who have, and the recurring theme in the success stories that I'm aware of is that somebody was mentored," he said. "You need to proactively seek out a mentor. You can't be shy. The most important thing is that you find somebody whom you really respect and who you think is not only talented from the legal perspective but also is a good person, and somebody you want to model your career after, and then do whatever you can to ensure they take a little bit of their day and spend that with you so that you can learn from them."

— *As told to Dani Kass*

*Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2019 MVP winners after reviewing nearly 900 submissions.*