

VIA HAND DELIVERY

December 26, 2019

Mr. Scott S. Harris, Clerk
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

RE: No. 18-817, *Hikma Pharmaceuticals USA Inc. v. Vanda Pharmaceuticals Inc.*

Dear Mr. Harris:

We write on behalf of petitioners in the above-captioned case, which is conferred for January 10, 2020.

Respondent's supplemental brief (at 3) cites *INO Therapeutics LLC v. Praxair Distribution Inc.*, 782 Fed. Appx. 1001 (Fed. Cir. 2019), an August 27, 2019, non-precedential opinion not cited in the government's invitation brief. According to respondent, the decision disproves our showing that, under the ruling below, all method-of-treatment patents satisfy *Mayo's* first step. The court in *INO Therapeutics*, however, rejected the patent holder's "argu[ment] that its claims cover an eligible 'method of treatment,'" stating that the case involved "a claim not to treat" and distinguishing this case as one where "[t]he claims required the doctor to *treat* a patient." *Id.* at 1006, 1007. The government does not dispute our characterization of the ruling below or subsequent precedent. See also Petitioners' Supp. Br. 10-11; *Endo Pharm. Inc. v. Teva Pharm. USA, Inc.*, 919 F.3d 1347, 1355 (Fed. Cir. 2019).

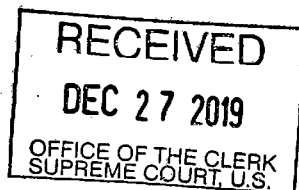
Enclosed are ten copies of this letter, and an additional copy for file-stamping and return.

Sincerely,



Steffen N. Johnson

cc: Counsel of record



COURT U.S.
CLERK OFFICE

2019 DEC 26 P 4:00

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No. 18-817

In the Supreme Court of the United States

HIKMA PHARMACEUTICALS USA INC., AND WEST-WARD
PHARMACEUTICALS INTERNATIONAL LTD., N/K/A HIKMA
PHARMACEUTICALS INTERNATIONAL LTD.,
PETITIONERS

v.

VANDA PHARMACEUTICALS INC.,
RESPONDENTS

*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT*

CERTIFICATE OF SERVICE

I, Steffen N. Johnson, a member of the Bar of this Court, hereby certify that on December 26, 2019, three copies of the Supplemental Brief for Petitioners Hikma Pharmaceuticals USA Inc., et al., in the above-captioned case were served, as required by Supreme Court Rule 29.3, on the following:

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I further certify that all parties required to be served have been served.



Steffen N. Johnson

cc: Counsel of record