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KING & SPALDING



What was the genesis of the idea/path that has made you a trailblazer?

We first pioneered the unfair competition theory in Hope Pharmaceuticals in two cases we brought on behalf of Allergan USA, Inc., under California law. In both Allergan cases, we obtained summary judgment and permanent injunctive relief. Expanding on that concept, Hope is based on a mosaic of multiple states' laws which, like California's, prohibit distribution of drugs not approved by FDA and also permit competitor-against-competitor lawsuits under the state's consumer protection law. NSO is likewise based on a novel application of the law (Computer Fraud and Abuse Act). In contrast to our work in Hope, however, we are tasked to defend rather than prosecute the claims.

What sort of change has resulted from the concept?

Because an FDA-approved drug manufacturer can sue an unlawful compounder under state law for injunctive relief and, in some cases, lost profits, Hope's legal theory means meaningful relief is available through the courts despite the inability to bring a private cause of action under the federal Food, Drug and Cosmetic Act.

What bearing will this have on the future?

NSO is based on a novel legal theory which, if accepted by the courts, would have wide-ranging effects for governments who contract with private entities, like NSO, for the provision of software and other technology used for counterterrorism and the investigation and prosecution of serious crimes.

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King & Spalding congratulates our partner
Joe Akrotirianakis for being named
 a **Trailblazer: West** and for exemplifying
 our firm value of delivering innovative
 solutions to our clients.

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