

SCOTUS: Rule of Reason Applies to Reverse Payment Settlements of Patent Cases

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Addressing a conflict that had divided the federal courts and sparked considerable debate in the antitrust community for more than a decade, the Supreme Court held in *FTC v. Actavis, Inc.* that "reverse payment" settlements of pharmaceutical patent disputes "can sometimes violate the antitrust laws." The Court decided that while such settlement agreements are not immune from antitrust scrutiny notwithstanding the ability of the owner of a valid patent to exclude or limit competition from infringers, they should not, as the FTC urged (and at least one Circuit had held), be deemed presumptively unlawful, and should instead be evaluated under the Rule of Reason. In so doing, the Supreme Court rejected the approach, adopted by a number of Circuits, that upheld settlement agreements imposing restrictions within the "scope of the patent."