

**Amgen v. Sanofi: The Fallout**

Abstract

The Supreme Court has affirmed the lower courts in holding that Amgen’s broad claims covering cholesterol-lowering proteins solely by their function lacked enablement. Despite describing the method the inventors used to make embodiments described in the specification, the Court held that it was not clear the method could reliably make embodiments of the invention. From the description in the specification, the enablement appeared to the Court to be little more than “trial and error.” This brief report proposes some thoughts on how practitioners can proceed based on the result in this case.