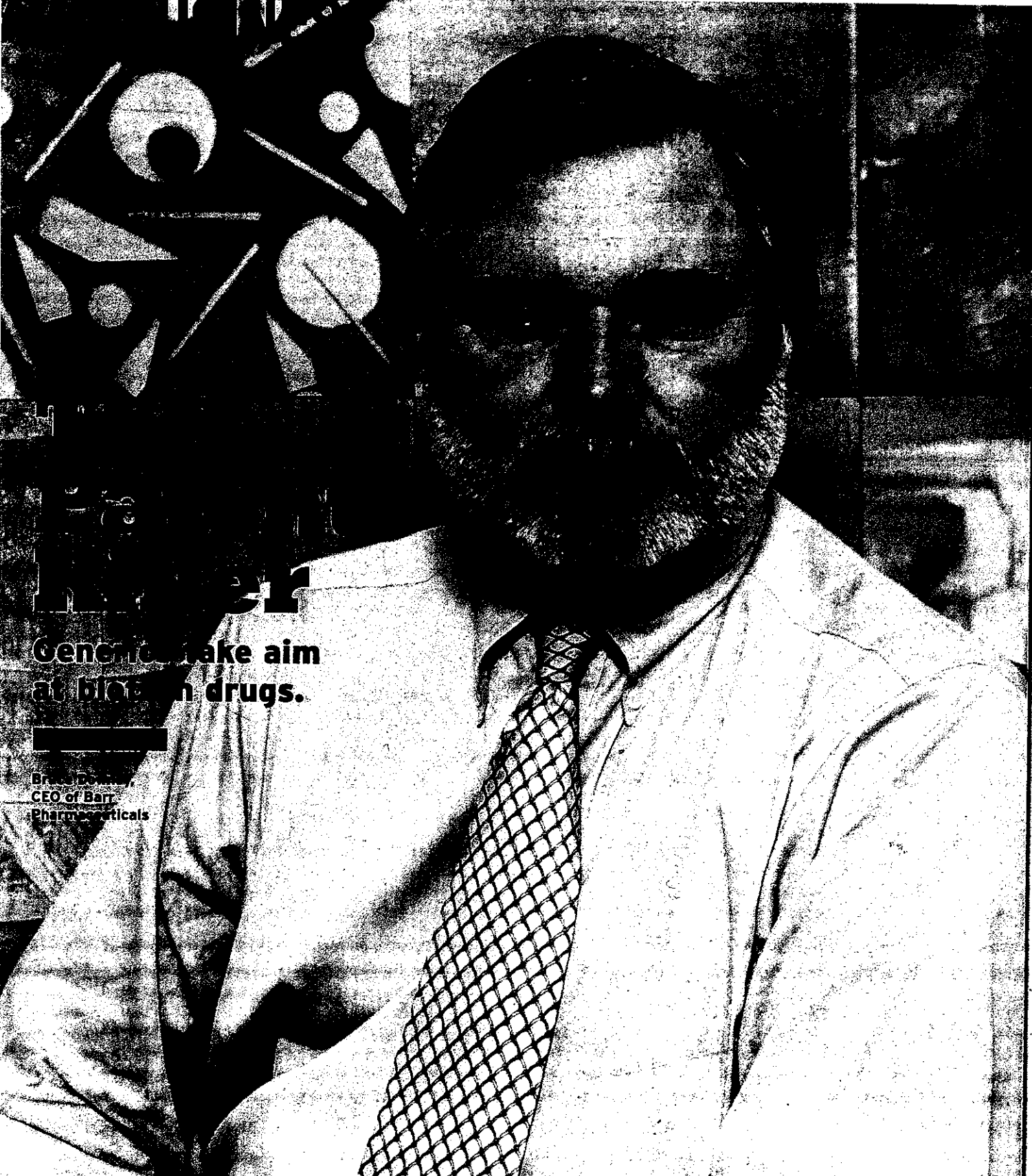


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## Hedge Funds Spies in the Courtroom Will the Supreme Court speak on *Markman*?

MAY 2007



**Genetics take aim  
at blockbuster drugs.**

**Bruce DeWitt,  
CEO of Barr  
Pharmaceuticals**

## OPENING STATEMENTS

Fenwick & West partner Michael Shuster, who has clients in the biotech industry, questions whether the accelerated process will be useful in the life sciences. Often his clients haven't even clearly worked out what they plan to do with their inventions, he says.

However, the fast track may work well for other kinds of technology, particularly those with short product lifecycles, such as computer security, software-related patents, and chip design. Robin Silva, a patent attorney with Morgan, Lewis & Bockius, notes that "the time from filing your patent to product is generally a lot shorter in those areas, and there may be

business reasons you might want to patent more quickly," to gain or maintain an edge in a fast-evolving field.

That's the view of Baker Botts's James Arpin, who prosecuted the Brother patent. He agrees that the new procedure would not be used by a majority of filers, because it involves a significant investment of time and effort before filing. But he's convinced that in the right situation, the new process gives "great value."

—Jessie Seyfer

*A version of this story originally appeared in The Recorder, a sibling publication of IP Law & Business.*

## ONE LESS WORRY FOR FILM PRODUCERS

**W**hen *Bling: A Planet Rock* comes out this fall at the Tribeca Film Festival, the film will be the first documentary distributed with the assistance of a new program of Stanford Law School's Fair Use Project.

Executive director Anthony Falzone, a former Bingham McCutchen litigator, said the "fair use" doctrine of the copyright law is critical to filmmakers who rely on the use of copyrighted material in their works. For instance, the documentary *Who Killed the Electric Car?* relied on copyrighted material in its critique of the auto industry.

In recent years, however, filmmakers have come under increasing pressure to pay big licensing fees to copyright holders. And, Falzone adds, they have faced overly aggressive enforcement of copyrights—making distribution financially prohibitive or impossible because they can't get insurance to cover them in case of suits.

But the insurance situation has improved dramatically in the last few months. Falzone, in a collaboration with Lawrence Lessig, director of Stanford's Center for Internet and Society, has teamed up with Media/Professional Insurance, a specialty insurer, to develop a policy endorsement that

explicitly allows documentarians to rely on "fair use." And big insurer AIG now lets filmmakers rely on a lawyer's opinion that says the use of the copyrighted material is protected.

"The importance of these changes to documentary filmmakers cannot be overstated," says copyright attorney Robert Stein at Pryor Cashman in New York. "Filmmakers can now include important content in their films, without fear

that a lack of insurance coverage will discourage exhibitors, broadcasters, and distributors, or result in bankruptcy in the event of litigation."

Stanford has committed to providing pro bono legal representation to certain filmmakers who

comply with fair use practices, Falzone said. Private practice IP lawyers are also offering reduced rates.

*Bling: A Planet Rock*—a documentary about hip-hop culture's glorification of diamonds and violence and its impact on the culture of Sierra Leone—has so far steered clear of trouble. And Falzone says: "We intend to keep it that way."

—Petra Pasternak

*A version of this story appeared earlier in The Recorder.*

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