

# Baxter loses bid for appeal in patent war with Fresenius

Mass Device

A federal appeals court declines to revisit its decision in a patent infringement war between dialysis giants Baxter and Fresenius.



[Baxter](#) [1] (NYSE:[BAX](#) [2]) lost its bid for another hearing of its long-running hemodialysis patent war with [Fresenius](#) [3] (NYSE:[FMS](#) [4]), leaving in place the precedent that the U.S. Patent & Trademark Office can over-rule the judicial system.

The U.S. Court of Appeals for the Federal Circuit denied Baxter's petition for a rehearing and for *en banc* review, voting 10-1 against. The lone holdout, Judge Barbara Newman, does not believe that the USPTO has the authority to over-ride the courts.

The [patent spat](#) [5] has volleyed in each party's favor, but now hinges on a decision reached by the USPTO in Fresenius' favor, which reversed a Federal Circuit ruling in Baxter's favor. The Oct. 26 ruling by the Federal Circuit court means that the panel bureau's decision stands pending any further appeals.

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