

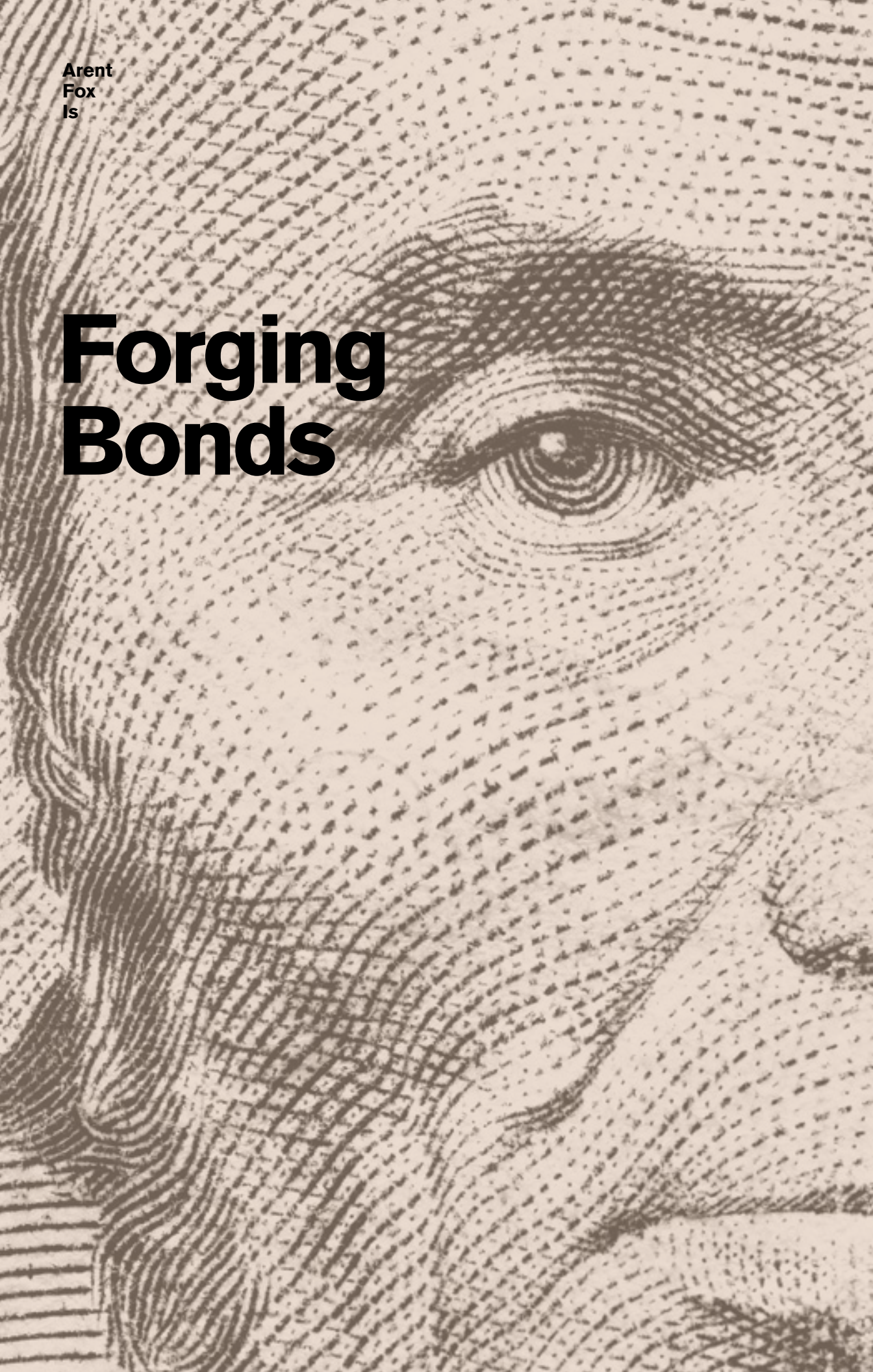
**Smart In  
Your World**

**It's More Than  
a Tag Line**

**Arent  
Fox  
Is**

Arent  
Fox  
Is

# Forging Bonds



**OPINION COUNSEL.** In 2003, Arent Fox patent attorney Rich Berman received a phone call from a litigator at another firm. The lawyer said he was calling on behalf of Par Pharmaceutical, one of the nation's leading manufacturers and distributors of high-quality generic pharmaceuticals. He asked if Rich would be willing to prepare an "opinion letter" for Par in anticipation of a patent infringement lawsuit to be brought by a large brand pharmaceutical company.

He was living up to the finest traditions and highest standards of the firm's goals and values.

Typically, when a generic pharmaceutical company wishes to market a generic version of a brand-name drug, the company seeks to obtain an opinion letter from an outside counsel to analyze the validity of any patents on the drug and evaluate the risk of possible infringement. Often, such companies seek an opinion letter before they apply for clearance with the US Food and Drug Administration to establish a good-faith basis for their application.

Opinion letters are prepared by an outside patent attorney rather than a company's in-house counsel in order to obtain the most objective analysis. Generally, generic pharmaceutical companies use opinion letters at trial as evidence to rebut charges of willful infringement and demonstrate they took great care to ensure they did not willfully infringe on the brand-name company's patent claim.

Opinion letters by outside patent counsel are often highly detailed, complex documents containing meticulous analysis of the law, the patent file history, which includes all written correspondence between the patent applicant and the US Patent and Trademark Office, and the product itself.

In accepting the offer to prepare the opinion letter, Rich informed Par that it would likely take a number of billable hours, stretching over several days, to research, draft and finalize the document. The cost of preparing the document could reach and even exceed \$20,000.

Rich shut his office door, rolled up his sleeves and got to work, anticipating a long stretch of review and drafting.

And then Rich made a remarkable discovery.

**EFFICIENCY AND INTEGRITY.** After one hour of research, reading the relevant statutes and

## Par Pharmaceutical

reviewing the patent at issue, Rich found in this instance Par did not even need an opinion letter. Par was free to operate without risk of patent infringement.

Rich immediately phoned the litigator who had originally contacted him to inform the lawyer about what he had discovered. Rich told him, "I could still go ahead and prepare a full-fledged opinion letter for Par. But, quite frankly, given the law and the patent application, Par does not need one. And to prepare one would require me to bill Par approximately \$20,000 or more. That's money they really don't need to spend."

The litigator gratefully accepted Rich's advice and Par ultimately opted not to solicit an opinion letter.

Rich's bill to Par for his hour of research was less than \$500.

Weeks later, Rich's phone rang again. It was a representative from Par contacting Rich directly. The Par representative told Rich that the company was greatly pleased with Rich's work on the earlier project and very much appreciated the honest and forthright way in which Arent Fox did business. Accordingly, he asked Rich if he would represent Par in another matter.

Today, Par Pharmaceutical stands as one of Arent Fox's largest and most valued clients. Led by Rich Berman, along with his colleague, partner Larri Short, Arent Fox performs much of Par's intellectual property and patent litigation work, including counseling the company on US Food and Drug Administration compliance and regulatory issues and government price reporting matters with respect to operations of the company's generic and branded pharmaceuticals businesses.

When Rich Berman first informed Par that it did not require an opinion letter and there was no need for the company to spend \$20,000, he was living up to the finest traditions and highest standards of Arent Fox as expressed in the firm's statement of goals and values: "To our clients we pledge the highest level of service, at a fair price, delivered with integrity, imagination, insight and efficiency. To ourselves, we pledge the highest ethical standards."

In adhering to those timeless principles of integrity and professionalism and working in the best interests of the client, Arent Fox forged a special relationship with Par Pharmaceutical – a relationship that continues to this day.

**Arent  
Fox  
Is**

**Smart  
in Your  
World.**



**PRACTICES**

Advertising, Sweepstakes and Contests  
Antitrust and Competition  
Automotive  
Bankruptcy and Financial Restructuring  
Construction  
Consumer Product Safety  
Corporate  
Energy and Environmental  
ERISA  
Finance  
Food and Drug  
Government Contractor Services  
Government Relations  
Health Care  
Hospitality  
Insurance  
Intellectual Property  
International Trade  
Labor and Employment  
Life Sciences  
Litigation  
Long Term Care and Senior Living  
Media and Entertainment  
Nonprofit  
OSHA  
Political Law  
Public-Private Partnerships  
Real Estate  
Sports  
Tax & Estate Planning  
Telecommunications  
White Collar and Government Investigations

**WASHINGTON, DC**

1050 Connecticut Avenue, NW  
Washington, DC 20036-5339  
Tel: 202.857.6000  
Fax: 202.857.6395

**NEW YORK, NY**

1675 Broadway  
New York, NY 10019  
Tel: 212.484.3900  
Fax: 212.484.3990

**LOS ANGELES, CA**

Gas Company Tower  
555 West Fifth Street, 48th Floor  
Los Angeles, CA 90013  
Tel: 213.629.7400  
Fax: 213.629.7401

Smart in your world®  
**Arent Fox**

[www.arentfox.com](http://www.arentfox.com)