Another Blow to Merck in $2.5 Billion Hep C Patent Suit Against Gilead

A U.S. appeals court upheld a judge's previous decision to throw out a record-setting 2016 verdict in Merck's favor.

November 12, 2019 By Benjamin Ryan

Merck lost out in yet another round in its attempt to secure $2.54 billion in damages in a patent dispute with Gilead Sciences over the hepatitis C virus (HCV) blockbuster drugs Sovaldi (sofosbuvir) and Harvoni (ledipasvir/sofosbuvir), Reuters reports. A U.S. appeals court upheld a ruling by a federal judge in Delaware that found that the Merck patent in question was invalid.

In 2016, a jury found that Gilead's Sovaldi and Harvoni infringed upon the patent that Merck secured when it acquired Idenix Pharmaceuticals. The $2.54 billion that the jury concluded Gilead should pay Merck in damages set a U.S. patent case record.

Then, in 2018, a federal judge in Delaware overturned the verdict, concluding that Merck should never have been issued the patent in question because of the company's failure to disclose how to make the drug to which the patent applied without undue experimentation.

The appeals court wound up concurring with that determination.

Gilead secured its own hep C pipeline in 2011 with what was considered a highly risky $11 billion purchase of Pharmasett. The purchase wound up paying off in dividends with the releases of Sovaldi and Harvoni in 2013 and 2014, respectively. The drugs became blockbusters, and—at least for a time—as the company secured its place as the dominant player in the hep C market, Gilead's stock price soared.

Following the appeals court ruling, Merck is weighing its options over a potential appeal. Gilead, for its part, has expressed confidence that the company will prevail in any further legal disputes about this matter.

Read about the 2018 verdict here.

To read the Reuters article, click here.

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