Jury Verdict Favors Sofosbuvir Royalty Claim by Merck Against Gilead

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Merck & Co. has won its chance for royalties on the Gilead Sciences hepatitis C virus (HCV) treatments Sovaldi (sofosbuvir) and Harvoni (ledipasvir/sofosbuvir), after a unanimous jury verdict supported Merck's claims that its scientists were responsible for early breakthroughs that led to the HCV cures, Bloomberg Business reports.

The verdict came after a two and a half year lawsuit over the "scientific foundation" of sofosbuvir, which Merck scientists began research on more than 15 years ago. The drug then went on to development at Pharmasset Inc. before that company was acquired by Gilead in 2011. So far, Sovaldi has since helped generate nearly $19 billion in revenue for Gilead.

In the federal court trial, held in San Jose, California, both Gilead and Merck tried to show the other was claiming undeserved credit for developing sofosbuvir. Arguments centered around whether Merck deserved its patent for the treatment, which Gilead ultimately perfected.

Until jurors decide whether to award up to $2 billion in damages to Merck that are also implicated in the lawsuit, it is unclear how much the company will get in royalties from Gilead as a result of the verdict. Currently, Merck is asking for 10 percent. However, the decision is in the hands of U.S. District Judge Beth Labson, who is overseeing the proceedings.

While the verdict is certainly a disappointment for Gilead, analysts beleive the overall financial impact for the company will be small. Significantly, Merck is not seeking a court-ordered ban on sales of Gilead product that allegedly infringe on its patents. Plus, Gilead is expected to appeal the verdict.

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