# Merck Loses Bid to Revive Its $2.5B Hepatitis C Patent Suit Against Gilead

The Supreme Court refused to hear Merck's arguments on a hepatitis C patent, so the previous ruling in Gilead's favor stands.

January 21, 2021 By Trent Straube

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The Supreme Court rejected Merck's efforts to revive a $2.54 billion verdict in the favor of Gilead Sciences and involving patents on hepatitis C meds. Because the court declined to hear arguments from Merck, the previous ruling stands, Bloomberg reports. The case involves the largest patent verdict in U.S. history.

The patent feud involves Gilead's blockbuster hep C drugs Solvaldi (sofosbuvir) and Harvoni (ledipasvir/sofosbuvir). As previously covered in Hep magazine, Merck had claimed that Gilead infringed on a patent Merck acquired when it bought Idenix Pharmaceuticals. A jury in 2016 ruled in Merck's favor. Two years later, a federal judge reversed the verdict on the grounds that Merck shouldn't have been issued the patent to begin with. In November 2019, the top U.S. appeals court upheld that judge's decision, meaning that Gilead did not owe Merck the $2.54 billion.

Merck tried to appeal again, resulting in this week's rebuff by the Supreme Court.

The patent in question was issued in 2009. The federal judge in the 2018 ruling determined that Merck had failed to disclose how to make the drug related to the patent with enough detail that it could be recreated without unreasonable time or effort; therefore, the patent was invalid.

According to Bloomberg, when the jury initially heard the case, it arrived at $2.54 billion in damages by calculating 10% of royalties on $25.4 billion in sales of Solvaldi and Harvoni, which hit the market in 2013 and 2014, respectively.

Hepatitis C virus (HCV) attacks the liver. The infection can be fatal, but it is curable. To learn more about the meds to treat it, see the Hep Basics on Hepatitis C Treatment.

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