

Gilead Settles HIV Drugs Patent Suit On Eve Of Bench Trial

By **Katie Buehler**

Law360 (September 12, 2022, 6:40 PM EDT) -- Gilead Sciences Inc. has settled its Delaware patent infringement lawsuit against five generic-drug makers on the eve of trial, inking a deal that calls for the delayed release until at least 2031 of generic alternatives to Gilead's line of medications that slow the progress of HIV infections.

The California-based biotechnology company filed a slew of consent judgments on Friday and Monday, notifying a Delaware district court judge that it had settled patent infringement claims related to its Descovy, Vemlidy and Odefsey medications. A bench trial on Gilead's patent infringement claims was set to begin Monday morning.

While the consent judgment filings are sparse in details of the settlement agreement, an accompanying report filed with the U.S. Securities and Exchange Commission states Gilead has agreed to grant the generic-drug makers non-exclusive licenses to its patents for Descovy and Vemlidy beginning Oct. 31, 2031, and for Odefsey beginning Jan. 31, 2032.

The parties have also agreed to cover their own court costs and attorney fees, according to the consent judgment filings.

The generic-drug makers involved in the case include Apotex Inc., Lupin Ltd., Cipla Ltd., MacLeods Pharmaceuticals Ltd. and Hetero Labs Ltd.

Gilead first sued the manufacturers in February 2020, claiming in a 251-page complaint the generic-drug makers had filed one or more abbreviated new drug applications to market generic versions of Descovy, Vemlidy and Odefsey in the U.S. ahead of the expiration of Gilead's patents for the medications.

The companies were scheduled to start a weeklong bench trial in front of U.S. District Judge Maryellen Noreika on Sept. 12, in which the generic-drug makers had agreed for the purposes of the trial that their drugs would infringe Gilead's patents but planned to fight the patents' validity.

A representative for Gilead and counsel for the generic-drug makers didn't immediately respond to requests for comment Monday.

The patents-in-suit are U.S. Patent Nos. 7,390,791; 8,754,065; and 9,296,769.

Gilead is represented by Grayson P. Sundermeir and Douglas E. McCann of Fish & Richardson PC.

Apotex is represented by Kenneth L. Dorsney and Cortlan S. Hitch of Morris James LLP.

Lupin is represented by David A. Bilson and John C. Phillips Jr. of Phillips McLaughlin & Hall PA.

Cipla is represented by James S. Green Jr. of Seitz Van Ogtrop & Green PA.

MacLeods Pharmaceuticals is represented by John M. Seaman and April M. Ferraro of Abrams & Bayliss LLP.

Hetero Labs is represented by Dennies Varughese and Joseph Kim of Sterne Kessler Goldstein & Fox and Adam W. Poff of Young Conaway Stargatt & Taylor LLP.

The case is Gilead Sciences Inc. v. Apotex Inc. et al., case number 1:20-cv-00189, in the U.S. District Court for the District of Delaware.

--Editing by Michael Watanabe.

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