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Eli Lilly Fails to Overturn \$20 Million Cialis Patent Decision

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By Greg Langlois, Bloomberg BNA

A jury decision that Eli Lilly and Co. infringed a patent by selling its famed Cialis drug for treatment of enlarged prostate will stand.

In April, a jury awarded Germany-based Erfindergemeinschaft UroPep GbR \$20 million in damages after finding Eli Lilly infringed UroPep's U.S. Patent No. 8,791,124. UroPep filed suit in federal court last year, alleging that Eli Lilly infringed its patent by marketing and selling its erectile dysfunction drug Cialis as a treatment for benign prostatic hyperplasia. BPH is a noncancerous enlarged prostate, which can irritate or block the bladder.

The market for BPH treatment is vast. Half of all men between 51 and 60 experience BPH and up to 91 percent over age 80 suffer from the condition, according to the American Urological Association's Urology Care Foundation. For UroPep, a pharmaceutical company consisting of urology researchers and physicians, the court win secures compensation for its foundational patent. The patent expired on July 9.

"It's a very important patent to UroPep," UroPep lawyer Nosson Knobloch told Bloomberg BNA. "The patent was a culmination of research the founders undertook in the 1990s. UroPep was formed to commercialize the discoveries made at the time."

The jury had concluded Eli Lilly infringed the '124 patent and rejected the company's claim the patent was invalid. Eli Lilly sought to overturn the verdict or win a new trial, but Judge William C. Bryson of the U.S. District Court for the Eastern District of Texas has denied that request.

Eli Lilly said in a statement that it disagrees with the decision and plans to appeal it.

Knobloch says the court's 79-page decision could dent further Eli Lilly efforts to challenge the decision.

"It's not just the court's decision we're happy about, but the level of detail in the opinion really is a reflection of the strength of UroPep's position," Knobloch said. "I think the detailed decision here will make any appeal very difficult."

The \$20 million award compensates UroPep for Eli Lilly's Cialis sales for BPH treatment up until the start of trial in April. UroPep also obtained a 5.68 percent royalty of Cialis BPH sales between then and the patent's July expiration. Eli Lilly reported \$2.5 billion in overall Cialis sales (for both ED and BPH treatment) in its 2016 annual report.

UroPep is a pharmaceutical company based in Hanover, Germany, founded by research scientists at Hannover Medical School. Bartlit, Beck, Herman, Palenchar & Scott LLP represents UroPep. Barnes & Thornburg LLP represents Eli Lilly.

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The case is: [Eli Lilly & Co. v. Erfindergemeinschaft UroPep GbR, E.D. Tex., No. 15-cv-1202, 8/25/17](#)

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