

Wyeth, Cordis Stent Patents Are Invalid, Judge Says

By **Sindhu Sundar**

Law360, New York (January 20, 2012, 11:19 PM ET) -- A New Jersey federal judge on Thursday ruled that two stent patents by Cordis Corp. and Pfizer Inc. unit Wyeth Pharmaceuticals Inc. are invalid in a suit accusing Abbott Laboratories, Boston Scientific Corp. and Medtronic Inc. of violating the patents.

In an unpublished opinion, U.S. District Judge Joel A. Pisano rejected the plaintiffs' claims that certain stents sold by Abbott, BSC and Medtronic had violated the patents covering stents used in the treatment of coronary artery disease, finding that the patents had not been adequately described in their specifications.

The stents serve to hold open arteries narrowed by atherosclerosis, or the build up of arterial plaque, and release certain chemical compounds to prevent restenosis, or the narrowing of the arteries after the stent is inserted, according to the order.

Judge Pisano agreed with the defendants' argument that the patents had not adequately explained how those compounds would be administered to prevent the narrowing of the arteries, stating that there was not enough data or information to show that the stents' inventors, who had presented their finding to Wyeth in the early '90s, had possessed the full scope of the invention.

Federal requirements call for inventors to adequately describe the claimed invention in a way that "persons of ordinary skill in the art" can deduce that the inventor did invent the product, according to the order.

Judge Pisano also noted that the plaintiffs had not adequately shown that there were issues of material fact that would oppose summary judgment, stating that they had merely made conclusory claims that the written description requirements had been satisfied.

The judge also found that the plaintiffs had not satisfied the enablement requirement for valid patents, which states that the patent specification teach an ordinarily-skilled person in the field how to use the invention without excessive experimentation.

Wyeth and Cordis had accused Abbott's Xience stent, BSC's Promus stent and Medtronic's Endeavor stent of violating the patents.

Attorneys for the parties could not immediately be reached for comment Friday.

The patents-in-suit are U.S. Patent number 5,516,781 and 5,563,146.

Wyeth and Cordis are represented by David T. Pritikin, William H. Baumgartner Jr., Russell E. Cass and Bindu Donovan of Sidley Austin LLP and Donald A. Robinson and Keith J. Miller of Robinson Wettre & Miller LLC.

Medtronic is represented by Thomas R. Curtin and George C. Jones of Graham Curtin and Samuel F. Baxter, Mark L. Mathie and Bradley W. Caldwell of McKool Smith PC. Abbott is represented by Thomas R. Curtin and George C. Jones of Graham Curtin and Edward A. Mas II, Sharon A. Hwang, Sandra A. Frantzen, Justin J. Paul of McAndrews Held & Malloy Ltd. BSC is represented by Arnold B. Calmann and Jakob B. Halpern of Saiber LLC and Matthew M. Wolf, Edward Han and John E. Nilsson of Arnold & Porter LLP.

The cases are Wyeth v. Abbott Laboratories, 3:08-cv-00230, and Wyeth v. Medtronic Inc., 08-cv-01021, in the U.S. District Court for the District of New Jersey.

--Editing by Andrew Park.

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