



July 18, 2001

Appeals Court Denies Lilly Petition for Rehearing of Prozac Patent Case

The Court of Appeals for the Federal Circuit in Washington, D.C., has informed Eli Lilly and Company that the full court will not rehear the case of Eli Lilly and Company v. Barr Laboratories, et al. On June 13, 2001, Lilly had filed a petition for rehearing en banc regarding the May 30, 2001, ruling by the court's three-judge panel. In that ruling, the full court withdrew the panel's original August 2000 decision and sent the case back to the panel for reconsideration. However, the panel again ruled, this time using a different type of legal analysis based on another legal and factual basis, that the 2003 Prozac[®] method of use patent is invalid because of double patenting.

"We have been defending the validity of a long-standing patent since it was first challenged and will continue to do so because of the far-reaching ramifications of the court's recent decision," said Rebecca O. Kendall, Lilly senior vice president and general counsel. "Indeed, Lilly is concerned that the full court, by not taking the case en banc, has left in place a panel decision that is bad patent law, a view shared by many in the patent profession. In seeking to have the entire court review the panel decision, Lilly was joined by five prominent trade and professional organizations who disagreed with aspects of the panel decision and joined Lilly in urging the court to follow its own precedent, none of which supports Lilly's conduct as double patenting."

Lilly will now file a petition for a writ of certiorari with the Supreme Court to review the action of the Federal Circuit. "We believe this ruling will discourage research into innovative improvements by the pioneering inventors or force these innovators to delay issuing patents on their later improvements for fear of double patenting on the basic innovations," said Kendall. "In either case, the implications are detrimental for the public as well as the innovators. We hope the Supreme Court will see that the Federal Circuit has expanded double patenting beyond its logical and historical application."

Lilly, a leading innovation-driven corporation, is developing a growing portfolio of best-in-class pharmaceutical products by applying the latest research from its own worldwide laboratories and from collaborations with eminent scientific organizations. Headquartered in Indianapolis, Ind., Lilly provides answers - through medicines and information - for some of the world's most urgent medical needs. Additional information about Lilly is available at www.lilly.com.

This release contains forward-looking statements regarding the U.S. Prozac patent litigation. These statements are based on management's current expectations, but actual results may differ materially. In particular, there can be no assurance that the U.S. Supreme Court will accept review of the Federal Circuit's decision, and, if it accepts review, there can be no assurance that it would overturn the Federal Circuit's decision. For more information about the factors that may affect the company's business, see Exhibit 99 to the company's Form 10-Q dated May 2001.