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## **Jury Issues Verdict in Ariad v. Lilly Patent Infringement Suit**

### **Lilly Strongly Disputes Jury Decision and Expects to Ultimately Prevail**

INDIANAPOLIS, May 4, 2006 /PRNewswire-FirstCall via COMTEX News Network/ -- Eli Lilly and Company (NYSE: LLY) today announced that a jury in the U.S. District Court of Massachusetts in Boston has issued an initial decision in the case of Ariad Pharmaceuticals et al v. Eli Lilly and Company. The federal jury's verdict is that U.S. Patent No. 6,410,516, owned by Harvard, the Massachusetts Institute of Technology, and the Whitehead Institute and licensed to Ariad Pharmaceuticals, is valid and infringed by Lilly's sale of Evista(R) and Xigris(R).

"In my more than thirty years of experience in patent law, which includes involvement in dozens of patent lawsuits, I've never seen a jury verdict with which I so strongly disagree; the finding of infringement stands at odds with the most basic premise of the patent system. If practicing technology that's already known, and therefore is old, infringes a patent, the inventor hasn't properly limited the patent to technology that is new," said Robert A. Armitage, senior vice president and general counsel for Lilly. "Since patents must be limited to subject matter that is new, we are obviously confident that we will succeed in either getting the trial court judge to set the jury's verdict aside as a matter of law or that the appellate court will do so. The '516 patent arose from the discovery of a naturally-occurring biological pathway, the so-called NF-kappa B pathway, but Ariad contends that the patent examiner issued a patent on all means for modulating this pathway. The Ariad position is equivalent to discovering that gravity is the force that makes water run downhill and then demanding the owners of all the existing hydroelectric plants begin to pay patent royalties on their use of gravity. We just don't believe that the patent law could possibly move in such a direction."

Armitage stated, "Ariad is demanding royalties for Lilly's promotion of the use of Evista and Xigris as medicines even though, as we proved in court, Lilly discovered these drugs and disclosed their medicinal properties years before the patentees' scientists made their discovery. Even if Ariad had succeeded at trial in proving that these medicines modulated the NF-kappa B pathway -- and we do not believe that they met their burden to do so -- we are confident that no one today can be obligated to pay patent royalties for taking a daily dose of Evista or receiving an infusion of Xigris or for providing a patient the opportunity to do so."

The jury awarded the plaintiffs approximately \$65 million in back royalties and a 2.3 percent royalty on future U.S. sales of Evista and Xigris until the patent's expiration in 2019.

Lilly will seek to have the jury verdict overturned by the trial court judge, and if unsuccessful, will appeal the decision to the Court of Appeals for the Federal Circuit. In addition, a separate bench trial with the U.S. District Court of Massachusetts will be held on Lilly's contention that the patent is unenforceable and will also consider the patent's improper coverage of natural processes.

In June 2002, Lilly was sued by Ariad Pharmaceuticals, Inc., the Massachusetts Institute of Technology, the Whitehead Institute for Biomedical Research and the President and Fellows of Harvard College in the U.S. District Court of Massachusetts alleging that sales of two of Lilly's products, Evista and Xigris, were inducing the infringement of a patent related to the discovery of natural cell signaling phenomenon in the human body and seeking royalties on past and future sales of these products. In June 2005, the U.S. Patent and Trademark Office commenced a reexamination of the patent in order to consider certain issues raised by Lilly relating to the validity of the patent. The reexamination is currently in progress. The jury trial that rendered a decision today regarding the patent validity and infringement issues commenced in Boston on April 10, 2006.

Lilly, a leading innovation-driven corporation, is developing a growing portfolio of first-in-class and 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](http://www.lilly.com). F-LLY

This release contains forward-looking statements regarding the Ariad Pharmaceuticals et al v. Eli Lilly and Company patent infringement litigation. These statements are based on management's current expectations but actual results may differ materially. There can be no assurance that the jury verdict will be overturned by the trial court judge and, if unsuccessful, by the appellate court or that the company will prevail in the bench trial. Some of the other factors that may affect the company results can be found in company's Form 10-K dated March 2006.

Evista(R) (raloxifene hydrochloride, Lilly)  
Xigris(R) (drotrecogin alfa (activated), Lilly)

(Logo: <http://www.newscom.com/cgi-bin/prnh/20031219/LLYLOGO> )

**SOURCE** Eli Lilly and Company

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