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Jury Sides with Drug Makers in Alleged Pay-for-Delay Trial

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A Massachusetts jury has sided with drug makers AstraZeneca and Ranbaxy in the first trial challenging alleged “pay-for-delay” agreements since the U.S. Supreme Court’s *FTC v. Actavis, Inc.* ruling last year.

Following a six-week trial, on December 5, 2014, the jury concluded that the payment AstraZeneca made to Ranbaxy, although large and unjustified, was not unreasonably anticompetitive. A different verdict could have cost the pharmaceutical companies upwards of \$10 billion.

The lawsuit began in 2012 when dozens of wholesalers, drugstore chains, and a class of hundreds of thousands of possible individual consumers challenged a 2008 settlement in a patent suit between AstraZeneca and Ranbaxy. The plaintiffs alleged that the settlement violated antitrust laws, because it gave Ranbaxy nearly \$1 billion to delay the launch of a generic version of the blockbuster drug, Nexium.

The trial is the first of its kind since the U.S. Supreme Court ruled last year that consumers can sue when generic drug makers drop patent challenges and delay producing cheaper versions of drugs in exchange for cash. The nation’s top court said such payments are anticompetitive only if they are “large and unjustified” and harm competition under the customary “rule of reason.”

The original lawsuit also targeted two other generic drug makers -- Teva Pharmaceutical Industries Ltd and Dr. Reddy’s Laboratories Ltd. Both reached deals with AstraZeneca over Nexium, and both settled with the plaintiffs before the jury trial. Two other cases involving the Nexium settlement agreement are pending in a Pennsylvania state court against the same four companies. Those cases are not affected by the Massachusetts jury verdict.

In re: Nexium (Esomeprazole Magnesium) Antitrust Litigation, (1:12-md-02409, D. Mass.)

If you have any questions about the case or how it may impact your business, please contact one of our [Biotechnology & Pharmaceutical attorneys](#).