



Allergan pays Mohawk Tribe to protect patents from challenges



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(Reuters) - Allergan Plc will transfer to the Saint Regis Mohawk Tribe the rights to its blockbuster Restasis dry-eye treatment, the drugmaker said on Friday, in an unusual deal to protect it from patent challenges.



File Photo: A trader works at the post that trades Parsley Energy Inc. and Allergan Plc., on the floor of the New York Stock Exchange (NYSE) April 5, 2016. REUTERS/Brendan McDermid

The tribe, which has sovereign immunity from such challenges, will receive a one-time payment of \$13.75 million and annual royalties of around \$15 million under the arrangement proposed by the Saint Regis, Allergan said in a statement.

Sales of Restasis, which totaled over \$1.5 billion last year, account for about 15 percent of Allergan's profits, according to AllianceBernstein.

"If this maneuver is successful, we will probably see multiple branded (drug) companies housing their patents with Indian tribes," AllianceBernstein analyst Ronny Gal said in a video statement. "It could be the next big Indian tribe industry after gaming."

Other analysts and legal experts said they expect legal challenges to the tactic, including possible action by lawmakers at the state and federal levels.

The Saint Regis Mohawk Tribe, which originated in the northeastern region of what is now New York State, operates casinos in upstate New York.

Allergan said it entered into the deal after reviewing recent case law showing it was harder to challenge patents held by certain entities.

These include a February ruling by the U.S. Patent and Trademark Office's trial and appeal board that patents owned by the University of Florida could not be challenged by Medtronic Plc's Covidien unit because the university enjoyed sovereign immunity.

A different panel of patent and trial appeal board judges reached a similar conclusion in May in a dispute over patents owned by the University of Maryland. Those rulings will be appealed in the U.S. Court of Appeals for the Federal Circuit.

Allergan said the patent agreement had no impact on litigation involving applications for generic versions of Restasis which recently went to trial in Federal District Court in Marshall, Texas.

A decision in that case, brought by Teva Pharmaceuticals Industries Ltd and other generic drugmakers, is expected in a few months.

"Today's news from Allergan is a new and unusual way for a company to try to delay access to high-quality and affordable generic alternatives," Teva said in an emailed statement.

The generic drugmaker said it will continue to pursue its application with the Food and Drug Administration for a generic version of Restasis "and also will be interested to see what comments are made about this tactic by regulatory agencies."

According to Allergan, the six transferred patents are due to expire in August 2024.

Additional reporting by Jan Wolfe; Editing by Richard Chang and Paul Simao

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