

Adocia's \$1.8B Claim Against Eli Lilly Dies In Arbitration

By **Kevin Stawicki**

Law360 (August 23, 2019, 3:32 PM EDT) -- An American Arbitration Association tribunal has tossed French biopharmaceutical company Adocia SA's arbitral claim seeking \$1.8 billion in damages against Eli Lilly & Co. over the U.S. drugmaker's alleged misappropriation of confidential information, the companies said Thursday.

A Chicago-based arbitration panel cleared Eli Lilly from Adocia's claims it misappropriated and misused confidential information and intellectual property and breached confidentiality agreements in a dispute that arose in 2017 after Eli Lilly terminated a license agreement to develop BioChaperone Lispro, a type of insulin for patients with type 1 and type 2 diabetes.

The panel also dismissed Eli Lilly's \$188 million counterclaim that Adocia concealed the discoveries and confidential information at issue in the French company's \$1.8 billion claim, which Adocia had denied.

Adocia, which specializes in developing treatments for diabetes and other metabolic diseases, said in 2018 it updated the amount of damages being sought by more than \$200 million.

"We're pleased with the panel's decision," Michael J. Harrington, Lilly's senior vice president and general counsel, said in a statement. "Lilly conducts its business with integrity. We look forward to putting this matter behind us and focusing on the important work of discovering and developing new treatments for people living with diabetes."

Adocia Chairman and CEO Gérard Soula said in an investor conference call Friday he was surprised by the tribunal's dismissal of the claims.

"The tribunal recognized that our claim has some grounds but decided that was not enough to compensate Adocia," Soula said. "Frankly we were really surprised by this decision because we had a lot of facts in our favor showing the deficiencies in communication and we were confident that the tribunal would recognize it."

"It is really disappointing because it was not an easy decision to launch this arbitration but we did it because we strongly believed it was our duty to defend our confidential information," he said.

Adocia told its investors in 2018 that Eli Lilly's termination of the agreement "impacted significantly" the company's revenue in the first half of 2017.

The companies had entered into their "worldwide licensing collaboration" in December 2014, while Adocia's BioChaperone technology was in an earlier phase of development. The agreement made Lilly responsible for future development, manufacturing and commercialization of the insulin, with Adocia receiving a \$50 million upfront fee.

Separately from the claim dismissed this week, Adocia had also filed an initial arbitration relating to Lilly's decision to change the product development plan during their collaboration.

Adocia said Thursday that the arbitration panel's 2018 order for Eli Lilly to pay it \$11.6 million for earning a disputed contractual milestone payment still stands, while it is unclear if this is the initial arbitration previously referred to by Adocia.

Adocia is represented by Jones Day.

Eli Lilly is represented by Marney L. Cheek, Clara J. Shin, Jeffrey M. Davidson, Megan P. Keane, Miguel López Forastier, Jared Frisch, Clovis Trevino, Isaac Chaput, Udit Sood, Dylan Silva, Kanu Song, Breanna Jones and Andrew Regan of Covington & Burling LLP.

--Additional reporting by Caroline Simson. Editing by Adam LoBelia.