

AstraZeneca Sued for \$1.28 Billion Over Asthma Drug (Update2)  
[Share](#) | [Email](#) | [Print](#) | [A A A](#)

By Thom Weidlich

May 26 (Bloomberg) -- [AstraZeneca Plc](#) was sued for \$1.28 billion, accused of backing out of a deal with Verus Pharmaceuticals Inc. to develop a children's asthma drug and instead aligning with competitor [Map Pharmaceuticals Inc.](#)

[Verus](#), based in San Diego, sued in New York state court today, seeking at least \$280 million in compensatory damages and \$1 billion in punitive damages from AstraZeneca, the U.K.'s second-biggest drugmaker. Verus claims that once AstraZeneca entered a deal with Map, it sought to kill any competition by destroying Verus's ability to develop the drug on its own.

AstraZeneca's "actions were motivated by fear and unmitigated greed," Verus wrote in its complaint.

The London-based drugmaker agreed in 2007 to pay more than \$310 million to Verus for its pediatric asthma-medicines program. Under the deal, Verus got \$30 million immediately, with AstraZeneca paying another \$280 million if the program met sales targets, Verus said at the time.

Laura Woodin, a spokeswoman for AstraZeneca, said the company didn't have an immediate comment.

Verus specializes in treatments for asthma, allergies and related conditions in children.

## New Formulation

AstraZeneca and Verus sought to develop a new formulation of the active ingredient in the U.K. company's Pulmicort asthma drug that would be easier to use and work faster. It would be delivered by a technology called eFlow, which converts the drug from a liquid into a mist that can be inhaled.

Pulmicort Respules, for children as young as 12 months, "were incompatible with eFlow because eFlow was not indicated for delivery" of that form of the drug, according to the complaint.

AstraZeneca's U.S. sales of Pulmicort last year totaled \$982 million, a 2 percent increase over 2007, the company said Jan. 29. Pulmicort Respules accounted for about 90 percent of those sales.

Asthma is the most common chronic disorder in childhood in the U.S., currently affecting about 6.8 million children under 18, according to the American Lung Association.

According to Verus, AstraZeneca agreed to pursue development of the drug at least up to the U.S. Food and Drug Administration meeting at the end of the mid-stage of clinical trials.

AstraZeneca pulled out of the deal in December without scheduling such a proceeding and entered a similar deal with Map, according to the complaint.

#### Won't Collaborate

"AstraZeneca used its weight to entice Verus to collaborate with it and then used that same weight to unlawfully terminate an enforceable collaboration agreement," Blair Fensterstock, a lawyer for Verus at New York-based Fensterstock & Partners LLP, said in a phone interview today. "AstraZeneca's actions are an example of its voracious appetite to swallow up small entrepreneurial pharmaceutical companies to the detriment of the public at large."

By 2008, AstraZeneca faced the prospect of Map getting FDA approval for its competing product, Verus said.

"Rather than roll up their sleeves and compete with Map," AstraZeneca dropped Verus and entered a license agreement with Map and tried to destroy the San Diego company, it said.

In November, AstraZeneca told Verus that due to toxicity results, the product's development wasn't "practicable" and the FDA proceeding was "not feasible," according to the complaint.

#### Deadline Passed

In December, AstraZeneca refused to allow Verus to exercise a repurchase option under their agreement, arguing that the deadline had passed, Verus said. It also terminated third-party contracts it received under the deal to "sabotage Verus's chances of receiving FDA approval" on its own and to give its Map venture an advantage, Verus said.

Verus and Map are the only companies trying to develop the new formulation of the product, according to the complaint. In February, Map announced that its drug didn't meet its main goal in the last stages of testing.

Map isn't named as a defendant in the suit. The Mountain View, California, company's shares tripled in early trading today after reporting that its migraine drug met goals in a test required for U.S. regulatory approval. Lisa Borland, a spokeswoman for Map, didn't immediately return a call for comment on the lawsuit.

GlaxoSmithKline Plc, based in London, is the U.K.'s biggest drugmaker.

The case is Verus Pharmaceuticals Inc. v. AstraZeneca AB, 601635/2009, New York Supreme Court (Manhattan).

To contact the reporter on this story: Thom Weidlich in New York at [tweidlich@bloomberg.net](mailto:tweidlich@bloomberg.net).

*Last Updated: May 26, 2009 13:43 EDT*