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**GILEAD STATEMENT ON U.S. PATENT AND TRADEMARK OFFICE DECISION TO DENY REQUEST FOR *INTER PARTES* REVIEW OF HIV PREP PATENTS**

**Foster City, Calif., February 5, 2020** – Gilead is reviewing the U.S. Patent and Trademark Office (USPTO) decision to deny our request for an *inter partes* review (IPR) of patents granted to the U.S. Department of Health and Human Services (HHS) for HIV pre-exposure prophylaxis (PrEP). The denial of the request for IPR does not mean that the HHS patents are valid; the Patent Trial Appeal Board (PTAB) simply did not find the limited evidence we were permitted to introduce in an IPR was sufficient to justify a full hearing on the merits using its expedited procedure.

Gilead continues to believe all four HHS PrEP patents are invalid and should not have been granted. The decision does not prevent Gilead from proving that the patents are invalid in the Delaware litigation based on the same or additional evidence. Gilead has additional defenses to the Government’s lawsuit, beyond those contained in the IPRs, and will vigorously defend itself in that litigation. Gilead also believes the Government breached its contractual obligations to inform Gilead of any attempt to secure patents on work derived from use of materials and information Gilead provided to the Government.

There is compelling evidence demonstrating that the HHS patents are invalid. An invention cannot be patented if it has been publicly used or otherwise available to the public for more than a year before another seeks to patent it. Well before HHS claims to have invented the concept of PrEP, others had conceived of using and had used antiretroviral therapy, including Truvada<sup>®</sup> (emtricitabine 200 mg and tenofovir disoproxil fumarate 300 mg tablets), for PrEP. This evidence was not available in the IPR record under PTAB rules. In addition, published materials clearly show that others had earlier conceived of using an antiretroviral therapy for pre-exposure prophylaxis. For example, guidelines published in 2004 recommended administering combination antiretrovirals – including Truvada – to certain categories of “high risk” individuals before an HIV exposure.

The fact remains that Gilead invented Truvada and funded the clinical trials that led to its approval in 2004 by the U.S. Food and Drug Administration for use in combination with other antiretroviral agents to treat HIV. The company has spent an estimated \$1.1 billion on research and development related to Truvada – to develop the two individual drugs that make up Truvada, invent the combination product that is Truvada, invent its use for HIV treatment and support the clinical trials that led to the approval of Truvada for PrEP<sup>®</sup>. Similarly, Gilead invented and shouldered the cost of developing Descovy<sup>®</sup> (emtricitabine 200 mg and tenofovir alafenamide 25 mg tablets). Any claim to the contrary is false.

Despite this patent dispute, Gilead will continue to work collaboratively with federal agencies, including HHS and the Centers for Disease Control and Prevention, on efforts to end the HIV epidemic in the United States. We remain committed to supporting the government’s efforts to substantially increase the number of people at risk for HIV who have access to PrEP through our historic donation of PrEP medication for uninsured individuals and through ongoing efforts to address the social and structural barriers to care.

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**U.S. Indication for Truvada for PrEP**

Truvada for PrEP (pre-exposure prophylaxis) is indicated to reduce the risk of sexually acquired HIV-1 in adults and adolescents ( $\geq 35$  kg) who are at risk for HIV, when used in combination with safer sex practices. HIV-negative status must be confirmed immediately prior to initiation

- If clinical symptoms of acute HIV-1 infection are present and recent exposures ( $< 1$  month) are suspected, delay initiation for at least 1 month until HIV-negative status is reconfirmed. Alternatively, confirm HIV-negative status with a test cleared by the FDA to aid in the diagnosis of acute HIV-1 infection

**U.S. Important Safety Information for Truvada for PrEP****BOXED WARNING: RISK OF DRUG RESISTANCE WITH USE OF TRUVADA FOR PrEP IN UNDIAGNOSED EARLY HIV-1 INFECTION and POST TREATMENT ACUTE EXACERBATION OF HEPATITIS B**

- **Truvada for PrEP must only be prescribed to individuals confirmed to be HIV-negative immediately prior to initiation and at least every 3 months during use. Drug-resistant HIV-1 variants have been identified with use of Truvada for PrEP following undetected acute HIV-1 infection. Do not initiate if signs or symptoms of acute HIV-1 infection are present unless HIV-negative status is confirmed.**
- **Severe acute exacerbations of hepatitis B have been reported in HBV-infected patients who discontinued Truvada. Hepatic function should be monitored closely with both clinical and laboratory follow-up for at least several months in patients with HBV after discontinuing Truvada. If appropriate, initiation of anti-hepatitis B therapy may be warranted.**

**Contraindications**

- Truvada for PrEP is contraindicated in individuals with unknown or positive HIV status.

**Warnings and precautions: Comprehensive risk reduction strategies**

- **Reduce HIV-1 risk:** Truvada for PrEP is not always effective in preventing HIV-1. Use only as part of a comprehensive prevention strategy that includes safer sex practices, regular testing for HIV-1 and other STIs, and counseling on reducing sexual risk behaviors.
- **Reduce potential for drug resistance:** Truvada for PrEP should only be used in individuals confirmed to be HIV-negative immediately prior to initiation, at least every 3 months while taking Truvada, and upon an STI diagnosis. HIV-1 resistance substitutions may emerge in individuals with undetected HIV-1 infection who are taking only Truvada. Truvada alone is not a complete regimen for treating HIV-1.
  - HIV antibody tests may not detect acute HIV infection. If recent exposures are suspected or symptoms of acute HIV infection are present (e.g., fever, fatigue, myalgia, skin rash), delay initiating ( $\geq 1$  month) or discontinue use and confirm HIV-negative status with a test approved by the FDA for the diagnosis of acute HIV infection
  - If a screening test indicates possible HIV-1 infection, convert the HIV-1 PrEP regimen to an HIV treatment regimen until HIV-negative status is confirmed.
- **Counsel on adherence:** Counsel individuals to strictly adhere to their dosing schedule, as efficacy is strongly correlated with adherence. Some individuals, such as adolescents, may benefit from more frequent visits and counseling.

**Warnings and precautions**

- **New onset or worsening renal impairment: Cases of acute renal impairment and Fanconi syndrome have been reported with the use of tenofovir disoproxil fumarate (TDF). Truvada is not recommended in individuals with estimated creatinine clearance (CrCl)  $< 60$  mL/min. Avoid concurrent or recent use with a nephrotoxic agent. Acute renal failure has been reported after initiation of high dose or multiple NSAIDs in patients at risk for renal dysfunction; consider alternatives to NSAIDs in these patients. Monitor renal function in all patients – See Dosage and Administration section.**

- **Bone effects:** Decreases in bone mineral density (BMD) and mineralization defects, including osteomalacia associated with proximal renal tubulopathy, have been reported with the use of TDF. Consider monitoring BMD in patients with a history of pathologic fracture or risk factors for bone loss.
- **Lactic acidosis and severe hepatomegaly with steatosis:** Fatal cases have been reported with the use of nucleoside analogs, including Truvada. Discontinue use if clinical or laboratory findings suggestive of lactic acidosis or pronounced hepatotoxicity develop, including hepatomegaly and steatosis in the absence of marked transaminase elevations.
- **Drug interactions:** See Drug Interactions section. Consider the potential for drug interactions prior to and during use of Truvada and monitor for adverse reactions.

#### Adverse reactions

- **Common adverse reactions** (>2% and more frequently than placebo) of Truvada for PrEP in clinical trials were headache, abdominal pain, and weight loss.

#### Drug interactions

- **Prescribing information:** Consult the full Prescribing Information for Truvada for more information, warnings, and potentially significant drug interactions, including clinical comments.
- **Hepatitis C antivirals:** Coadministration with ledipasvir/sofosbuvir, sofosbuvir/velpatasvir, or sofosbuvir/velpatasvir/voxilaprevir increases TDFexposure; monitor for adverse reactions.
- **Drugs affecting renal function: Coadministration of Truvada with drugs that reduce renal function or compete for active tubular secretion may increase concentrations of emtricitabine and/or tenofovir.**

#### Pregnancy and lactation

- **Pregnancy:** An Antiretroviral Pregnancy Registry (APR) has been established. Available data from observational studies and the APR show no increase in the rate of major birth defects for Truvada compared with a US reference population. Consider HIV prevention methods, including Truvada for PrEP in women due to the potential increased risk of HIV-1 infection during pregnancy and mother to child transmission during acute HIV-1 infection.
- **Lactation:** Emtricitabine and tenofovir have been detected in human milk. Evaluate the benefits and risks of Truvada for PrEP in breastfeeding women, including the risk of HIV-1 acquisition due to nonadherence, and subsequent mother to child transmission. Health benefits of breastfeeding should be considered along with potential adverse effects of Truvada on the child, which are unknown.

#### Dosage and administration

- **Dosage:** One tablet once daily with or without food.
- **HIV screening:** Test for HIV-1 infection prior to initiating and at least every 3 months during treatment.
- **HBV screening:** Test for HBV infection prior to or when initiating treatment.
- **Renal impairment and monitoring:** Not recommended in individuals with CrCl <60 mL/min. In all patients, assess serum creatinine, estimated creatinine clearance, urine glucose, and urine protein on a clinically appropriate schedule. In patients with chronic kidney disease, also assess serum phosphorus.

U.S. full Prescribing Information for Truvada and Descovy, including BOXED WARNING, is available at [www.gilead.com](http://www.gilead.com).

GILEAD, TRUVADA, TRUVADA FOR PrEP and DESCOVY are trademarks of Gilead Sciences Inc., or its related companies.

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**Forward-Looking Statement**

This statement includes forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 that are subject to risks, uncertainties and other factors, including our ability to defend against infringement of our patents and not infringe upon the patents of third parties. Further, we are unable to predict with certainty the ultimate outcome of the litigation related to the HHS PrEP patents. These risks, uncertainties and other factors could cause actual results to differ materially from those referred to in the forward-looking statements. The reader is cautioned not to rely on these forward-looking statements. These and other risks are described in detail in Gilead's Quarterly Report on Form 10-Q for the quarter ended September 30, 2019, as filed with the U.S. Securities and Exchange Commission. All forward-looking statements are based on information currently available to Gilead, and Gilead assumes no obligation to update any such forward-looking statements.

**About Gilead Sciences**

Gilead Sciences, Inc. is a research-based biopharmaceutical company that discovers, develops and commercializes innovative medicines in areas of unmet medical need. The company strives to transform and simplify care for people with life-threatening illnesses around the world. Gilead has operations in more than 35 countries worldwide, with headquarters in Foster City, California.

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*For more information on Gilead Sciences, please visit the company's website at [www.gilead.com](http://www.gilead.com), follow Gilead on Twitter (@GileadSciences) or call Gilead Public Affairs at 1-800-GILEAD-5 or 1-650-574-3000.*