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Merck to appeal Aussie Vioxx ruling

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An Australian court held Merck liable for the heart attack suffered by a patient using its now-withdrawn painkiller Vioxx. The federal judge ruled that Vioxx was defective and ordered the drugmaker's Australian unit to pay about \$260,000 in compensation to the patient, Graeme Peterson.

Vioxx almost doubled the risk of a heart attack, Justice Christopher Jessup ruled, making it "not reasonably fit" for use as a pain reliever. Merck's Australian unit didn't adequately warn Peterson's doctor of the risks, the judge ruled.

But the court also ruled that Merck was not negligent in its handling of Vioxx, rejecting allegations that the company knew or should have known about its risks before withdrawing the drug from the market.

Australian lawyers said the ruling could prompt other Vioxx patients to make similar claims against Merck, but Jessup wrote that his ruling in favor of Peterson relied specifically on a lack of communication between the company's Australian unit and Peterson's doctor--a situation that might not apply to other patients in a class action against the company.

Meanwhile, the company has emphasized that Jessup had found "Merck was not negligent in its development, scientific study and sale of Vioxx." Merck also says it will appeal the remainder of the ruling. "The litigation in Australia remains at an early stage," the company says in a statement.