



## News Release

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### **Federal Court of Appeals in a Divided Decision Reverses District Court Ruling Dismissing VIOXX<sup>®</sup> Securities Class Action**

#### **Merck Will Seek Review of Ruling or Pursue Additional Grounds for Dismissal**

WHITEHOUSE STATION, N.J., Sept. 9, 2008 – Merck & Co., Inc. said today that it is considering asking either the full court of appeals or the U.S. Supreme Court to review a divided decision of a three-judge panel of the 3rd Circuit Court of Appeals reinstating a consolidated securities class action suit. The suit, brought by investors in connection with disclosures regarding VIOXX, had been dismissed by a federal district court in April 2007.

In the divided ruling today, the panel reversed a ruling by a District Judge of the U.S. District Court in Newark, N.J. The judge had found that the securities action should be dismissed because all of the plaintiffs' claims were time-barred under the applicable statutes of limitations.

Merck presented several alternative grounds for dismissing the lawsuit. In reaching his April 2007 decision to dismiss the suit, the District Judge considered arguments regarding the timeliness of the suit, but did not address the alternative grounds for dismissal that Merck had presented. As a result, if the ruling is not reversed, Merck will renew its request to dismiss the suit on those alternative grounds. In the process, the Company will seek to rely upon a new standard established by the Supreme Court after the April 2007 ruling that imposes a higher bar for plaintiffs pursuing a securities case. The panel has made no ruling on the merits of the plaintiffs' lawsuit.

#### **About Merck**

Merck & Co., Inc. is a global research-driven pharmaceutical company dedicated to putting patients first. Established in 1891, Merck currently discovers, develops, manufactures and markets vaccines and medicines to address unmet medical needs. The Company devotes extensive efforts to increase access to medicines through far-reaching programs that not only donate Merck medicines but help deliver them to the people who need them. Merck also publishes unbiased health information as a not-for-profit service. For more information, visit [www.merck.com](http://www.merck.com).

**Forward-Looking Statement**

This press release contains "forward-looking statements" as that term is defined in the Private Securities Litigation Reform Act of 1995. These statements are based on management's current expectations and involve risks and uncertainties, which may cause results to differ materially from those set forth in the statements. The forward-looking statements may include statements regarding product development, product potential or financial performance. No forward-looking statement can be guaranteed and actual results may differ materially from those projected. Merck undertakes no obligation to publicly update any forward-looking statement, whether as a result of new information, future events, or otherwise. Forward-looking statements in this press release should be evaluated together with the many uncertainties that affect Merck's business, particularly those mentioned in the risk factors and cautionary statements in Item 1A of Merck's Form 10-K for the year ended Dec. 31, 2007, and in any risk factors or cautionary statements contained in the Company's periodic reports on Form 10-Q or current reports on Form 8-K, which the Company incorporates by reference.

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