

News in Brief

The story of Novartis and the patent laws of India

In a first of its kind case, pharma MNC Novartis has sued the Indian government and its patent law. The next hearing is due on 29th January 2007 and its decision will have wide spread implications. How did it all begin? As member of the WTO and party to the TRIPS agreement, India is honor bound to give patents to medicines being marketed in India. If a company gets patent rights that means for a long period of around 20 years other companies will be prevented from producing or selling generic versions of the drug in that country. Automatically the price of the drug shoots up.

When Novartis applied for a patent in India on the cancer drug imatinib mesylate, marketed as Gleevec/Glivec, it was rejected in India in January 2006. This was because according to Indian patent law, minor modifications of an old drug cannot get a patent. The crux of the problem is the cost. The cost of the drug from Novartis around Rs 1.2 lacs per patient per month, while generic versions in India cost less than Rs. 10,000 per patient per month. Novartis is therefore trying to have the patent decision overturned so that it can sell Gleevec at the same price in India as in other countries. Novartis is also trying to challenge the Indian patent law so that patents are as easily granted in India as they are in most other countries.

India is one of the few developing countries with

production capacity to manufacture quality essential medicines. By producing cheaper generic versions of drugs that were patented in other countries, India has become a key source of affordable essential medicines, such as antiretroviral medicines to treat HIV/AIDS. Drugs produced in India have been used for the country's domestic market and are also imported by many developing countries that rely on India to provide the medicines needed e.g. to run national AIDS treatment programmes. Over half the medicines currently used for AIDS treatment in developing countries come from India and such medicines are used to treat over 80% of the 80,000 AIDS patients in Médecins Sans Frontières projects today.

The Indian law states that patents should only be granted on medicines that are truly new and innovative. This means that companies should not be able to obtain patents for drugs that are not really new, such as for combinations or for slightly improved formulations of existing drugs. This part of the law was specifically targeted at preventing a common practice of drug companies of trying to get patents on insignificant improvements of existing drugs, in order to extend their monopolies on drugs as long as possible. Novartis is challenging this part of the Indian law, which the company says violates WTO rules.

Gouri Rao Passi,

*Consultant, Department of Pediatrics,
Choithram Hospital & Research Centre,
Indore.*

E-mail: gouripassi@hotmail.com