

COMMENT

Destroying Doha Declaration

With the old patent law gone under the juggernaut of WTO dictated Trade-Related Aspects of Intellectual Property Rights (TRIPS), even minor safeguards as provided by the Doha Declaration in the Indian Patent Act of 2005, are now threatened. Drug Majors, mostly based in the West won't allow production of cheap pharmaceuticals anymore anywhere in the world.

In what seem to be an unpre-cedented move, about a quarter of a million people worldwide have signed a petition urging Novartis, the Swiss-based pharmaceutical company to drop its legal challenge against the government of India for refusing to grant a patent on a cancer drug the company produced, citing concern this will have on the access to medicines in developing countries.

The legal challenge brought by the Swiss-based Novartis against the government of India began to be heard in the Chennai High Court on 29 January -despite an international petition launched by the international medical humanitarian organisation Medicins Sans Frontieres (MSF) last December to put pressure on the company to drop its patent case against India.

Novartis is seeking to overturn India's refusal to grant a patent on the cancer drug that the company markets as Gleevec/Glivec, and is also challenging the provision in the Indian Patent Act of 2005 which formed the basis for rejecting the Novartis patent.

Novartis is challenging a specific provision in India's patent law that restricts patenting of medicines to innovations only. If the provision were overturned, patents would be granted far more widely in India, heavily restricting the production of affordable medicines that has become crucial to the treatment of the developing world.

Here in India, the People's Health Movement fought hard to make sure Indian government implemented a law that put people's health before patents and profits. "But now, Novartis is trying to force a change in the Indian patent law, which could deprive people suffering from life-threatening diseases and conditions."

"The TRIPS Agreement already makes it difficult for India to produce the affordable drugs that people need". "By challenging the pro-public health safeguards in the Indian law, Novartis is going even further and is trying to undo the Doha Declaration, restricting access to medicines."

According to the groups, one provision of the Indian law states that any interested party can oppose a patent before it is granted in a "pre-grant opposition" process. Such oppositions have been filed against numerous patent applications on essential medicines that do not warrant patents under Indian law.

India's 2005 patent law only allows drug patents on completely new compounds invented after 1995. When Novartis filed for a patent on its leukaemia drug Glivec (Gleevec in some countries), the Indian patent office ruled that the drug was simply a new form of an existing treatment that was developed before 1995. This was India's first-ever drug patent rejection.

But money talks and it remains to be seen whether Novartis can laugh the last laugh.