Drug Company Novartis tries to weaken Indian patent law that protects people

Date: 5 September 2011

Source: KEIonline

*Geneva/New Delhi 5 September 2011 *Novartis will go before the Indian Supreme Court tomorrow in the latest attempt by the Swiss multinational pharmaceutical company to undermine a key public health safeguard in Indian patent law specifically designed to prevent drug companies from abusively patenting known medicines. If successful, the move would have a devastating impact on access to affordable medicines across the developing world, according to international humanitarian medical organisation Medecins Sans Frontieres (MSF).

'Novartis is trying to straightjacket Indian patent offices. It wants to stop them from being able to reject patents on new forms of old medicines that show little improved therapeutic efficacy,' said Leena Menghaney, India Manager of the MSF Access Campaign. 'The system we have now is not perfect, but it does prevent drug companies from getting unjustified 20 year monopolies every time they come up with a new use or a new form of a known medicine. Novartis wants to make this safeguard meaningless, whatever the consequences it may have on public health.'

Novartis is challenging a part of India's patent law ' Section 3(d) ' which read with other provisions of the patent law says that a new form of a known medicine can only be patented if it is not obvious and shows significantly improved therapeutic efficacy over existing medicines. When India, as part of its obligations as a member of the World Trade Organization (WTO), introduced patents on medicines in 2005, it did so in a way that sought to balance private patent rights with public health needs.

'If Novartis succeeds in weakening the interpretation of Section 3(d) for the purpose of obtaining a patent on a specific salt of the anti-cancer drug imatinib, it would force India to grant far more patents than it currently does or is required to under international trade rules', said Dr Amit Sengupta of People's Health Movement. 'This could lead to generic competition on many essential drugs ending entirely and prices for these in both India and

developing countries remaining very high.'

'Because India is the source of the majority of affordable quality medicines used across the developing world, the consequences of this stretch far beyond the country's borders,' said Dr. Tido von Schoen-Angerer, Director of MSF's Access Campaign. 'The threat to the developing world is real, for all patients 'it's not just cancer patients in India who are in the firing line here.'

'We've already seen the benefits of public health safeguards in India's patent law in practice', said Ms Menghaney. 'Thanks to 3(d), patent applications on child-friendly formulations and fixed-dose combinations of antiretroviral drugs have been rejected. These are the very medicines that need generic competition to be affordable.'

But Section 3(d) has long irked pharmaceutical companies. In 2006, when the Indian patents office ruled that Novartis did not deserve a patent for imatinib mesylate (Gleevec) on the grounds that the application claimed a new form of a drug too old to be patentable in India, the company embarked on a series of lawsuits, seeking to have Section 3(d) declared unconstitutional. Having lost that case in 2007 and the patent appeal in 2009, Novartis is now attempting to ensure the words 'therapeutic efficacy' are interpreted in a way that allows even small changes to an old medicine ' such as imatinib mesylate ' to be patentable.

'Decisions made by Indian patent offices and Indian courts are a question of life or death for people living with HIV/AIDS', said Loon Gangte, of the Delhi Network of Positive People (DNP+). 'We rely on the availability of affordable AIDS drugs and other essential medicines made by Indian generic manufacturers to stay alive and healthy'.

Keywords: Drug Company / Novartis / Indian / Patent law