Nuances in the Indian Patent System and their Implications in the Enforcement of Patents in India

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Munich Intellectual Property Law Center
Munich, July 1, 2014
Slides updated on July 16, 2014

Acknowledgements

Partial Financial Support by The Alexander von Humboldt-Foundation, Germany for this visit to Munich is gratefully acknowledged.

Thanks are also due to the Munich Intellectual Property Law Center (MIPLC) for their kind hospitality extended to me during this visit.

Development of the Patent Law In India

Phase I

Act VI of 1856

Act XV in 1859

Patterns and Designs Protection Act 1872

Protection of Inventions Act 1883

Inventions and Designs Act 1888

Indian Patents and Designs Act 1911

IPR in India Post TRIPS

- **The Patents (Amendment) Act 2005 [15 of 2005], April 4, 2005 w.e.f 01.01.2005; rules amended from time to time**
- **The Patents (Amendment) Act The Trademarks Act 1999 and TM Rules 2002 with several amendments to the rules from time to time; Joined Madrid Protocol on 08.07.2013**
- **Copyright Act 1957 with Copyright rules (1958) followed by other amendments and International Copyright order 1999. Now is a signatory to the Marrakesh Treaty on 30.04.2014**
- **Designs Registration Act 2000 with Design rules 2001; Designs (Amendment) Rules 2008 w.e.f 17.06.2008**

  Draft Designs (Amendment) Rules 2013
- **Geographical Indications Act 1999 and Rules 2002 w.e.f Sept 2003**
- **Protection of Layouts for Integrated Circuits Act 2000 rules 2001 w.e.f. 10.12.2001**
- **The Protection of Plant Varieties and Farmers Rights Act 2001; Rules 2003 w.e.f 12.09.2003; Rule amendments in Oct & Dec 2009**
- **Bio-diversity Act 2002 ; Biological Diversity Rules 2004 w.e.f 15.04.2004**

Development of the Patent Law in India

Phase II

Indian Patents Act 1970(39 of 1970)

The Repealing and Amending Act 1974 (56 of 1974)

The Delegated Legislation Provisions (Amendment) Act 1985 (4 of 1986)

Development of the Patent Law in India

Phase III

Ordinance to amend the Patents Act 1970 on 31.12.1994 [*No.13 of 1994*], which ceased to operate after six months
India was taken to the Dispute Settlement Body in WTO for non-compliance of TRIPS Provisions; DSB Decision against India

Ordinance to amend Patents Act 1970 [ord. 3 of 1999)] issued on 08.01.1999; also India joined the Paris Convention and Budapest Treaty in December 1998

The Patents (Amendment) Act 1999 (17 of 1999) of 26-03-1999 w.e.f 01-01.1995

The Patents (Amendment) Act 2002 (38 of 2002) published on 25.06.2002 became effective from 02.05.2003

The Patents (Amendment) Ordinance 2004 (Ord 7 of 2004)

Development of the Patent Law in India

Phase IV

3rd Amendment bill introduced in December 2003 lapsed;

Patent Ordinance 2004 on December 26th 2004.

The Patents (Amendment) Act 2005 [15 of 2005],

April 4, 2005;

Patents (Amendment) Rules 2005 w.e.f 01-01-2005;

Patents (Amended) Rules 2006 w.e.f 5-5-2006;

Patents (Amendment) Rules 2012 w.e.f 25.09.2012;

Patents (Amendment) Rules 2013 w.e.f 23.04.2013;

Patents (Amendment) Rules 2014 w.e.f 28.02.2014

Key Nuances for today's discussion

- Section 2(1)(ja) :Definition of Inventive Step,
- Section 2(1)(ta): Pharmaceutical substance
- Section 3 : Not inventions within the meaning of the Act *{Major impact on patentability and hence a set of grounds for the opposition and revocation of patents}*
- Section 8: Mandatory to keep the patent office informed of corresponding patent applications made in other patent offices in the world and their status & proceedings *{noncompliance is a ground for opposition / revocation of a patent}*
- Section 9(4) and 17(1): Post Dating of Patent Application {applicants can shift the priority date of the provisional patent application in India upto 6 months retaining the same application number}

Key Nuances for today's discussion

- Section 10(4)(ii)((D): mandatory disclosure of source and geographical origin of "biological materials" {noncompliance is a ground for opposition / revocation of a patent}
- Section 11A(7): Special provision on enforcement of Patents for applications made in the "mail box" which was introduced w.e.f 01-01-1995
- Section 25 : Pregrant and Post Grant oppositions
- Section 39: Residents not to apply for patents outside India without prior permission
- Sections 54-56: Patents of Addition

{Provision for grant of patent for the improvement or modification of an invention as a patent of addition to a prior parent patent application which claimed the parent invention}

Key Nuances for today's discussion

- Section 64 : Revocation of Patents
- Section 83 :Working of Patents {…Only General Principles provided…No Definition}
- Section 84 : Compulsory. Licenses
- Section 92(A): Compulsory licence for export of patented pharmaceutical products in certain exceptional circumstances {Provision to implement para 6 in Doha Declaration}
- Section 107A: Certain acts not to be considered as infringement { International Exhaustion and "Bolar-like" Provision}
- Section 146: Mandatory Annual Reporting of Working of Patents {non-compliance has serious consequences}

Section 3
…….Not inventions within the meaning of the Act…few examples

(b) an invention the primary or intended use or commercial exploitation of which would be contrary to public order or morality or which causes serious prejudice to human, animal or plant life or health or to the environment;

(c) the mere discovery of a scientific principle or the formulation of an abstract theory or discovery of any living thing or non-living substance occurring in nature;

Section 3
….Not inventions within the meaning of the Act…Few Examples

(d) the mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any new property or new use for a known substance or of the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant.

Explanation.- For the purposes of this clause, salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations and other derivatives of known substance shall be considered to be the same substance, unless they differ significantly in properties with regard to efficacy;

Section 3
……Not inventions within the meaning of the Act……few examples

(h) a method of agriculture or horticulture;

(i) any process for the medicinal, surgical, curative, prophylactic, diagnostic, therapeutic or other treatment of human beings or any process for a similar treatment of animals to render them free of disease or to increase their economic value or that of their products;

(j) plants and animals in whole or any part thereof other than microorganisms but including seeds, varieties and species and essentially biological processes for production or propagation of plants and animals;

Section 3
….not inventions within the meaning of the Act…few examples

(k) a mathematical or business method or a computer programme *per se* or algorithms;

(m) a mere scheme or rule or method of performing mental act or method of playing game;

(p) an invention which, in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components.

Linkages between the Indian Biodiversity Act and Indian Patents Act

Chapter II in the Biodiversity Act

Sections 3, 4, 5 & 6

1. Certain activities that cannot be undertaken without the approval of the National Biodiversity Board (NBB)
2. Results of R&D that cannot be transferred to certain persons without approval of the NBB; Exceptions for collaborative research projects
4. Applications for IPR not to be made without the approval of NBB.

Section 8: Information and undertaking regarding foreign applications

(1) Where an applicant for a patent under this Act is prosecuting either alone or jointly with any other person an application for a patent in any country outside India in respect of the same or substantially the same invention, or where to his knowledge such an application is being prosecuted by some person through whom he claims or by some person

he shall file along with his application or subsequently within the prescribed period as the Controller may allow –

(a) a statement setting out detailed particulars of such application deriving title from him;

and

Section 8…(contd)

b) an undertaking that, up to the date of grant of patent in India, he would keep the Controller informed in writing, from time to time, of detailed particulars as required under clause (a) in respect of every other application relating to the same or substantially the same invention, if any, filed in any country outside India subsequently to the filing of the statement referred to in the aforesaid clause, within the prescribed time.

Section 8 (contd)

(2) At any time after an application for patent is filed in India and till the grant of a patent or refusal to grant of a patent made thereon, the Controller may also require the applicant to furnish details, as may be prescribed, relating to the processing of the application in a country outside India, and in that event the applicant shall furnish to the Controller information available to him within such period as may be prescribed.

Section 9 (4)….Post Dating

Where a complete specification has been filed in pursuance of an application for a patent accompanied by a provisional specification or by a specification treated by virtue of a direction under sub-section (3) as a provisional specification, the Controller may, if the applicant so requests at any time before grant of patent, cancel the provisional specification and post-date the application to the date of filing of the complete specification.

Section 17(1)..Post Dating of Application

Power of Controller to make orders respecting dating of application.

(1) Subject to the provisions of section 9, at any time after the filing of an application and before the grant of the patent, under this Act, the Controller may, at the request of the applicant made in the prescribed manner, direct that the application shall be post-dated to such date as may be specified in the request, and proceed with the application accordingly:

Provided that no application shall be post-dated under this sub-section to a date later than six months from the date on which it was actually made or would, but for the provisions of this sub-section, be deemed to have been made.

Enforcement of granted patents corresponding to the “Mail Box” applications

Section 11A (7) Rights of a patentee in respect of applications made under sub-section 5 before the 1st day of January 2005 shall accrue from the date of grant of the patent provided also that after a patent is granted in respect of applications made under sub-section (2) of section 5, the patent holder shall only be entitled to receive reasonable royalty from such enterprises which have made significant investment and were producing and marketing the concerned product prior to 1.1.2005

and *which continue to manufacture the product covered by the patent on the date of grant of the patent, and no infringement proceedings shall be instituted against such enterprises.*

Pregrant and Post Grant Oppositions

- Section 25(1): Pregrant Opposition can be filed by any person upto the date of grant.
- Section 25(2): Post Grant Opposition can be filed only by person interested before the expiry of a period of one year from the date of publication of grant of a patent.
- Grounds for opposition of patent and process given in Sections 25(1) and 25(2).

Revocation of Patents…Section 64

Patent may be revoked on a petition of any person interested or of the Central Government by the Appellate Board or on a counter-claim in a suit for infringement of the patent by the High Court

Grounds for revocation given in Section 64

Section 83: “General principles applicable to working of patented inventions”.

Without prejudice to the other provisions contained in this Act, in exercising the powers conferred by this Chapter, regard shall be had to the following general considerations, namely:

(a)that patents are granted to encourage inventions and to secure that the inventions are worked in India on a commercial scale and to the fullest extent that is reasonably practicable without undue delay;

(b) that they are not granted merely to enable patentees to enjoy a monopoly for the importation of the patented article;

(c) that the protection and enforcement of patent rights contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations;

Section 83: “General principles applicable to working of patented inventions”.

Without prejudice to the other provisions contained in this Act, in exercising the powers conferred by this Chapter, regard shall be had to the following general considerations, namely:

(d) that patents granted do not impede protection of public health and nutrition and should act as instrument to promote public interest specially in sectors of vital importance for socio-economic and technological development of India;

(e) that patents granted do not in any way prohibit Central Government in taking measures to protect public health;

(f) that the patent right is not abused by the patentee or person deriving title or interest on patent from the patentee, and the patentee or a person deriving title or interest on patent from the patentee does not resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology; and

(g) that patents are granted to make the benefit of the patented invention available at reasonably affordable prices to the public.

Indian Patent Law on “working of Patents” and “mandatory reporting of working of patents”

Section 146 of The Indian Patent Act mandates the submission of a statement of “working of patent” either when directed by the controller or annually even without the controller’s direction:

1) The Controller may, at any time during the continuance of the patent, by notice in writing, require a patentee or a licensee, exclusive or otherwise, to furnish to him within two months from the date of such notice or within such further time as the Controller may allow, such information or such periodical statements as to the extent to which the patented invention has been commercially worked in India as may be specified in the notice.

Indian Patent Law on “working of Patents” and “mandatory reporting of working of patents

(2) Without prejudice to the provisions of sub-section (1), every patentee and every licensee (whether exclusive or otherwise) shall furnish in such manner and form and at such intervals (not being less than six months) as may be prescribed statements as to the extent to which the patented invention has been worked on a commercial scale in India.

(3) The Controller may publish the information received by him under subsection (1) or subsection (2) in such a manner as prescribed.

Under rule 131, the annual statement is to be submitted in Form 27 latest within 3 months from the end of the calendar year:

(1) The statements shall be furnished by every patentee and every licensee under sub-section (2) of section 146 in Form 27 which shall be duly verified by the patentee or the licencee or his authorised agent.

(2) The statements referred to in sub-rule (1) shall be furnished in respect of every calendar year within three months of the end of each year.

Present Form 27 in India

(i) The patented invention: { } Worked { } Not worked

(a) If not worked: reasons for not working and steps being taken for working of the invention.

(b) If worked: quantum and value (in Rupees), of the patented product:

i) manufactured in India

ii) imported from other countries (give country wise details)

(ii) licenses and sub-licenses granted during the year;

(iii) State whether public requirement has been met partly/adequately/to the fullest extent at reasonable price

This is clearly out of date aand irrelevant in terms of the changing technology development processes, business and Trade practices, Management of patent portfolios, etc ……. …Needs Updating to remain relevant

Implications of non compliance

- If a patentee or licensee refuses or fails to furnish information required under Sec 146, the patentee or licensee will be punished with fine, which may extend up to Ten lakh rupees under Section 122(1)(b). Further, providing wrongful information or statement can impose the patentee /licensee to imprisonment up to six months or fine or both.

Business and Trade-related Parameters for redesigning the mandatory disclosure on “working of patents” by the patentee / licensees

- What is the patent portfolio held in India related to the relevant sector of the market
- Indicate which portions of the patent portfolio has been put to practice either in process and/or incorporated in products in India?
- Indicate how this patent portfolio services this selected market segment
- What is the percentage of the market serviced by the patent portfolio
- Indicate whether the patent portfolio / specific patents have been licenced in India with the details of the registration of the licences with the patent office
- Indicate what fraction of the market is being serviced using the patented invention through local manufacturing and the fraction that is being serviced through imports
- If the patented invention is not being used for local manufacture, what are the reasons for only importation?

Provision to implement Para 6 of Doha Declaration

- **Section 92A** relates to compulsory licence for export of patented pharmaceutical products (provided for in Para 6 of Doha Declaration), to such countries as have inadequate production capacities.
- **Compulsory Licence shall be available for manufacture and export of pharmaceutical products to any country having insufficient or no manufacturing capacity in the pharmaceutical sector for the concerned product to address public health problems, provided compulsory licence has been granted by such country or such country has by notification or otherwise allowed importation of the patented pharmaceutical products from India.**

Recent Patent Office, Intellectual Property Appellate Board and Court Decisions in India on some Patent Issues

IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6718 OF 2013

Dr. Aloys Wobben and another
… Appellants versus

Yogesh Mehra and others
… Respondents

Decision June 2, 2014

Decision

The remedies available under Section 64 i.e. filing a revocation petition before the IPAB or a counter-claim in an infringement suit before the HC, are not conjunctive and a choice has to be made between the two.

This court decision is a major bold step to discourage multiplicity of proceedings in patent cases with regard to opposition, invalidation and revocation.

Compulsory Licence

Natco Pharma Ltd vs Bayer Corporation

Before the Controller of Patents

Application for compulsory licence under Section 84(1)

for

Patent No. 215758

The Issue

Whether

- the reasonable requirements of the public with respect to the patented invention have not been satisfied
- The patented invention is not available to the public at a reasonably affordable price
- The patented invention is not worked in the territory of India
-

Some dates

- 9.08.2011 : Controller finds prima facie case has been made by applicant
- 12.08.2011 :published in Journal
- 23.08.2011:Extension of time allowed to patentee to file opposition to compulsory licence
- 7.10.2011: Patentee files interlocutory petition seeking stay on grounds that infringement proceedings pending in Delhi High Court

Some Dates

- 27.10.2011 : patentee requested refused
- 21.12.2011: Controller also extension of time to file review petition
- Meanwhile Writ Petition filed by Patentee in Bombay High Court challenging the order of Controller dt. 9.8.2011. This was disposed by court on 11.11.2011. Bombay High Court set date to file before the controller to 18.11.2011.
- Patentee exercised constitutional right to file Writ Petition in Delhi High Court challenging the order of 9.8.2011. Court in order of 16.11.2011 directed parties to proceed before the Controller

Some dates

- 18.11.2011: Patentee filed opposition using Form 14
- 13.01.2012: Hearing by Controller
- 27-28 Feb 2012: Hearing concluded

Key Arguments

	2008	2009	2010
Imported by Bayer	**Nil**	**~200**	**unknown**

The requirement of Patients in India on Liver Cancer are in several thousands according to the applicant of the compulsory licence and that Bayer was clearly not meeting the reasonable requirements of the public. Bayer had refused a Voluntary licence when approached by Natco. The Applicant Natco if given a voluntary licence was committed to produce and sell the drug at much lower price than Bayer's price of Rs 280000/- per month of the treatment per Patient. Bayer was neither importing the drug into India in sufficient quantity to service the local needs nor was producing the drug in India.

Key Arguments

Sales figures of the drug:

	2006	2007	2008	2009	2010
Sales per year (Worldwide)	$165m	$371.7m	$677.8m	$843.5m	$934m
Sales in India	Nil	nil	Nil	16 crores	unknown

Patentee (Bayer) submitted that Cipla was infringing the patent and had introduced an infringing product at Rs 30000/- per month as compared to patentee's price of Rs 280,000/- per month. Bayer has filed an infringement suit against CIPLA in the Delhi High Court which is pending.

Bayer argued that the low volume if their import was due to the sale of the infringing Product at such low prices in the market place.

Bayer further submitted that Cipla's sale quantity of the infringing product should be Credited to the effective sale volume of Bayer.

Bayer also argued that their high cost was due to their investment costs in R&D

Bayer's Request for Adjournment under Section 86

- Bayer invoked Section 86 …..asking the Controller to adjourn his decision on Compulsory Licence by offering 2 Patient Assistance *Programmes. The Controller did not agree to this proposition and the reasons given by him in the judgement are as follows*

> As discussed in 9 above, the Patentee did not import the drug at all in 2008, and imported in small quantities in 2009 and 2010. In the facts and circumstances of this case, I do not believe that the time which has elapsed since the grant of the patent has been insufficient to enable the invention to be worked on a commercial scale to an adequate extent or to enable the invention to be so worked to the fullest extent that is reasonably practicable. Further, I do not also see any prompt action on the part of the Patentee to start the working of the invention in the territory of India on a commercial scale and to an adequate extent.

Decision

- Compulsory licence was issues in favour of Natco.
- Bayer appealed this decision at the IPAB which was also disallowed.
- Bayer appealed against the IPAB decision in the Bombay High Court
- On 15.07.2014 the High Court upheld the IPAB Decision
- Bayer plans to appeal against this decision in the Supreme court

BAYER NATCO COMPULSORY LICENCE CASE-LIST OF EVENTS

Dates	Events
13.01.1999	US Patent was filed
12.01.2000	PCT application was filed
5.7.2001	National Phase entry
3.3.2008	The patent was granted(Patent No.215758).
	Bayer filed infringement suit , being C.S. No 523 of 2010 against CIPLA which is still pending
5.5.2011	Bayer filed infringement suit , being C.S. No 1090 of 2011 against NATCO which is still pending
28.7.2011	Natco applied for compulsory licence
9.3.2012	Controller granted compulsory licence
2012	Appeal to IPAB against Controller's order
4.3.2013	IPAB confirmed the grant of compulsory licence
	Bayer has challenged the IPAB 's order before the Bombay High Court by way of WRIT PETITION NO.1323 OF 2013. **Court on 15.07.2014 upheld the IPAB decision. Bayer plans to appeal to the Supreme court**

Second compulsory Licence Application not allowed by Controller of Patents CL Applicant : BDR Pharma for the drug Dasatnib of BMS

- On October 29, 2013, the Controller General of Patents passed an order not allowing the CL Application by BDR Pharma on grounds that the applicant had failed to make a prima facie case.

IN THE HIGH COURT OF DELHI

CS (OS) No. 930 of 2009

Decided On: 28.08.2009

Appellants: **Chemtura Corporation**
Vs.
Respondent: Union of India (UOI) and Ors.

Hon'ble Judges: S. Muralidhar, J.

Defining the isssue

Chemtura Patent No. 213608 (granted on January 9, 2008 by the Controller of Patents)

Issue: accepting the offer for sale of a side bearing pad assembly by the Consortium of which Defendants 2 to 4 are members.

Also seeks an injunction to restrain Defendants 2 to 4 from making, manufacturing, using or offering for sale the side bearing pad assembly by infringing the plaintiff's Patent.

Defining the issue

- By an order dated 27th May 2009 this Court restrained Defendants 2, 3 and 4 and erstwhile Defendant No. 3 till the next date of hearing from infringing the patent rights of the plaintiff and further restrained them from manufacturing, using or offering for sale any device in infringement of the patent of the plaintiff.
- Defendants seeking the vacation of the said stay order and revocation of the patent

Defining the issue

- Plaintiff seeking permanent injunction in the above terms and also for rendition of accounts by the Defendants and for payment by the Defendants of Rs. 1 crore as liquidated damages to the plaintiff.
- The suit also prays for a direction that the entire stock of the impugned product in the custody or possession of the Defendants should be forthwith seized and delivered up to the plaintiff for destruction.

Issues

Chemtura: Licensed the said device to three companies Avadh Rubber Ltd., Aryan Exporters Pvt. Ltd., and Prag Industries who manufacture and supply to the Union of India through the Ministry of Railways and its OEMs, including freight wagon builders.

Two drawings for commercial use according to the technology covered by the subject device have been approved by Director General, Research Designs & Standards Organisation (RDSO.).

Issues

- Defendants 2 to 4 and erstwhile Defendant No. 3 under an agreement dated 1st May 2008 formed a Consortium to jointly develop and market Constant Contact Side Bearer of 23 tonnes axle load Cansub Bogies.
- The consortium submitted manufacturing drawings for approval to Member Mechanical, Railway Board, without the plaintiff's consent, for the device which according to the plaintiff was infringement of the plaintiff's patent for the subject device.

Arguments by Defendants

- The Indian Patent Office was unaware of serious objections on the basis of cited prior arts raised by the US and European Patent authorities, the Indian patent authority granted the plaintiff the patent for the subject device with minimal amendments. In contrast the claims in USA and Europe were severely narrowed in view of the prior art.

Issue

- FER in para 8 has asked for information on the details regarding the search and/or examination report including claims of the applications allowed, as referred to in Rule 12(3) of the Patents Rules 2003 in respect of same or substantially same inventions filed in any one of the major patent offices, such as USPTO, EPO and JPO etc., along with appropriate translation where applicable. This had to be furnished within a period of 30 days.

Arguments by Defendants

The specific case of Defendants 2, 3 and 4 is that the plaintiff (a) obtained the patent on a false suggestion or representation and (b) failed to disclose to the Controller of Patents the information in terms of Section 8 of the Act. It is submitted that the patent was obtained on a false suggestion that there was no further development in regard to the applications filed in US and Europe. It is further pointed out that the plaintiff wholly suppressed its own US Patent No. 3932005 which clearly teaches the use of the toroidal shape of the elastomeric member. Therefore the patent was liable to be revoked on the grounds mentioned in Section 64(1) (j) and (m) of the Act.

Decision

- Patent Revoked

Subsequently two more cases based on Section 8 were decided:

Hindustan Lever (Subsidiary of Unilever) vs Tata Chemicals

Ajantja Pharma Ltd Vs. Allergan INC. and Allergan India Pvt Ltd

Novartis Matter

Patent application No: 1602/MAS/1998

W.P No. 24759 of 2006 In the High Court of Madras ; Decided : 06.08.2007

(2007)4MLJ1153

Misc Pettition Nos 1-5 of /2007 in TA/1-5/2007/PT/CH &

Misc Petition No. 33 of 2008 in TA/1/2007/PT/CH & TA/1-5/2007/PT/CHIPAB Decided: 26.06.2009

Novartis Appealed against this decision in the Supreme court

IN THE SUPREME COURT OF INDIA

CIVIL APPEAL Nos. 2706-2716 OF 2013

(ARISING OUT OF SLP(C) Nos. 20539-20549 OF 2009)

NOVARTIS AG ..Appellant vs. UNION OF INDIA & OTHERS ….Respondents

WITH

CIVIL APPEAL No. 2728 OF 2013

(ARISING OUT OF SLP(C) No. 32706 OF 2009)

NATCO PHARMA LTD. ….Appellant Vs. UNION OF INDIA & OTHERS…respondents

AND

CIVIL APPEAL Nos. 2717-2727 OF 2013

(ARISING OUT OF SLP(C) Nos. 12984-12994 OF 2013)

SLP(C)……../2011 CC Nos.6667-6677

M/S CANCER PATIENTS AID ASSOCIATION ….Appellant

Versus

UNION OF INDIA & OTHERS ….Respondents

Decided: 1st April 2013: Disallowed granting of Novartis's patent application on grounds of the invention falling within the ambit of Section 3(d) of the Indian Patents Act.

In the High Court of Delhi at New Delhi

LA 642/2008 IN CS (OS) 89/2008
Roche & ANR v Cipla

Before Justice S. Ravindra Bhat

Decision dated : March 19, 2008

In the High Court of Delhi

F. Hoffmann-La Roche Ltd and Anr Vs. Cipla Ltd
FAO (OS) 188/2008 Decided: 24.04.2009

Erlotinib

and

its formulation

Tarceva

Held that Roche's patent was valid but Cipla was not infringing The patent. The decision was appealed

June 12 2014: Court directed the companies to mediate. The companies are reported to be in discussion for a mutually acceptable solution.

Bayer Corp and Ors vs. Cipla, Union of India (UOI) and Ors

WP(c) No. 7833/2008
Decided on 18.08.2009
Hon'ble S. Ravindra Bhat J.
Patent number 215758

Bayer Corp and Ors vs. Cipla, Union of India (UOI) and Ors

Further decision by Delhi High Court
On 9th February 2010

Division Bench comprising of Chief Justice A.P. Shah and Justice Muralidhar, upheld the decision passed by Justice Ravindra Bhat who had earlier rejected Bayer's appeal.

IN THE HIGH COURT OF DELHI AT NEW DELHI

HON'BLE DR. JUSTICE S. MURALIDHAR

Feb 8, 2010

W.P.(C) No. 332 of 2010
M/S UCB FARCHIM SA vs M/S CIPLA LTD. & ORS
With
W.P.(C) No. 13295 of 2009
COLORCON INC. vs IDEAL CURES PVT LTD & ORS
With
W.P.(C) No. 12006 of 2009
YEDA R&D CO. LTD. Vs NATCO PHARMA LTD & ORS.
With
ELI LILLY & CO. vs AJANTA PHARMA LTD. ORS
And
W.P.(C) No. 8388 of 2009
ELI LILLY & CO. vs RANBAXY LABORATORIES LTD & ORS.