

High Court Upholds US-based BMS' Patent for Cancer Drug Dasatinib

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Mumbai: The Delhi High Court has upheld the patent of US-based Bristol Myers Squibs (BMS) for Dasatinib, dashing the hopes of a local company to sell a generic version of the cancer drug and providing some relief to multinational drugmakers who are up in arms against India's patent laws.

Justice Manmohan of the high court rejected Mumbai-based BDR Pharmaceuticals plea, which challenged the patent citing a provision in the Indian Patent Act that disallows evergreening of drugs. Evergreening is a practice by which holders of patents that are nearing expiry try to extend royalties, though steps such as taking new patents.

The local company argued also that the high price charged by BMS



was against public interest. Dasatinib is used in the treatment of chronic myeloid leukaemia.

In India, a month's dose of the drug costs about ₹1 lakh. BDR had applied for a compulsory licence for the drug in March and said it would sell a month's drug at ₹8,100. Compulsory licence is a provision

under the Trade Related Intellectual Property Rights agreement wherein a government can allow a company to manufacture and sell patented drugs without the consent of the innovator.

BMS could not be reached for a comment. BDR managing director Dharmesh Shah said the company has yet to review the order copy.

The Indian Patent Office had earlier in 2013 rejected the company's demand for a compulsory licence as it did not follow the procedures for obtaining a voluntary licence from the patent holder.

India's patent laws have become a major irritant for multinational pharma companies who were flummoxed by India granting a compulsory licence for German drugmaker Bayer's kidney cancer drug Sofosbuvir and the Supreme Court's decision of rejecting the patent for Novartis' cancer drug Glivec.

Patent / Regulatory

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