

Patents regime seen raising drug prices

OUR CORPORATE BUREAU
New Delhi, 20 March

Even as the tussle over the Patents Ordinance continues between various political parties, a section of the government is veering round the view that the Patents Ordinance in its present form will lead to a hike in drug prices.

The opinion is in contrast to the commerce ministry's view that drug prices will not be affected as 97 per cent of the drugs in use in the country are off-patent.

Unhappy with the Patents Ordinance in its present form, the ministries of chemicals and health in a meeting on Saturday identified some of their common concerns, stating that the Patents Ordinance indeed went further than just fulfilling the Trade Related Intellectual Property Rights (TRIPS) commitment and that more flexibilities should be incorporated.

The ministries are jointly deliberating the changes that should be brought about especially when it comes to provisions on patentability, pre-grant opposition and compulsory licensing.

The comments will be sent to the prime minister's office which is said to have raised concerns earlier on the issue.

"Also, we want to be ready with our views in case the Patents Ordinance is referred to a select parliamentary committee," an official in the ministry of chemicals said.

The ministries' concern stems from the fact that there are about 7,000 patent applications in the mail box.

About 2,500 applicants are learnt to be seriously pursuing their applications.

Assuming all the applications are for new chemical entities (NCE), this would mean there have been 250 NCEs discovered every year.

"This is impossible, considering the global average is 10, and going down by the year

Patent concern



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Once, different forms of the same molecule are given a patent, almost 60 per cent of the drugs in the market will be covered," the official added.

The ministries also feel that the pre-grant opposition has been considerably weakened and the clauses present earlier but omitted in the Ordinance should be restored.

"Earlier there was a fear that pre-grant opposition will lead to a rise in litigation, but that problem has been taken care of in the Ordinance as a patent will be granted and an objection dismissed concurrently," an official said.

Officials also feel that the procedures for getting a compulsory licence are very tedious and should be eased.

Access charge hike worries firms

PALLAVI MAJUMDAR
New Delhi, 20 March

With only 45-days left to file pre-grant opposition to the thousands of applications in the mail box, the Indian pharmaceutical industry is feeling the pinch of hiked access charges to patents applications.

Under the new rules, which came into effect from December 2004, the inspection fees and charges for supplying photocopies of documents have been raised 27 times, making patents information inaccessible to many. Anybody wanting to inspect a patents application will have to pay Rs 800 per application. A photocopy will cost Rs 4 per page. This may amount to a substantial figure as patents applications usually run into hundreds of pages.

With the 90-day deadline for pre-grant opposition ending April 30, 2005, the industry fears it will not be able to access the patents information promptly, as the Delhi patent office is ap-

parently suffering from a manpower shortage. Moreover, the office is scheduled to be shifted to another location. In addition, a special notice posted by the patents office on January 21, 2005 has said all patent applications filed before July 20, 2003 need not be published. Instead, their particulars may be inspected at the appropriate patents office. This has ruffled the pharmaceutical industry, which has said the government is making a mockery of the already weakened pre-grant opposition.

There are 6,989 patent filings in the mail box by foreign companies. These reportedly include several applications for polymorphs and compositions for pre-1995 molecules. "Unless the domestic industry has access to the published abstracts at reasonable charges, it would not be able to make effective use of even the weakened pre-grant opposition provision," Indian Pharmaceutical Alliance Secretary-General DG Shah said.



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