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Roche, Cipla in Talks to Settle Erlotinib Row

Following HC order, pharma cos find middle ground to end patent battle over cancer drug

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NEW DELHI

After fighting a long and bitter patent battle in India over lung cancer drug Tarceva (Erlotinib), Swiss innovator firm Hoffman La Roche and Indian generic drugmaker Cipla have entered talks through mediation to settle the matter on "mutually agreeable terms".

The development comes after a division bench of the Delhi High Court in April referred the companies to a mediation that both firms chose to ac-

cept, an executive told ET.

Representatives of Roche and Cipla have held several meetings over the past month to thrash out a proposal acceptable to both firms, added the executive, who did not wish to be identified.

This is the first big-ticket patent infringement suit between Big Pharma and Indian generic players since 2005, the year when India turned Trade Related Intellectual Property Rights compliant and started recognising product patents.

This is also the first patent suit case in the country to have been referred for mediation by the courts.

A Roche spokesperson confirmed the mediation to ET. "We can confirm that pursuant to court orders we are in mediation with Cipla," she said. A Cipla spokesperson, however, refused to comment on the matter. Another person familiar with the

matter said, "There are a few options already on the table which are being considered and the negotiation for a settlement is on."

Patent experts dubbed the development "unusual" and "surprising".

Case's result to set a precedent for at least 10 such cases pending against generic firms on Erlotinib

in this case. While the court may have done so to save time and resources, India has lost an opportunity to evolve patent jurisprudence on an important matter," said patent expert Shannad

Basheer. There is always a chance of the mediation failing, in which case it will have to be heard by the court again, Basheer added.

The outcome of this case has been keenly awaited also because it was expected to set a precedent for at least 10 similar cases pending against other generic firms on the same drug.

The head of the intellectual property division of a rival generic company said on the condition of anonymity, "This is the first instance in the Indian pharma space when such a high-profile patent legal wrangle fought so bitterly in courts has gone for settlement through mediation, and this development comes as a huge surprise to me. The contours of the settlement will be very keenly and closely watched by the entire industry if both companies manage to find a common ground."

Basheer