

Bayer can appeal against rejection of patent: IPAB

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Chennai, Feb 7: In a reprieve for German drug major Bayer Schering Pharma, the Intellectual Property Appellate Board (IPAB) has allowed the company to appeal against a patent office order refusing patent on its claim for invention of a pharma composition used in oral contraceptives.

Pharma companies Cipla and Natco had objected to Bayer filing the appeal saying the time limit to file an appeal against an order had expired. They also said there were no valid reasons and sufficient cause in allowing the appeal after a delay of two months beyond the stipulated time limit of three months.

Bayer had approached IPAB after the patent office declined it a patent in 2010, after hearing the pre-grant opposition by Cipla and Natco.

Moving the condonation of a delayed plea, Bayer claimed the delay was unintentional and it took time collecting evidences and securing expert opinion since it was a complex issue. It said since it is a foreign company, it took time to collate necessary documents and said the company had valid reasons for the delay.

The IPAB Bench of Justice KN Basha and DPS Parmar observed Bayer had valid reasons to move the plea. The Bench accordingly instructed the IPAB registry to admit the appeal along with miscellaneous petition filed for an early hearing of the case.

Bayer had filed an application to patent its invention titled pharmaceutical combination of Ethinylestradiol and Drospirenone for use as a contraceptive on February 18, 2002. Subsequently, Cipla and Natco Pharma filed a pre-grant opposition, citing lack of novelty and invention.

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