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KIRAN MAZUMDAR-SHAW/BIOCON

# India has to indicate its position on certain aspects of IPR

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NEW DELHI

US lobby groups such as the US Trade Representative and the International Trade Commission are demanding trade sanctions against India if it does not take a tough stand on intellectual property rights, or IPR, after receiving several complaints from US pharmaceutical companies and government representatives against India's trade policies, particularly concerning the Indian Patents Act (2005).

Local drug makers say the Indian government should not be bullied into taking decisions based on demands by such lobby groups. Kiran Mazumdar-Shaw, chairman and managing director, Biocon Ltd, in an interview said the US should not take action based on a trade body's request, while also explaining that India will have to find a middle path of working with big pharma.



**Pricing issue:** Mazumdar-Shaw says that she is of the opinion that if a multinational pharma company is charging a higher price than what it is charging in another country, then that is unacceptable.

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high court. The next hearing of the case is scheduled for Friday. Edited excerpts:

Incidentally, Biocon and Swiss drug maker Roche Holding AG are battling over the marketing rights for cancer drug trastuzumab in the Delhi

How do you react to the threat of trade sanctions due to India's position on intellectual property rights (IPR)?

It is obvious that trade bodies and lobby groups will protect their sector. India is a very important trading partner for the United States and I cannot believe the US can unilaterally take strong measure in retaliation, especially based on a

trade body's request. Intellectual property rights are a contentious issue. We need to really understand and take a legitimate position on the matter.

There are certain aspects of IPR where India will have to indicate what they are willing to do but we cannot be bullied into submission. This dialogue and negotiation has to be conducted in a calm manner without emotions running high.

**Are there flaws in the Indian drug pricing system and its patent regime?**

As far as compulsory licences are concerned, we need to check if we have followed due processes in invoking that provision under WTO TRIPS (the World Trade Organization-administered agreement on trade related aspects of intellectual property rights).

We need to look at the judgement made in every case to ensure that affordability on drugs cannot be the only criteria. I am of the opinion that if a multinational pharma company is charging a higher price than what it is charging in another country, it is unacceptable.

But we have a price control mechanism to ensure companies don't simply price drugs arbitrarily. India's pricing formula is flawed. Some of these cases went to courts—especially the anti-cancer drugs—because the price of drugs in India, on a comparable basis,

was much higher than it was in other markets. This is unacceptable and it angered the common man and patient advocacy groups.

Patent litigations are on the rise because it has become a stand-off between MNCs (multinational companies), domestic firms and patient advocacy groups now.

(In) many countries in Europe and the US, there are neutral bodies to evaluate and examine the cost-benefit of expensive drugs. Unfortunately, India does not have a national health system like Britain, which has a formulary—they provide some explanation as to how drug prices are arrived at.

**But India's patent regime has forced other countries to examine their laws. We must be doing something right.**

India has taken good decisions, especially when it came to banning the evergreening of patents. We have taken a clear stand on that issue. In the case against Novartis, we stuck to our guns; now many countries are also adopting the same norms. As far as evergreening of patents go, India showed leadership and developing countries like Argentina, Philippines, etc., are now examining their patent laws.

But we also need to stop being a push-over and ensure we are not exploited by big pharma by preventing affordable access to drugs.

Rogshahar