PRESS INFORMATION BUREAU
• पत्र सूचना कार्यालय
GOVERNMENT OF INDIA
भारत सरकार

Indian Express, Delhi
Tuesday 4th March 2014, Page: 14
Width: 19.05 cms, Height: 19.30 cms, a3, Ref: pmin.2014-03-04.30.104

Outside the patent monopolies

RITU KAMAL

India's role in pharmaceutical patent wars has broadened access to healthcare

RECENTLY, there were rumours that the United States Trade Representative (USTR) was getting ready to announce "trade enforcement actions" or sanctions against India over its intellectual property rights regime. The Obama administration has been under pressure from the US Chamber of Commerce and lobby groups, like the Pharmaceutical Research and Manufacturers of America, to take a tough stance against Indian rulings that have vetoed several multinational pharmaceutical company patents. The lobbyists are pushing for India to be classified as a "priority foreign country", a label associated with the worst offenders of patent law. The row blew over, but not before the USTR had filed a case at the World Trade Organisation (WTO) against India's domestic content requirements for its solar programme.

In the last few years, the Indian government and judiciary have taken up major cases on patent protection for life-saving cancer drugs. Novartis's drug Glivec was denied patent protection by the Supreme Court and India granted a compulsory licence to Bayer's drug Nexavar, which treats kidney and liver cancer. Compulsory licences are a provision in international patent norms, including the WTO's TRIPS agreement, under which a government permits someone else to manufacture the patented product without the consent of the patent owner, usually to lower prices of life-saving drugs and increase access to them.

This is not the first time that India has taken a strong stance in the pharmaceutical patent wars. In 2001, Indian generic manufacturers played a crucial role in slashing prices of anti-retroviral (ARV) drugs used against HIV, bringing down the cost of the drugs per patient per year from around $15,000 to about $300. Today, the cost of ARV drugs is as low as $60 per patient per year. This remarkable achievement was only possible because at the time, India was not party to WTO agreements on patent protection. Indian generic manufacturers were able to disregard patents, and ended up supplying over 80 per cent of all ARV drugs purchased in the world. India was recognised as playing a leading role in providing quality healthcare to people in developing countries.

It is evident that India's role in the pharmaceutical patent wars has great implications for poor people's access to healthcare, not just at home but around the world. Emerging economies like Brazil and South Africa follow the Indian model when they modify their intellectual property laws in order to bar awards to frivolous and obvious patents, and to allow pre-and post-grant challenges. For instance, Brazil's proposed changes to its patent policy quote provisions in India's Patents (Amendment) Act, 2005. Doctors Without Borders, meanwhile, has publicly encouraged South Africa to borrow from India when drafting its new patent policy.

With markets in the developed world becoming saturated, multinational drug companies are increasingly looking to emerging economies with large populations for sales expansion and growth. However, their model of intellectual property protection as an incentive for innovation is running into obstacles in low- and middle-income countries. Supporters of the pharmaceutical industry believe that without patent protections, there will be no breakthrough innovations and no new life-saving technologies. They argue that the high costs of research and development for new drugs can only be compensated by patent monopolies that allow expensive drug prices. Yet, developing economies are keen on providing affordable healthcare products for their citizens. The developed world itself is beset with unsustainable rising healthcare costs and is looking for cost-effective innovation. A reassessment of patent monopolies, especially in the case of life-saving products, is essential if healthcare access is to be broadened beyond wealthy patients.

Emerging economies like Brazil and South Africa follow the Indian model when they modify their intellectual property laws.

Some new models of incentivising medical research are being proposed. Since large funds are required for the development of new medical technologies, scholars have proposed the creation of attractive prizes, along the lines of the XPrize, which was instituted to encourage space exploration by giving successful teams up to $10 million in awards. The idea behind prizes is that the winning team receives a large one-time payment, but it cannot patent the solution, which ensures that the technology remains in the public domain. Other models of funding innovation have already seen success in the marketplace, such as the public-private partnership that created a new rotavirus vaccine. This vaccine, called Rotavac, is now sold in India and other developing countries by Bharat Biotech, at profit, for about $1 per dose.

Millions of patients are suffering from many other poorly managed or untreatable diseases, such as diabetes or dengue fever. They would greatly benefit if companies were incentivised to create therapies at affordable prices that were widely accessible. India must not slow the pace of developing new therapies, nor shy away from the difficult work of making healthcare available to all. The rest of the world is watching.

The writer is a medical technology professional focusing on medical technology innovation for emerging markets and a former Stanford-India Biodesign Fellow. Views are personal
express@expressindia.com

Patents-