Novartis India MD Ranjit Shahani is Chairman of Interpat India

Mashelkar is keynote speaker at Novartis corporate symposium

Novartis India MD Ranjit Shahani is Chairman of Interpat India

INTERPAT

One of 29 corporate funders of INTERPAT

Novartis files writ petition against Govt., says strict Indian patent law is not TRIPs compatible.

GOVT. OF INDIA

Ministry of Commerce & Industry tasks Mashelkar Committee with the question: Is it TRIPs compatible to limit the grant of patents to new chemical entities or new medical entities involving one or more inventive steps?

Mashelkar Committee is appointed April 2005, submits report in December 2006.

The report concludes that it is not TRIPs compatible to limit the grant of patents to new chemical entities.

INTERPAT

INTERPAT funds a lawyer to write a report on Indian patent law; that report is concluded in November 2005 and published by the IP Institute (UK) in 2006. The report concludes that it is not TRIPs compatible to limit the grant of patents to new chemical entities.

MASHELKAR COMMITTEE

The Mashelkar report says....

5.6 Granting patents only to NCEs or NMEs and thereby excluding other categories of pharmaceutical inventions is likely to contravene the mandate under Article 27 to grant patents to all 'inventions'. Neither Articles 7 and 8 of the TRIPS Agreement nor the Doha Declaration on TRIPS Agreement and Public Health can be used to derogate from this specific mandate under Article 27.

5.9 If the aim of limiting patents to new chemical entities is to prevent a phenomenon loosely referred to as 'ever-greening', this can be done by a proper application of patentability criteria as present in the current patent regime.

5.10 It is important to distinguish 'ever-greening' from what is commonly referred to as 'incremental innovation'. While 'ever-greening' refers to an extension of a patent monopoly, achieved by executing trivial and insignificant changes to an already existing patented product, 'incremental innovations' are sequential developments that build on the original patented product and may be of tremendous value in a country like India.

The INTERPAT/ IPI report says....

II (A) 1. Limiting the grant of patents only to NCEs or NMEs and thereby excluding other categories of pharmaceutical inventions ('the proposed exclusion') is likely to contravene the mandate under Article 27 to grant patents to all 'inventions'. Neither Articles 7 and 8 of the TRIPS Agreement nor the Doha Declaration on TRIPS Agreement and Public Health can be used to derogate from this specific mandate under Article 27.

II (A) 3. If the aim of the proposed exclusion is to prevent a phenomenon loosely referred to as 'ever-greening', this can be done by a proper application of patentability criteria as present in the current patent regime.

II (A) 4. Lastly, it is important to distinguish the phenomenon of 'ever-greening' from what is commonly referred to as 'incremental innovation'. While 'ever-greening' refers to an undue extension of a patent monopoly, achieved by executing trivial and insignificant changes to an already existing patented product, 'incremental innovations' are sequential developments that build on the original patented product and may be of tremendous value in a country like India.