PHARMABIZ.com
india's most comprehensive pharma portal

FICCI to organise Roundtable on controversial section 3(d) of Indian Patents Act

Tuesday, March 09, 2010 08:00 IST
Ramesh Shankar, Mumbai

Even as the multinational pharma companies are making an orchestrated efforts to remove the controversial section 3(d) of the Indian Patents Act, which prevents incremental pharmaceutical innovations from receiving patent protection, the Federation of Indian Chambers of Commerce and Industry (FICCI) is organizing a Roundtable Conference on the issue in New Delhi on March 22.

The Roundtable Conference will be attended by government officials, lawyers, industry representatives, academicians, NGO, etc.

The section 3(d) of the Indian Patents Act provides that mere discovery of a new form of a known substance which does not result in enhancement of the known efficacy of that substance or mere discovery of new property or new use for a known substance or of the mere use of a known process, etc, are not patentable.

Ever since the section was incorporated in the Indian Patents Act in 2005, there have been views expressed in favour and against this controversial provision. While the multinational pharma companies reason that section 3(d) of India's Patents Act, (which prevents incremental pharmaceutical innovations from receiving patent protection), inhibits development of safer, more efficacious and more useful drugs for Indian patients, the public interest groups argue that this provision acts as a check on pharmaceutical companies obtaining patent monopolies for medicines that are not actual inventions, such as combinations or slightly modified formulation of existing medicines.

The public interest groups and patient groups in the country argue that section 3(d) and other public health safeguards in India's patent law directly impact the lives of millions of patients not only in India but across the developing world who rely on access to safe, effective and affordable medicines from India.

Section 3(d) of India's patent law is a key public health safeguard introduced by the Indian Parliament in the 2005 amendments to the Patents Act, 1970. The Indian Parliament recognized public health concerns regarding 'evergreening' - a common practice of pharmaceutical companies to extend their patent monopolies on known medicines by making insignificant or minor changes and accordingly introduced Section 3(d), they argue.

Section 3(d) is being used by public interest and patients groups to ensure that frivolous patents are not granted in India. Moreover, the Indian government put up a strong defence of this provision in a legal challenge by a multinational pharmaceutical company before the Madras High Court. The challenge to Section 3(d) was rejected by the Court, which recognized the importance of the provision in light of the obligation on the Indian

government to protect the right to life and health of all citizens.

Ashok Kumar, secretary, department of pharmaceuticals, P H Kurian, controller general of patents, designs & trademarks, V Bhaskar, joint secretary, department of industrial policy and promotion (DIPP), ministry of commerce and industry, Arun Jha, joint secretary, department of pharmaceuticals and D G Shah, co-chairman, FICCI pharmaceutical committee are some of the prominent speakers of the Roundtable.