

Roundtable on controversial Section 3(d) of Indian Patents Act to be held in Delhi on March 29

Saturday, March 27, 2010 13:15 IST
Our Bureau, Mumbai

The Federation of Indian Chambers of Commerce and Industry (FICCI) is organizing a Roundtable Conference on the controversial Section 3(d) of Indian Patents Act in New Delhi on March 29. P H Kurian, Controller General of Patents, Designs & Trademarks and Arun Jha, Joint Secretary, Department of Pharmaceuticals, will address the conference.

Earlier, the conference was scheduled for March 22, but has been postponed due to some unavoidable reasons. The Conference is expected to be attended by government officials, lawyers, industry representatives, academicians, NGO, etc.

Section 3(d) to the Patents Act, 1970, was introduced in 2005. The section 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. There have been views expressed in favour and against this 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.