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India rejects Bayer plea against cheap cancer drug

NEW DELHI: India's patent appeals office has rejected Bayer AG's plea to stop the production of a cheaper generic version of a patented cancer drug in a ruling that health groups say is an important precedent for getting inexpensive life-saving medicines to the poor.

Last year, India's patent office allowed local drug manufacturer Natco Pharma Ltd to produce a generic version of Bayer's kidney and liver cancer drug Nexavar on the grounds it would make the drug available to the public at a reasonably affordable price. It was the first use of compulsory licensing under Indian patent laws passed in 2005.

The Intellectual Property Appellate Board rejected the German drug maker's appeal of the 2012 ruling

on Monday.

Bayer sells a month's supply of the drug for about US\$5,600 (RM17,000). Natco's version would cost Indian patients US\$175 (RM525) a month, less than 1/30th as much.

The patent appeals office also ruled that under the licence, Natco must pay 7% in royalties on net sales to Bayer.

Bayer yesterday said it "strongly" disagreed with the appeal panel's decision and would pursue the case in the Mumbai High Court.

"Bayer is committed to protecting its patents for Nexavar and will rigorously continue to defend our intellectual property rights within the Indian legal system," the company said.

It said one of the main barriers to

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— LEENA MENGHANEY

access to medicines in developing countries such as India was the "lack of adequate healthcare services and infrastructure ensuring drugs will effectively bring treatment to those who most need it".

Western pharmaceutical companies have been pushing for stronger patent protections in India to regulate the country's US\$26bil (RM78bil) generics industry they say frequently flouts intellectual property rights.

However, health activists and aid groups counter that Indian generics are a lifesaver for patients in poor countries who cannot afford Western prices to treat diseases such as cancer, malaria and HIV.

Health groups welcomed the decision, saying it would check the abuse of patents and open up access to affordable versions of patented medicines.

"The decision means that the way has been paved for compulsory licences to be issued on other drugs,

now patented in India and priced out of affordable reach, to be produced by generic companies and sold at a fraction of the price," said Leena Menghane of medical humanitarian aid organisation Medecins Sans Frontieres.

Under World Trade Organisation rules, governments have the right to issue compulsory licences to overcome barriers to access to cheaper versions of a patented drug without the consent of the company that invented the drug.

Several Western pharmaceutical giants say India's 2005 Patent Act fails to guarantee the rights of investors who finance drug research and development.

The Supreme Court's ruling on the case is expected soon. — AP