
(2015) 11 IPAB CK 0002

In the Intellectual Property Appellate Board

Case No : ORA/3/2013/PT/DEL, M.P. No. 48 Of 2015 In ORA/3/2013/PT/DEL And Order 213 Of 2015

Fresenius Kabi Oncology Ltd

APPELLANT

Vs

Aventis Pharma S.A. And Ors

RESPONDENT

Date of Decision : 23-11-2015

Acts Referred:

Citation : (2015) 11 IPAB CK 0002

Hon'ble Judges : K.N. Basha, J;D.P.S. Parmar, Technical Member

Bench : Division Bench

Advocate : P. Arul Gnanaprakash, Chitra Subbiah

Final Decision : Disposed Of

Judgement

K.N. Basha, J

1. Mr. P. Arul Gnanaprakash, the learned counsel has been authorized to represent the applicant herein by the counsel on record M/s. Majumdar & Company. The learned counsel for the applicant would submit that they have filed M.P. No. 48 of 2015 seeking permission to withdraw the rectification application in ORA/3/2013/PT/DEL.

2 . It is stated in the miscellaneous petition in M.P. No. 48 of 2015 in respect of the consolidation of two matters pursuant to our order No. 275 of 2013 dated 25.11.2013 and stating reasons for permission to withdraw the revocation petition, which is incorporated as hereunder:--

"1. The Applicant for Revocation/Petitioner had filed the two revocation petitions for setting aside the Registered Patent No. IN225928 in the name of Aventis Pharma SA, 20, Avenue Raymond Aron, 92160, Antony, France, which is pending before this Hon'ble Board.

2 . The said revocations were assigned Nos. ORA/3/2013/PT/DEL & SR No. 552/2012/PT/DEL dated 10th December 2012 and 29th December 2012

respectively.

3 . Pursuant to the Hon'ble IPAB direction in Order No. 275/2013, the application for revocation Sr. No. 552/2012/PT/DEL was consolidated with ORA/3/2013/PT/DEL and an amended revocation petition was filed under number ORA/3/2013/PT/DEL on 14th February 2014.

4 . That the Petitioner do not intend to manufacture or market the product before expiry of the Patent No. 225928 in India and wishes to withdraw the subject revocation petition with the consent of the respondent No. 1. The respondent No. 1 has also agreed not to press for costs of the instant revocation proceedings.

5 . In view of the aforesaid, the petitioner without prejudice intends to withdraw the aforesaid application for revocation of the Indian Patent No. 225928 in the name of the respondent No. 1 and seeks leave of this Hon'ble Board to withdraw the said application for revocation and also prays that the parties to the proceedings ought to bear their own costs.

6 . In the aforesaid facts and circumstances, the petitioner prays that the instant application for revocation under No. ORA/3/2013/PT/DEL filed on 14 February, 2014 be dismissed as withdrawn.

7. The petitioner's advocates S. Majumdar & Co. of 5, Harish Mukherjee Road, Kolkata-700 025 are empowered and authorized to present this petition for praying for an order for withdrawing the subject application for revocation."

3 . Ms. Chitra Subbiah, the learned counsel for the respondent is also present today and she has also agreeing for the said proposal of the revocation application. In view of the specific and categorical statement made in the M.P. as incorporated above, the present ORA No. 3 of 2013/PT/DEL is dismissed withdrawn as not pressed. There will be no order as to costs. All the M.P's. and other connected unnumbered matters filed in this regard earlier are directed to be closed.