



Merck vs Glenmark – India’s first decree in favour of the patentee in a contested patent infringement suit

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The patentee Merck Sharp & Dohme Corp. (Merck), along with its licensee Sun Pharmaceutical Industries Ltd., filed a patent infringement law suit against Glenmark Pharmaceuticals Ltd. in April 2013, when the latter marketed competitor drug products which infringed Merck’s patent for Sitagliptin and its pharmaceutically acceptable salts. When the matter initially came up before the Single Judge, he refused to grant an interim injunction and disposed of the application of the Plaintiffs seeking interim injunction. The Plaintiffs preferred an appeal against this decision and the Division Bench of the Delhi High Court reversed this decision vide their order dated March 20, 2015, by way of a speaking order which held the Plaintiffs’ patent to be prima facie valid and infringed by the Defendant’s product. This order of the Division Bench was challenged by the Defendant before the Supreme Court, which vide order dated May 15, 2015 not only re-instated the interim injunction granted by the Division Bench of the Delhi High Court, but also took cognizance of the “commercial” nature of the matter and the delay already caused in the matter, and passed strict directions expediting the suit. As a result of the “one of a kind” directions passed by the Supreme Court, evidence recorded in the matter, which involved cross-examination of seven witnesses – three of whom were foreigners, was concluded in around one and a half months. Further, in less than five months from the ordering of an expedited trial in the matter, the Judgement had been finally delivered.



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