Landmark victory for innovator Plaintiffs in India

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An analysis of the decision in Merck Sharp & Dohme Corp. & Anr. Vs. Glenmark Pharmaceuticals Ltd. – the first patent infringement contested lawsuit under the Patents Act 1970 to have been decreed in favour of the Plaintiffs. Ever since passage of the Patents Act 1970, there has not been a single contested patent infringement law suit which has successfully concluded after trial. There have of course, been settlements but no contested matter successfully concluded in the Plaintiffs' favour in 45 years. It was only in March 2015 that an interim injunction was granted by the Delhi High Court, which order was challenged before the Supreme Court. By order dated May 15,2015, it expedited the suit directing that the evidence be concluded by the end of June 2015, i.e., within one and a half months, and that thereafter, in the first week of July 2015, final arguments should commence to be heard on a day-to-day basis. This appeared an impossible feat given the fact that there were seven witnesses - at least three of which were foreigners. The Supreme Court passed directions providing for an alternate Local Commissioner to record evidence if the first was unavailable, and for alternate premises if the High Court premises were unavailable. The reason stated for passing an unusual order was to highlight that "highly contested commercial cases" require "immediate attention and disposal to ensure a suitable commercial environment which is vital to national interest". *Contributed by Pravin Anand, Archana Shanker, Tusha Malhotra and Udita M. Patro. This article was published in Asian Patent Lawyer's Annual 2015.* To continue reading, please contact us at email@anandandanand.com

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