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Bayer 'disappointed' after losing India patent fight

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Pharmaceutical giant Bayer AG on Wednesday said it was "disappointed" with an Indian ruling that allows a local firm to produce a cheaper copy of its patented drug Nexavar for liver and lung cancer.

The German company's reaction came after India's Intellectual Property Appellate Board patents' watchdog this month rejected its appeal to suspend the sale of the drug's cheaper copy by Natco Pharma Ltd.

The watchdog in March had ruled the price Bayer charged for Nexavar was "exorbitant" and "out of reach" of most Indian patients.

It ordered Bayer to give a so-called "compulsory licence" to Natco to produce the drug locally, a decision the drug giant appealed against.

"We are disappointed with the decision of the Intellectual Property Appellate Board to reject the stay petition on the compulsory license granted to Natco," Bayer spokesman Aloke Pradhan told AFP in an emailed statement.

Pradhan reiterated the company's earlier stand that Bayer would "rigorously continue to defend our intellectual property rights".

Drug firms insist they need patent protection for medicines to recoup the cost of long years of research and development.

Under the World Trade Organization's TRIPS Agreement, which

governs trade and intellectual property rules, compulsory licences are a legally recognised means to overcome barriers in accessing affordable medicines.

The Indian ruling in March marked the first time a "compulsory licence" for production of a patented drug had been granted in the country of 1.2 billion people.

India has long been a key provider of cheap generic medicines to the developing world as it did not issue drug patents until 2005, when it was obliged to adhere to WTO intellectual property regulations.

Since then newer medicines have increasingly been patented in the country, keeping prices high.

Under the ruling, Natco will pay Bayer a six percent royalty on sales of the drug and sell the medicine for 8,800 rupees ($165) a month—compared to the 280,000 rupees ($5,320) the company charges.

Experts have said the Indian ruling could pave the way for a rush of other "compulsory licence" applications in India and other poor nations, allowing access to patented life-saving drugs at a fraction of the cost.