

# India court blocks Bayer generic drug appeal

December 13 2014, by Penelope Macrae

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An Indian court has rejected German drug giant Bayer's bid to block a generic version of its blockbuster cancer treatment Nexavar by a local drugmaker, a move hailed by activists on Saturday.

The judges rejected an appeal by Bayer on Friday that contested a March 2012 decision by India's [patent](#) controller, who had argued the price charged by Bayer for the liver and kidney drug—\$5,500-per-person, per month in India—was far too costly for most Indians.

Medicins San Frontieres (MSF) on Saturday hailed the ruling, calling it a boost for public health.

The court's decision "demonstrates the independence of the Indian judiciary" in upholding the nation's right to legislate "with public health interests in mind", said Leena Menghaney, South Asia regional head of the medical charity's access campaign.

The court judgement highlighted India's "critical role" in "balancing intellectual property and [public health](#)", she said, adding it was clear to the court Bayer had recouped its drug research and development costs in just one year.

The Indian government gave local pharmaceutical house Natco Pharma a licence to produce a copy of life-extending Nexavar at a 97-percent discount to the original price of the Bayer medicine in India.

"We are analysing the (court) order and will determine any future course

of action afterwards," Bayer said in a statement, adding the ruling "disappointed" the company.

The ruling could stoke tensions further with Western-based big pharmaceutical companies who say India flouts international patent protection law.

India says it is fully compliant with World Trade Organization patent rules. But the United States has already put India on a "watchlist" of [intellectual property](#) violators.

Since India's new right-wing government came to power in May, New Delhi has been under heavy pressure from Washington, prodded by the powerful US pharmaceutical industry, to dilute its strict patent laws.

Indian law stipulates drugs must "satisfy the test of novelty or inventiveness" to win patent protection and does not allow minor tweaks, called "evergreening," to prolong patent life.

Western companies say India's powerhouse generics industry and stringent patent filtering reduce commercial incentives to produce cutting-edge medicines.

India's Lawyers' Collective, another rights group, said the "momentous" judgement held wide-ranging implications for access to other medicines.

India's vast generics industry is a major supplier of cheap copycat, life-saving drugs to treat diabetes, cancer and other diseases afflicting people locally and globally who cannot afford expensive branded versions.

But health economists say it doesn't matter how far drug prices drop in India for some of the 1.25-billion population, as they are too desperately poor to afford them. India is home to one-third of the world's poorest,

according to the World Bank.

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