

Cipla and Roche to mediate in patent case

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After fighting a long and bitter patent battle in India, Swiss innovator firm Hoffman La Roche and Indian generic drug maker Cipla hope to settle the matter on mutually agreeable terms. The Delhi high Court has ordered the Pharma majors to mediate and settle terms, according to reports. Roche accused Cipla of infringing on its patent for lung cancer drug Tarceva, which Cipla sells under the brand name Erlolicip.

This is also the first patent suite in the country to have been referred for mediation by the court.

The two companies have been fighting a legal battle over Roche's patent for years. In September 2012, an Indian court upheld Roche's patent for Tarceva, but said that Cipla's generic, Erlolicip, did not violate Roche's patent. The court dismissed Roche's complaint, saying that the molecular structure of Cipla's generic was different from that of Roche's drug. Roche continued to try and protect its best-selling cancer drug, and appealed against the order before a division bench in the Delhi High Court.

A Roche spokesperson confirmed the mediation to Economic times, "We can confirm that pursuant to court orders we are in mediation with Cipla," she said.

Patent experts called the development as unusual and surprising. "This is the first time that such a big-ticket patent litigation has been referred for mediation. It is highly unusual for the courts to send such cases for mediation at such a late stage in the proceedings, particularly since the trial has concluded in this case. While the court may have done so to save time and resources, India has lost an opportunity to evolve patent jurisprudence on an important matter," said patent expert Mr Shamnad Basheer.