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### Pharma cos penalised for copying drug design

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IN WHAT could come as a lesson for copycat pharma companies, drugs and equipment of four pharma companies were destroyed and sealed after the firms were found guilty of infringement of a design patent. The companies had copied a D-shaped, blue-coloured tablet patented by Ahmedabad-based Troikaa Pharmaceuticals that fought and won the country's first drug design patent lawsuit.

It is probably for the first time that the court has granted relief to an innovator firm in the pharma sphere.

According to patent & trademarks attorney Y. J. Trivedi: It is for first time that a court has given destruction and sealing order for cases relating to design patent infringement of a pharma company.

Troikaa, a Rs. 105-crore pharma company, got its drug pain management drug Dynapar patented for its shape (D-shaped) and colour (blue) in 2001. The tablet is a generic drug with a mix of diclofenac sodium and paracetamol. The company found a Roorkee-based company Pro Laboratories producing a look alike drug and filed a design infringement suit against it in 2008.

While Indian pharma industry has witnessed a number of cases related to violation of patent and intellectual property rights on drug molecules and trade names, Troikaa case is the first instance of a design violation suit in the sector. By the end of 2008, Troikaa was granted injunction by the Gujarat High Court, as the court recognised the right of Troikaa Pharma over the design patent.

Armed with the Gujarat High Court judgment, Troikaa filed civil suit against four other copycat companies Pro Laboratories, Endo Labs Healthcare, Apls Pharma and Uni-Sule who were producing similar looking pain management drugs. The Dynapar look alikes had even similar sounding brand names like Doopar, Dinacor-P, Zenplus, and Danapar.

After the company approached the city civil court, it assigned a court commissioner for the confiscation of the stocks, products, dies & punches, packaging materials, foils etc. from the companies. The pain management drug market size in India is approximately Rs. 2,000 crore.

Dynapar comes under non-steroid, anti-inflammatory drugs (NSAIDS) category of the pain management segment and the market size of this category is about Rs. 1,362 crore. Diclofenac, in isolation, has a combined market that includes tablets and injectables would be Rs. 223 crore.

The company is now pursuing the similar procedure against Uni-Sule, a drug making company based in Sonapat, Haryana.

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