

“Patent vs Patients”: A case on Novartis patent application in India

MANAGEMENT DECISIONS

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Decisions

After Novartis filled in a lawsuit challenging the Indian patent law, there was speculation around how it would affect Novartis reputation. The Glivec case got massive media attention in both Indian and international media and many organizations tried to pressure Novartis to drop the case. Novartis needed to take action against the protest movement in order to improve their reputation and image. To improve their reputation, Novartis did the following:

Communication strategy

First of all, Novartis did not fall under the pressure for dropping the case and continued the lawsuit against The Madras High Court. In order to reach more global support, Novartis launched a counter campaign. They tried to gain support from businesses, physicians and patients by using a communication strategy focusing on providing information, creating trust among stakeholders and focus on innovation.

Webpage

Novartis addressed the backlash and protests by creating an “information center” on their website regarding all the information about the Glivec case. The idea with the information center was to approach stakeholders such as investors and citizens that had thoughts and concerns around the lawsuit. It was also a way to provide media with information. The website contained facts about the case, statements and open letters from the company. Novartis also created a ‘Frequently Asked Questions’ (FAQ) page on their website with the objective to answer some questions concerning what the Glivec case was about, how the outcome of this case would affect the access to essential medicines and also the impact on future medical progress. They also included references from scientific articles to make the answers more transparent.

As a way to improve their trustworthiness and reputation, the website included stories and statements from patients and physicians. For example, Indian CML-survivors were invited to talk about how the free medicine they had received from Novartis had changed their lives. This was a way for Novartis to give the patients a voice in the debate.

Communicating the importance of innovation

The protest organizations’ focused their arguments around how Novartis chose ‘patents before patients’. Novartis met the critique by focusing their communication around medical innovation and how innovations could save lives. The core of the communication was to relink how patent-protection and the access of medicine were related.

Novartis argued that if they don’t get the patent, it would risk interrupting the pharmaceutical innovation, and in the long run interrupt healthcare improvements in India. When the problem around the lack of accessibility to medicine got attention, it gave Novartis an opening to focus on the importance of medicine research and development. Novartis claimed that the research and development protection was the main concern and not the patent. They also said that the lawsuit was about “trying to gain clarity as to what guides India’s patent law”.¹

Collaborating with stakeholders

Novartis aligned themselves with one of their stakeholders, The Max Foundation and organized a campaign arguing for the lawsuit. The Max Foundation launched a website supporting Novartis with articles, blog posts and press-releases. Arguing that the ongoing patent debate could affect the chance to access innovative medicine, The Max Foundation stated: “Misguided advocacy and the media are hurting patient chances to access innovative medicines”.²

During this time, Novartis still continued on their collaboration with The Max Foundation on helping CML-patients and providing free medicine. To challenge the ongoing criticism of ‘patents over patients’, they put more emphasis on communicating their social corporate responsibilities. For example, focusing on this collaboration to show that they actually cared about helping people.

A new decision from the Indian government

In 2007, the Indian government ruled against Novartis’ effort to repeal against section 3(d) of the patent law and rejected their appeal against their patent application. Two years after the Madras High Court had ruled against Novartis efforts to repeal against section 3(d) of the patent law and the patent application, Novartis filed a new case against these rejections. However, this time they filed the case with the Indian Supreme Court, the highest judicial court in India. In 2013, the Indian Supreme Court decided to reject the case, which put an end to the litigation.

¹Dingo, R., Blake, S. *The Megarhetorics of Global Development (Composition, Literacy and Culture)*. 1 ed. [Accessed 19 February 2020]

² Dingo, R., Blake, S. *The Megarhetorics of Global Development (Composition, Literacy and Culture)*. 1 ed. [Accessed 19 February 2020]

Despite the rejection of its plea for patent protection for Glivec, Novartis stated that they would avoid applying patents for new drugs in India. Novartis former Managing Director in India, Ranjit Shahani, released a statement saying:

“We will be cautious about investing in India, especially when introducing new drugs and seek patent protection before launching any new products. We will continue to refrain from research and development activities in India”.³

They also stated that they respected the progress that the Indian government made in intellectual property rights, but that it needs more advancements to meet the international standards.

³Reuters. Novartis loses landmark India cancer drug patent case. 2013-04-01
<https://de.reuters.com/article/india-novartis-patent-idUKL3N0CO0RR20130401> [Accessed 19 February 2020]