

Drug makers battle over Pill

One of South Africa's most popular contraceptives, Yasmin, is the subject of a bitter court battle that pits a generic drugs company against a multinational.



Cape Town's Pharma Dynamics believes that consumers are suffering because manufacturers of generic medicines have difficulty bringing their cheaper products to the market.

In 2011, the company registered a generic version of the contraceptive, called Ruby, costing about R70 a month. The original costs about R100 a month.

But Pharma Dynamics was prevented from selling Ruby by a court interdict obtained by Bayer, the manufacturer of Yasmin.

Bayer's 20-year patent for the contraceptive's active ingredient expired in 2010, prompting Pharma Dynamics to register its generic. But Bayer holds another patent that gives it a monopoly until 2024.

Pharma Dynamics's chief executive Paul Anley suggests that Bayer might be involved in "ever-greening", which occurs when a patent holder gains additional patents in order to hold onto a monopoly.

Generics offer savings

Anley said: "We are currently [enjoined] from selling a generic version of Yasmin due to alleged infringement of a patent that has been found to be invalid in the US and Europe."

Bayer's representatives had not responded to a request for comment at the time of going to press.

Anley has been supportive of the Department of Trade and Industry's proposal to establish a patent examination office, which would stop the current system of automatic granting of patents. The office would examine all patents to ensure that they are valid.

Patent attorneys say this would slow patenting and harm the economy.

But Anley believes fewer patents would be granted and this would allow more generics to be brought onto the market.

In March, the SA Court of the Commissioner of Patents ruled in favour of Bayer's 2024 patent extension, saying it was not ever-greening but legitimate.

Pharma Dynamics had argued that there was no change in the way the pill was manufactured that warranted the patent extension adding that it had filed an appeal against the ruling.

Adams and Adams patent lawyer Danie Dohmen said incremental improvements to products benefited the consumer. Manufacturers had to be given incentives to improve products.

"Without patent protection for their inventions it is likely that companies will not bring the products to market in SA," Dohmen said.

Source: The Times via I-Net Bridge

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