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Delhi HC dismisses B Braun's appeal for interim injunction against Poly Medicare.

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A division bench of the High Court of Delhi has dismissed an appeal filed by the Germany-based B Braun Melsungen AG and its Indian subsidiary against the New Delhi-based Poly Medicare Ltd seeking an interim injunction restraining the latter from manufacturing and selling a needle guard product, for which the company claims to have an Indian patent.

In April 15, 2009, the single bench of the High Court had dismissed the plea of B Braun, for restriction of manufacturing the product by the opposite party, pointing out that the patent in question is not free from doubt at the prima facie stage and that the safety IV cannula product of Poly Medicare is somewhat different from the former's patented product.

The division bench agreed with the judgement of the single bench Court and dismissed the complaint pointing out that the appellant failed to substantiate its patent claim with adequate documents during the hearings.

B Braun, a major player in infusion therapy and pain management products, in its petition filed with the judiciary alleged that Poly Medicare has infringed its Indian patent for the safety IV cannula sold by the former under the trade mark registration, Vasofix Safety. Poly Medicare is an ex-partner of B Braun in manufacturing a basic IV catheter product, Accucath.

B Braun, in its appeal to the division bench, requested for an ad interim injunction order seeking to restrain Poly Medicare from manufacturing and selling safety IV cannula or other device or apparatus that infringe it's registered patent by reviewing the single bench decision. According to information available, the patent under dispute has been granted in India on September, 2007.

The defendants argued that its product does not infringe any patent claims and questioned validity of B Braun's product. A post grand opposition challenging the patent is under consideration of the Intellectual Property Appellate Board (IPAB), Chennai. The company alleges that though the appellant has applied for amendments post grant of the patent, in September 19, 2007, for the patent granted in September 17, the same year, the application was submitted in Form No 13, a form applicable for pre-grant amendments.

The needle guard products market, which is estimated at US\$ 500 million in size globally, is crowded with a large number of players. "Our product is different from B Braun's product. We have also moved suit in the IPAB in October-November last year, on our doubts about the validity of their patent claims," said Himanshu Baid, managing director, Poly Medicare, when contacted.