

**A credible challenge to the validity of a patent under Section 107 of the Patents Act, 1970, is a valid defence against the grant of an interlocutory injunction in an infringement suit**

The **Delhi High Court** in the case of **Novo Nordisk vs Dr Reddys Laboratories Ltd [FAO(OS) (COMM) 204/2025]** dated **March 09, 2026**, has dismissed the patent suit for interlocutory injunction filed by Novo Nordisk for Semaglutide, which is an anti-diabetic drug, and held that a credible challenge to the validity of a patent under Section 107 of the Patents Act, 1970, is a valid defence against the grant of an interlocutory injunction in an infringement suit.

The Court found the suit patent for Semaglutide (IN'697) to be prima facie vulnerable to revocation on the ground of obviousness under Section 64(1)(f) of the Patents Act. This was because a person skilled in the art (or a 'person in the know', given the common inventors) would be motivated by the teachings in the prior art patent (IN'964) to make the specific substitution of an amino acid that results in the Semaglutide compound.

As a credible challenge to the validity of the suit patent was made out on the ground of obviousness, the High Court affirmed the Single Judge's decision to refuse the interlocutory injunction, especially when viewed through the restrictive lens of appellate review established in the case of *Wander Ltd. v. Antox [1990 Supp SCC 727]*.

The Court distinguished between the grounds of 'anticipation by prior claiming' under Section 64(1)(a) and 'obviousness' under Section 64(1)(f). It explained that Section 64(1)(a) requires a strict identity of claims between the suit patent and the prior art patent, whereas Section 64(1)(f) involves an assessment from the perspective of a person skilled in the art, considering whether the invention would be obvious based on the teachings and disclosures in the prior art.

The Court expressed reservations about spending valuable judicial time on an appeal for an interlocutory injunction when the patent was due to expire in a few days, i.e., on 20 March 2026. It questioned what irreparable loss the appellant would suffer, suggesting that directing the respondents to maintain accounts would suffice.

The Court clarified that Section 64(1)(a) requires a strict claim-to-claim comparison. The sine qua non for its application is the identity of claims, meaning the invention as claimed in the suit patent must have been 'claimed in a valid claim' of an earlier patent. The perspective of a 'person skilled in the art' has no role to play in this analysis.

The Court noted that while the Single Judge's reasoning was misapplied to Section 64(1)(a), it made out a clear prima facie case of obviousness under Section 64(1)(f). It agreed with the Single Judge's factual analysis that: (i) most novel features of Semaglutide were already claimed in Claim 21 of the prior art patent IN'964; (ii) the only difference was the substitution of 'Aib' for 'Ala' at position 8; and (iii) Claims 1 and 16 of IN'964 taught that 'Aib' was a preferred amino acid for substitution at position 8. The combined effect of these teachings in IN'964 would lead a person skilled in the art to substitute 'Aib' for 'Ala' in the compound exemplified in the prior art, which would result in Semaglutide.

Further, the Court observed that since five inventors were common to both the suit patent and the prior art patent, the test of a 'person in the know' would apply. From this perspective, it was prima facie clear that Semaglutide would be obvious from the teachings in IN'964.