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WHAT'S NEXT FOR PLAIN PACKAGING?

05 May 2015 | Emma Barraclough, San Diego

Trademark practitioners have raised alarms about the threat that plain packaging laws pose to IP rights. In Monday's Trademarks and Consumer Protection session, Myrtha Hurtado Rivas of Novartis argued that pharmaceuticals are already subject to similar restrictions.

"Even though medicines and tobacco have nothing in common ... what we're seeing from the regulators' side is that they seem to be taking a similar approach," she said.

Australia, which was one of the first countries to introduce plain packaging for tobacco, is once again involved. In November, its Therapeutic Goods Administration, the government body that regulates medicines, closed its public consultation on a draft of Order No. 79, which would impose new packaging and labeling limitations on pharmaceuticals. Like plain packaging for tobacco, Order No. 79 is intended to enhance public welfare. According to Hurtado Rivas, the draft Order would leave essentially no room for brand elements, rather as Australia's plain packaging law has standardized cigarette packaging and eliminated logos and other elements such as color.

"Logos for pharmaceuticals will pretty much disappear if Order 79 goes through," Hurtado Rivas warned.

Regulations in other countries also limit the use of trademarks on medicines. For example, many countries require that a molecule's generic name, the International Nonproprietary Names for a molecule selected by the World Health Organization, be displayed on drug packaging in a

certain-sized font. In some countries, the generic name of the molecule is actually bigger and more prominent than the trademarked brand.

Hurtado Rivas also warned the audience about Ecuador's Decree 522, which was enacted in January. This requires off-patent drugs to be registered and sold as generic. Furthermore the label must clearly state that it is a generic medicine.

INTA's Board of Directors on Saturday approved a resolution on plain packaging, saying it is detrimental to consumers, trademark owners and competition.

COMMENTS

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