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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(COMM) 504/2019 & I.A. 12755-12757/2019

SUN PHARMACEUTICAL INDUSTRIES LTD. Plaintiff

Through: Mr.Sachin Gupta, Ms.Jasleen Kaur
& Ms.Rajnandini, Advocates

versus

PUNAM DEVI Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **16.09.2019**

I.A. 12757/2019 (exemption)

The application for exemption is allowed, subject to the plaintiff producing the originals for inspection of the documents filed, as and when required to do so, or producing the same at the stage of admission/denial.

I.A. 12755/2019 (under Order XI Rule 1(4) of the CPC to file additional documents)

This is an application for filing of additional documents. The additional documents may be filed by the plaintiff, strictly in accordance with the provisions of the Commercial Courts Act, 2015.

The application is disposed of.

CS(COMM) 504/2019

1. The plaint be registered as a suit. Summons be issued to the defendant by all permissible modes on filing of process fee.

2. The summons shall indicate that the written statement must be filed

within thirty days from the date of receipt of the summons. The defendant shall also file affidavit of admission/denial of the documents filed by the plaintiff, failing which the written statement shall not be taken on record.

3. The plaintiff is at liberty to file a replication thereto within fifteen days after filing of the written statement. The replication shall be accompanied by affidavit of admission/denial in respect of the documents filed by the defendant, failing which the replication shall not be taken on record.

4. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

5. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

6. List before the Joint Registrar for marking of exhibits on 25.11.2019.

7. List before the Court on 22.01.2020.

I.A. 12756/2019 (under Order XXXIX Rules 1 & 2 of the CPC for ex parte ad interim injunction)

1. Issue notice, returnable for 22.01.2020.

2. The present suit has been instituted for a decree of permanent injunction against the defendant from using the trademark “RANBAXY LABORATORIES”, which the plaintiff claims is registered in its favour.

3. The plaintiff is a manufacturer of pharmaceutical products and, by virtue of a scheme of arrangement sanctioned in the year 2014, has acquired all the assets including the intellectual property of Ranbaxy Laboratories Limited. The said company has been manufacturing medicinal and pharmaceutical products under the trade name

“RANBAXY” since the year 1961. By virtue of the scheme of arrangement, the plaintiff is the proprietor of several trademarks using the word “RANBAXY”, including the word mark “RANBAXY” and “RANBAXY LABORATORIES LIMITED” in various classes. The plaintiff’s registered trademarks in this regard are enumerated in paragraph 12 of the plaint.

4. Prior to the aforesaid scheme of arrangement, the predecessor-in-interest of the plaintiff had, in the year 2013-2014, recorded sales in India of medicines under the trademark “RANBAXY” to the extent of ₹3,000/- crores (approximately), and all over the world of ₹6,700/- crores (approximately). The trademark “RANBAXY” continues to be used by the plaintiff in several medicinal products.

5. The plaintiff alleges that the defendant has made three applications for registration of the trademark “RANBAXY LABORATORIES”. The application bearing No.4153272 was published in the Trademark Journal on 24.06.2019, and was filed on a ‘proposed to be used’ basis. Although the Registrar of Trademarks had raised an objection citing the similarity of the defendant’s proposed mark with the plaintiff’s registered trademarks, the plaintiff has placed on record a communication dated 25.06.2019, filed on behalf of the defendant, contending that the proposed mark was neither identical nor deceptively similar to any other mark stated in the examination report. It was also contended that the defendant has honestly adopted the mark and has been using it *bona fide* since its adoption.

6. Having considered the fact that the plaintiff has a registered mark, which it has been using for a substantial period of time for medicinal and

pharmaceutical products, I am of the view that the defendant's adoption of an identical mark requires to be injuncted. The plaintiff has made out a good *prima facie* case for interim relief. In view of the fact that the products are medicinal and pharmaceutical products and the trademark sought to be adopted by the defendant is virtually identical to the plaintiff's trademark, the balance of convenience is also in favour of interim relief being granted. In these facts and circumstances, I am satisfied that the plaintiff would suffer irreparable loss and injury if *ad-interim* relief is denied.

7. Consequently, until the next date of hearing, the defendant is restrained from manufacturing or marketing any product or services under its proposed trademark "RANBAXY LABORATORIES" or using any other trademark or trade name which is deceptively similar to the plaintiff's registered trademarks "RANBAXY" and "RANBAXY LABORATORIES LIMITED".

8. The requirement of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 shall be complied with within one week. A copy of the plaint and the entire suit record shall be served upon the defendant, who will be entitled to file a reply to this application within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

9. List on 22.01.2020.

PRATEEK JALAN, J

SEPTEMBER 16, 2019

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