

IN THE HIGH COURT OF DELHI AT NEW DELHI
(ORIGINAL ORDINARY CIVIL JURISDICTION)

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CS (COMM) No. 34 of 2018

Sun Pharmaceutical Industries Ltd. ...Plaintiff

Versus

M/s Novitas Healthcare & Anr. ...Defendants

For Private Use

Examiner Medical Deptt
High Court of Delhi

MEMORANDUM OF PARTIES

Sun Pharmaceutical Industries Limited
8C, 8th Floor, Hansalaya Building
15, Barakhamba Road
Connaught Place
New Delhi - 110 001

...Plaintiff

Versus

M/s Novitas Healthcare
601, Sixth floor
Gold Line Business Centre
Near Chincholi Fire Station
Link Road, Malad (W)
Mumbai- 400 0-64

...Defendant No. 1

Wings Pharmaceuticals P. Ltd.
J-13 Udyog Nagar
Main Rohtak Road
New Delhi- 110 041

...Defendant No.2

Place: New Delhi
Date: 27 January, 2018

Sachin Gupta
(Sachin Gupta & Associates)
Advocates for the Plaintiff
A-1, Vasant Kunj Enclave
New Delhi 110 070
E: info@sgassociate.com
M: 98111 80270 T: 6565 7889

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of the High Court of Delhi
Audited & Certified Section 19
Indian Evidence Act.

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(COMM) 34/2018 & I.A.No.692/2018

SUN PHARMACEUTICAL INDUSTRIES LIMITED Plaintiff
Through Mr.Sachin Gupta with Ms.Surabhi Grover, Advocates.

versus

M/S NOVITAS HEALTHCARE & ANR Defendants
Through Ms.Kritika Sahni, Advocate.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

ORDER
15.05.2018

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Present suit has been filed for permanent injunction restraining infringement of trade mark, copyright, passing off, unfair competition, rendition of accounts of profits/damages, delivery up etc.

Today learned counsel for the parties state that they have amicably resolved the matter on the following terms and conditions:-

- (i) The defendants hereby recognize the plaintiff to be the proprietor of the trade mark/label **VOLINI** having the exclusive right to the use of the said trade mark/label in respect of pharmaceuticals and medicinal preparations;
- (ii) The defendants undertake to refrain themselves, their directors, assignees in business franchisees, licensees, distributors, dealers and agents from in any manner using **VOLINI** or any other trade mark/label as may be deceptively similar thereto, amounting to infringement of the plaintiff's registered trade

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Examiner (Control Department)
High Court of Delhi
Section 20
Indian Evidence Act.

mark **VOLINI** under no.609904 dated 19.10.1993 and its label registered under no.2108150 dated 1.03.2011;

- (iii) The defendant no.2 shall file a letter with the Trade Mark Registry withdrawing its application for registration of the impugned mark **VOLWIN+** advertised under Application No.2003568 in Class 05 in the Trade Marks Journal No.1726 at page No.131 dated 04.01.2016 within fifteen days of recording of this settlement under intimation to the plaintiff. The defendants confirm that they have not filed any other application for registration of a trade mark, which would amount to infringement of the plaintiff's trade mark. The defendant no.2 shall not reserve any rights in the trade mark while withdrawing;
- (iv) The defendant no.2 confirms that the defendant no.2 manufactured and sold medicines under the impugned mark **VOLWIN** 15 gm pack No.073, Qty.27000 tubes – December, 2017 and **VOLWIN** 30 gm pack No.081, Qty.3300, tubes – December, 2017. The defendant no.2 confirms that it has no stock in its possession under the mark **VOLWIN**;
- (v) The defendant no.2 states that apart from the impugned trademark **VOLWIN**, it has not manufactured/marketed any other medicines in regard to pain relief preparations having prefix containing syllables **VO/VOL/VOLI**;
- (vi) The defendants undertake that they shall not adopt a mark for any pain relief preparation which has a prefix containing syllables **VO/VOL/VOLI** or any other similar sounding syllables or any other trade mark/label as may be deceptively

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Registrar, Judicial Department
High Court of
Andhra Pradesh, Section 20
Indian Evidence Act

similar to the plaintiff's registered trade mark **VOLINI**;

- (vii) The defendants confirm that they do not have any permissions, grants, licenses, issued by the government and other competent authority for the aforementioned marks;
- (viii) The defendants confirm that they have destroyed all stationery and unpackaged packing material under the impugned trade mark, which was in possession and control of the defendants;
- (ix) The defendants hereby agree that the plaintiff shall not be liable in any manner whatsoever, whether legal or otherwise, for the medicine sold under the impugned trade mark **VOLWIN** already manufactured and sold by the defendants under the above marks and that the defendants shall indemnify and hold harmless the plaintiff from any damage or claim of damages arising from such goods sold by the defendant no.2.

As a token of acceptance of the aforesaid terms, both the counsel are directed to sign the order sheet.

Consequently, the present suit is decreed in terms of the aforesaid settlement terms. Registry is directed to prepare a decree sheet accordingly.

Sd/-
MANMOHAN, J

MAY 15, 2018
KA

Jacobin Gupta
Advocate for the Plaintiff
D/759/04,
15/5/2018

Kritika Sahni
Advocate for Defendants
D/1520/2011
15/05/2018.

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Examiner Judicial Department
Ministry of Law
Authorized Under Section 27
Judicial Evidence Act

(DECREE IN A SUIT FOR PERMANENT INJUNCTION ETC.)

IN THE HIGH COURT OF DELHI AT NEW DELHI
(ORDINARY ORIGINAL CIVIL JURISDICTION)

CS(COMM) No.34/2018

Sun Pharmaceutical Industries Limited
8C, 8th Floor, Hansalaya Building,
15, Barakhamba Road,
Connaught Place,
New Delhi - 110 001

...Plaintiff

Versus

1. M/s Novitas Healthcare
601, Sixth Floor,
Gold Line Business Centre,
Near Chincholi Fire Station,
Link Road, Malad (W),
Mumbai - 400 064

2. Wings Pharmaceuticals P. Ltd.
J-13 Udyog Nagar
Main Rohtak Road
New Delhi - 110041

...Defendants

Value of suit for
purpose of jurisdiction : Rs. 1,00,09,000/-

Court fee paid : Rs. 1,01,000/-

Plaint presented on : 12.01.2018

CLAIM: FOR PERMANENT INJUNCTION RESTRAINING
INFRINGEMENT OF TRADE MARK, COPYRIGHT, PASSING
OFF, UNFAIR COMPETITION, RENDITION OF ACCOUNTS OF
PROFITS/ DAMAGES, DELIVERY UP, ETC.

THIS THE 15TH DAY OF MAY, 2018

CORAM: HON'BLE MR. JUSTICE MANMOHAN.

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Examiner Judicial Department
High Court of Delhi
Authorised under Section 70
of the Evidence Act.

FOR THE PLAINTIFF: Mr. Sachin Gupta with Ms. Surabhi Grover, Advocates.

FOR THE DEFENDANTS: Ms. Kritika Sahni, Advocate.

This suit coming on this day for final disposal before this Court in the presence of counsel for the parties as aforesaid; and upon the parties having arrived at an amicable settlement; it is ordered that a decree be and the same is hereby passed in terms of the following terms and conditions:-

- (i) The defendants hereby recognize the plaintiff to be the proprietor of the trade mark/ label **VOLINI** having the exclusive right to the use of the said trade mark/ label in respect of pharmaceuticals and medicinal preparations;
- (ii) The defendants undertake to refrain themselves, their directors, assignees in business franchisees, licensees, distributors, dealers and agents from in any manner using **VOLINI** or any other trade mark/label as may be deceptively similar thereto, amounting to infringement of the Plaintiff's registered trade mark **VOLINI** under no.609904 dated 19.10.1993 and its label registered under no.2108150 dated 01.03.2011;

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High Court of Delhi
Authorized Section 77
Indian Evidence Act.

- (iii) The defendant no. 2 shall file a letter with the Trade Mark Registry withdrawing its application for registration of the impugned mark **VOLWIN+** advertised under Application No.2003568 in Class 05 in the Trade Marks Journal No.1726 at page No. 131 dated 04.01.2016 within fifteen days of recording of this settlement under intimation to the plaintiff. The defendants confirm that they have not filed any other application for registration of a trade mark, which would amount to infringement of the plaintiff's trade mark. The defendant no.2 shall not reserve any rights in the trade mark while withdrawing;
- (iv) The defendant no.2 confirms that the defendant no.2 manufactured and sold medicines under the impugned mark **VOLWIN** 15 gm pack No.073, Qty.27000 tubes – December, 2017 and **VOLWIN** 30 gm pack No.081, Qty.3300, tubes- December, 2017. The defendant no. 2 confirms that it has no stock in its possession under the mark **VOLWIN**;
- (v) The defendant no.2 states that apart from the impugned trademark **VOLWIN**, it has not manufactured/ marketed any other medicines in regard to pain relief preparations having prefix containing syllables **VO/VOL/VOLI**;

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Court of
Appeal Section IV
Indian Evidence Act.

- (vi) The defendants undertake that they shall not adopt a mark for any pain relief preparation which has a prefix containing syllables **VO/VOL/VOLI** or any other similar sounding syllables or any other trade mark/ label as may be deceptively similar to the plaintiff's registered trade mark **VOLINI**;
- (vii) The defendants confirm that they do not have any permissions, grants, licenses, issued by the government and other competent authority for the aforementioned marks;
- (viii) The defendants confirm that they have destroyed all stationery and unpackaged packing material under the impugned trade mark, which was in possession and control of the defendants;
- (ix) The defendants hereby agree that the plaintiff shall not be liable in any manner whatsoever, whether legal or otherwise, for the medicine sold under the impugned trade mark **VOLWIN** already manufactured and sold by the defendants under the above marks and that the defendants shall indemnify and hold harmless the plaintiff from any damage or claim of damages arising from such goods sold by the defendant no. 2.

[Handwritten Signature]

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Office of
Authoritative and Section 20
Evidence Act.

Given under the hand and seal of **Hon'ble Ms. Justice Gita Mittal, Acting Chief Justice** of the High Court of Delhi at New Delhi, this the 15th day of May, 2018.

Sd/-

DEPUTY REGISTRAR (O)

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Examiner Judicial Department
Section 2
Indian Evidence Act