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

+ CS(COMM) 1106/2025

SUN PHARMACEUTICAL INDUSTRIES

LTD. & ANR.

....Plaintiffs

Through: Mr. Sachin Gupta, Ms. Prashansa Singh, Mr. Rohit Pradhan, Mr. Adarsh Agarwal, Ms. Mahima Chanchalani & Mr. Ajay Kumar, Advocates

Versus

CUREWELL DRUGS AND PHARMACEUTICALS

P. LTD. & ORS.

....Defendants

Through: Mr. Vikas Khera & Mr. Ms. Sneha Sethia, Advocates.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

% **14.10.2025**

I.A. No.25589/2025 (Exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The Application stands disposed of.

I.A. No.25588/2025 (Exemption from pre-institution Mediation)

3. This is an Application filed by the Plaintiffs seeking exemption from instituting pre-litigation Mediation under Section 12A of the CC Act.
4. As the present matter contemplates urgent interim relief, in light of the judgment of the Supreme Court in *Yamini Manohar v. T.K.D. Krithi*, 2023 SCC OnLine SC 1382, exemption from the requirement of pre-institution Mediation is granted.
5. The Application stands disposed of.



I.A. No.25591/2025 (Exemption from advance service to the Defendant)

6. This is an Application filed by the Plaintiffs under Section 151 of the Code of Civil Procedure, 1908 (“CPC”), seeking exemption from advance service to the Defendant.

7. Mr. Sachin Gupta, learned Counsel for the Plaintiffs, submitted that there is a real and imminent likelihood that the Defendants may take immediate steps to dispose of, conceal or suppress its infringing business operations and digital footprints.

8. In view of the fact that the Plaintiffs have sought an urgent *ad-interim* injunction along with the appointment of the Local Commissioner, the exemption from advance service to the Defendants is granted.

9. The Application stands disposed of.

CS(COMM) No. 1106/2025

10. Let the Plaint be registered as a Suit.

11. Issue Summons. The learned Counsel for the Defendants accepts Summons.

12. Written Statement(s) shall be filed by the Defendants within 30 days from the date of the receipt of Summons. Along with the Written Statement(s), the Defendants shall also file an Affidavit of Admission / Denial of the documents of the Plaintiffs, without which the Written Statement(s) shall not be taken on record.

13. Liberty is granted to the Plaintiffs to file Replication(s), if any, within 30 days from the receipt of the Written Statement(s). Along with the Replication(s) filed by the Plaintiffs, an Affidavit of Admission / Denial of the documents of Defendants be filed by the Plaintiffs, without which the Replication(s) shall not be taken on record.



14. In case any Party is placing reliance on a document, which is not in their power and possession, its details and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

15. If any of the Parties wish to seek inspection of any documents, the same shall be sought and given within the prescribed timelines.

16. List before the learned Joint Registrar on 08.12.2025 for completion of service and pleadings.

I.A. No.25592/2025 (U/O XXXIX Rule 1 & 2 of CPC)

17. Issue Notice. The learned Counsel for Defendants accepts Notice.

18. The present Suit has been filed for permanent injunction restraining infringement of the registered Trade Mark, passing off, dilution, unfair competition for rendition of accounts/damages, delivery up, etc.

19. The learned Counsel for the Plaintiffs submitted that:

19.1 The Plaintiffs are aggrieved by the Defendants' dealing in pharmaceutical, medicinal, nutraceutical and derma care preparations under the Marks MIMOXCLAV, ORENZ, and SUNDAY ('**Impugned Marks**'), which are deceptively similar to the Plaintiffs' prior adopted and well-known Trade Marks, MOXCLAV, OLEANZ, and SUN ('**Plaintiffs' Marks**'). The details of the Plaintiffs' Marks and the Impugned Marks are as under:

S. No.	Plaintiff's Trade Marks	Defendants' Impugned Marks
	MOXCLAV Proprietor: Plaintiff No. 1 Salt: Amoxycillin and Clavulanic Acid Use: fight bacterial infections MOX-CLAV is registered	MIMOXCLAV Salt: Amoxicillin and potassium clavulanate with Lactic Acid Bacillus Use: fight bacterial infections



	<p>under No. 766266 dt. 08.08.1997 in Class 5, on proposed to be used basis.</p> <p>Annual sales of Rs. 130.7 Crores for the financial year 2024-2025</p> <p>Plaintiffs (through its predecessor in title) started using MOXCLAV since at least the year 2003. It is used as tablets and suspension.</p> <p>Plaintiffs have several other trade mark registrations for MOX-CLAV variants, such as MOXCLAV, MOXCLAV DS</p> <p>Plaintiffs sell the following variants: MOXCLAV, MOXCLAV BD DISTAB, MOXCLAV DS CP, MOXCLAV DS DITAB, MOXCLAV DS SUS, MOXCLAV ES.</p>	<p>No trade mark application filed.</p>
	<p>OLEANZ Proprietor: Plaintiff No. 2 Salt: Olanzapine Use: treating bipolar condition, schizophrenia and mania Registered under No. 890382 dated 07.12.1999 Annual sales of Rs. 66.4 crores for the financial year 2024-2025 Plaintiffs sell the following</p>	<p>ORENZ Salt: Pancreatin, bile constituents, and activated dimethicone Use: aids digestion, helps to emulsify fats, and reducing gas and bloating No trade mark application</p>



	variants: OLEANZ RT, OLEANZ PLUS, OLEANZ FORTE	
	SUN Proprietor: Plaintiff No. 1 SUN has been in use since 1978 SUN (Label) is a registered trade mark under no. 408870 dt. 04.08.1983 in class 5 claiming use since 01.01.1978. Plaintiff No. 1 has 99 registrations for SUN / SUN PHARMA /SUN PHARMACEUTICAL and 92 registrations for SUN formative marks in India and numerous international registrations. One of the registered SUN formative mark is SUNCROS, under no. 1320978 18.11.2004 for Avobenzone, Octinoxate, Oxybenzone and Zinc Oxide used to protects the skin from harmful UVA and UVB rays to prevent sunburn and reduce the risk of skin cancer and premature skin ageing The Plaintiff No. 1 has 2399 Million shares among over 7.29 lakh shareholders, currently having a consolidated annual gross sale of Rs.33,139 crores globally for Q3FY25. The Plaintiff No.	SUNDAY No trade mark application The product packaging is designed in such a manner that SUN becomes the prominent and highlighted part of the mark, displayed below:  Formulation: Avobenzone, Octinoxate, Oxybenzone and Zinc Oxide Use: protects the skin from harmful UVA and UVB rays to prevent sunburn and reduce the risk of skin cancer and premature skin Ageing



	<p>1 is ranked No. 1 Pharma Company in India and the world's 5th largest specialty generic pharmaceutical company.</p> <p>Plaintiff No. 1 is a listed company and has 10 subsidiaries and 20 step down companies in India and abroad with the name SUN / SUN PHARMA /SUN PHARMACEUTICAL and have 42 orders against parties using corporate names, which were held to be deceptively similar to Plaintiffs' corporate name passed by various Courts and Regional Directors under the Companies Act, 2013.</p> <p>SUN / SUN PHARMA has been declared as well-known trade mark by this Hon`ble Court vide order dated 19.12.2022 in Sun Pharmaceutical Industries Ltd. V. Vensat Bio & Ors. CS (COMM) 459/2022 and has been incorporated in the list of well-known trade marks</p>	
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19.2 The Plaintiffs are also aggrieved by the continuing the use of multiple pink and golden Trade Dress by the Defendant No.1 for its nutraceutical product REESTART ('**Impugned Trade Dress**'), which is almost identical and deceptively similar to the Plaintiffs' pink and



golden Trade Dress of the Plaintiffs' products under the Trade Mark REVITAL ('Plaintiffs' Trade Dress'), and a comparison of the same is as under:

PLAINTIFF'S TRADE DRESS	DEFENDANT'S TRADE DRESS
	

19.3 The aforementioned Plaintiff's Trade Dress including its overall colour combination, get up, placement of features, i.e.,



and



constitute original artistic work of Plaintiff No. 1 under the Copyright Act, 1957.

19.4 Plaintiff No. 1 had previously instituted a suit titled '*Sun Pharmaceutical Industries Ltd. v. Curewell Drugs and Pharmaceutical P. Ltd.*', CS(COMM) 870/2017, against Defendant Nos. 1 and 2, for adopting pink and golden Trade Dress for its product REESTART, which were identical to the Plaintiffs' prior used and well-known REVITAL Trade Dress. The competing Trade Dresses of the suit are reproduced below:



19.5 *Vide* order dated 17.01.2018, this Court was pleased to record the statement of the defendants therein that they would discontinue the infringing packaging and change the label of REESTART to a different colour scheme and device, and the suit was accordingly



decreed in terms of the revised label, which is reproduced below:



Subsequently, *vide* order dated 19.02.2018, this Court allowed a modification application filed by the defendants, permitting the use of a Leaf Device in place of the earlier oval/rectangular device, which is reproduced below:





19.6 However, Defendant No.1, in a calculated and dishonest manner, has continued to use the pink and golden Trade Dress for its REESTART products, which is reproduced below:



19.7 Around the third week of August 2025, the Plaintiffs were shocked to come across Defendants' REESTART product still using



the Impugned Trade Dress despite the injunction in the earlier suit. The Plaintiffs also became aware that the Defendants are using the Impugned Marks on their products.

19.8 The Plaintiffs' products under the Plaintiffs' Marks being nutraceutical products as well as medicines used to treat serious ailments, undergo stringent quality control checks. The Plaintiffs are unaware of the quality standards maintained by the Defendants for their products sold under the Impugned Marks, and are apprehensive that if such products are of inferior quality, it could not only dilute the Plaintiffs' goodwill and reputation but also pose a risk to the unwary consumer, who may mistakenly believe that the products bearing the Impugned Marks and Impugned Trade originate from the Plaintiffs,



expecting the superior quality associated with the Plaintiffs' products.

20. The learned Counsel for the Defendants submitted that the Defendants are no longer manufacturing products under the Impugned Marks, and the REESTART product bearing Impugned Trade Dress



21. The details of the last date of manufacture of the products bearing the Impugned Trade Dress and Impugned Marks are as under:

Trade Mark / Trade Dress	Last Date of Manufacture
MIMOXCLAV 625	26.03.2024
SUNDAY	28.06.2025
ORENZ	16.09.2025
Impugned Trade Dress / Packaging of REESTART having pink and golden colour	20.12.2017

22. The learned Counsel for the Defendants, on instructions submitted that without prejudice to their rights and contentions, the Defendants undertake to not manufacture the products bearing the Impugned Marks and Impugned Trade Dress till the next date of hearing. The undertaking is taken on record and the Defendants shall be bound to comply in accordance with this undertaking.

23. Considering the pleadings, documents and the submissions advanced by the learned Counsel for the Parties, a *prima facie* case is made out in



favour of the Plaintiffs and against the Defendants as the Impugned Marks and Impugned Trade Dress are deceptively similar to the Plaintiffs' Marks and the Plaintiffs' Trade Dress, respectively.

24. The Plaintiffs have amassed significant goodwill and reputation for the products sold under the Plaintiffs' Marks and if the *ad-interim* injunction is not granted, it is likely to cause irreparable loss and erosion of consumer trust in the Plaintiffs' products under the Plaintiffs' Marks and Plaintiffs' Trade Dress. Further, given the nature of the products, it may severely impact the consumers, who may buy Defendants' products bearing the Impugned Marks and / or Impugned Trade Dress, associating them with the Plaintiffs. Thus, balance of convenience also lies in favour of the Plaintiffs and against the Defendants.

25. Accordingly, till the next date of hearing, it is directed that:

- i. The Defendants, their proprietor, partner, promoters, directors, assignee in business, their officers, employees, dealers, associates, affiliates, licensees, franchisee, manufacturers, distributors, servants, stockists, retailers, wholesalers, custodians, agents, chemists, importers, exporters, predecessors, successors or anyone acting for or on their behalf, are restrained from trading, marketing, manufacturing, selling, offering for sale, advertising, promoting, distributing, exporting, importing, exhibiting, directly or indirectly dealing in medicinal, pharmaceutical, nutraceutical, and derma care products and in relation to any allied / cognate goods or services under the Impugned Marks MIMOXCLAV, ORENZ, and SUNDAY, and / or any other Mark deceptively similar to the Plaintiffs' Marks MOXCLAV, OLEANZ and SUN,



amounting to infringement of Plaintiffs' registered Trade Marks and / or passing off.

- ii. The Defendants, their proprietor, partner, promoters, directors, assignee in business, their officers, employees, dealers, associates, affiliates, licensees, franchisee, manufacturers, distributors, servants, stockists, retailers, wholesalers, custodians, agents, chemists, importers, exporters, predecessors, successors or anyone acting for or on their behalf, are restrained from trading, marketing, manufacturing, selling, offering for sale, advertising, promoting, distributing, exporting, importing, exhibiting, directly or indirectly dealing in medicinal, pharmaceutical, nutraceutical, and derma care products and in relation to any allied / cognate goods or services under the Impugned Trade Dress



and / or any other Trade Dress / packaging that may be deceptively similar to Plaintiffs' Trade Dress / packaging



amounting to infringement of the Plaintiffs'



Copyright.

26. Let the Reply to the present Application be filed within four weeks after service of Notice. Rejoinder thereto, if any, be filed before the next date of hearing.

27. List before this Court on 12.02.2026.

I.A. No.25590/2025 (for Appointment of Local Commissioner)

28. The present Application has been filed by the Plaintiffs under Order XXVI Rule 9 and Order XXXIX Rule 7 of the CPC read with Section 135 of the Trade Marks Act, 1999, seeking appointment of the Local Commissioners. Considering the merits of the Plaintiffs' case and in view of the *ad-interim* injunction granted in in I.A. No.25592/2025, to ensure the full compliance of the injunction, it is deemed appropriate to appoint Local Commissioners to visit the Defendants' premises at the following address:

Sr. No.	Particulars	Name of Local Commissioner
1.	Defendant Nos. 1 and 3 Plot No. 240 & 241, Sector 29, Huda, G.T. Road Panipat, Haryana - 132103. Also at Warehouse at Plot No. 39, Sector-29, Part-2, HUDA, Panipat, Haryana - 132103.	Ms. Tejaswi Mallipeddi, Advocate [Contact No. - +91 95427 91019]
2.	Defendant No.2 Plot No. 3 and 3A, Industrial Area, Trilokpur Road, Kala Amb, Distt. Sirmour, Himachal Pradesh - 173030.	Mr. Aehsas Puri, Advocate [Contact No. - +91 98991 99219]



29. The mandate of the learned Local Commissioner is as under:

i) The learned Local Commissioner shall visit the premises of the Defendants as per the above table, to inspect and seize any infringing products, fully or semi-manufactured infringing products of the Defendants bearing the Impugned Marks MIMOXCLAV, ORENZ, and SUNDAY and / or Impugned Trade Dress



, which is identical or deceptively similar to the Plaintiffs' Marks MOXCLAV, OLEANZ and SUN and / or Plaintiffs' Trade Dress



ii) If knowledge is acquired of any other premises than the aforesaid premises, where the goods with the Impugned Marks and / or Impugned Trade Dress could be stored or services can be provided from, the learned Local Commissioners are free to record the same and then visit the other premises and conduct a seizure there as well;

iii) The learned Local Commissioners shall also inspect and seize any product materials including pamphlets, brochures, stickers, packaging materials, material used for packaging, the manufacturing materials, display boards, sign boards, advertising material,



unfinished, packed, unpacked goods or any other documents, wrapper etc. so that it can be ensured that no fresh manufacturing of the products having Impugned Mark / Impugned Trade Dress can take place;

iv) The learned Local Commissioners shall also obtain the details as to since when goods or products having Impugned Mark / Impugned Trade Dress have been manufactured by the Defendants;

v) The learned Local Commissioners shall obtain accounts including ledgers, stock registers, invoice books, receipt books, cash books, purchase and sale records and any other books of record or commercial transactions kept at the premises of the Defendants and take photocopy and / or record of all such transactions that pertain to goods having Impugned Mark / Impugned Trade Dress, if any. The Defendants shall cooperate and give passwords to the computers and the files containing the accounts, if the same is stored on the computer or a specific software;

vi) After preparation of the inventory, the goods under the Impugned Marks and / or Impugned Trade Dress including packaging materials, advertising, promotional materials, pamphlets, brochures, boxes, videos, hoardings, banners, signage, cartons and other material bearing the Impugned Marks and / or Impugned Trade Dress, which are similar to the Plaintiffs' Mark / Plaintiffs' Trade Dress shall be released to the Defendants on *superdari*. The monetary value of the stock shall also be ascertained;

vii) The learned Local Commissioners are also permitted to break open the locks, with police help, if access to the premises where the



infringing goods and products have been stocked / manufactured, is denied by the Defendants;

viii) Upon being requested, the concerned Station House Officer (SHO) shall render necessary cooperation for execution of the Commission, as per this Order;

ix) The learned Local Commissioners are permitted to take photographs and record videos of the proceedings of the Commission, if it is deemed appropriate. Two representatives of the Plaintiffs, which would include a lawyer, are permitted to accompany the learned Local Commissioners;

x) The learned Local Commissioners, while executing the Commission, shall ensure that there is no disruption to the business of the Defendants, except for the purposes of the execution of the Commission. The Commission shall be executed in a peaceful manner.

30. Either the learned Counsel for the Plaintiffs or the learned Local Commissioners are directed to collect the certified copy of this Order from the Registry (Dispatch Branch) before the execution of the Commission.

31. The learned Local Commissioners shall carry the certified copy of this Order for execution of the Commission and a copy of the same shall be served upon the Defendants by the learned Local Commissioners at the time of the execution of the Commission.

32. The fees of the learned Local Commissioners is fixed at ₹2,00,000/- (Rupees Two Lakh only) each excluding out of pocket expenses, travel, lodging etc. All the aforesaid expenses shall be borne by the Plaintiffs and



paid in advance to the learned Local Commissioners named hereinabove.

33. The Commission shall be executed within a period of two weeks, and the report of the learned Local Commissioners shall be filed within a period of two weeks thereafter.

34. Compliance of Order XXXIX Rule 3 of CPC shall be done within two weeks after the execution of the Commission.

35. It is directed that this Order shall be uploaded on the Court's website after the execution of the Commission is completed, to enable effective execution thereof.

36. Order *dasti* under the signature of the Court Master.

TEJAS KARIA, J

OCTOBER 14, 2025

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