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

+ **CS(COMM) 453/2022**

SUN PHARMACEUTICAL MEDICARE LTD. Plaintiff

Through: **Mr.Sachin Gupta, Ms.Jasleen Kaur &
Ms.Swati Meena, Advs.**

versus

TRIPADA HEALTHCARE PVT. LTD. & ANR. Defendants

Through: **Nemo.**

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% 07.07.2022

I.A. 10233/2022 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

CS(COMM) 453/2022

1. Let the plaint be registered as a Suit.
2. Issue summons to the defendants to be served through all modes, including electronically, returnable on 23rd September 2022.
3. The summons to the defendants shall indicate that the written statement(s) to the plaint shall be positively filed within the prescribed period from the date of receipt of the summons. Along with the written statement(s), the defendants shall also file the affidavit(s) of admission/denial of the documents of the plaintiff, without which the written statement(s) shall not be taken on record.
4. Liberty is given to the plaintiff to file replication within a period of



two weeks of the receipt of the written statement(s). Along with the replication, if any, filed by the plaintiff, the affidavit of admission/denial of documents of the defendants be filed by the plaintiff, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

I.A. 10234/2022

1. Issue notice to the defendants to be served through all modes, including electronically, returnable on 23rd September 2022.
2. Let a reply, if any, to the application be filed by the defendants within a period of four weeks. Rejoinder thereto, if any, be filed within a period of three weeks thereafter.
3. It is the case of the plaintiff that the plaintiff's predecessor, namely, Sun Pharmaceutical Industries Limited (hereinafter referred to as 'the SPIL'), coined and adopted the trade mark 'NAXDOM' in respect of its medicinal and pharmaceutical preparations. It also obtained registration of the said trade mark vide Registration No. 1404743 dated 08.12.2005 in Class – 5. The said registration is still subsisting. The said trade mark was also extensively used by the SPIL and the same, through a process of assignments, has now vested in the plaintiff by way of an Assignment Deed dated 19.12.2021 executed by Unimed Technologies Ltd. The plaintiff asserts that the defendant is marketing its identical pharmaceutical preparations under the trade mark 'NAPDOM', which is deceptively similar to that of the plaintiff's trade mark, 'NAXDOM'.
4. The learned counsel for the plaintiff submits that prior to the filing of the present Suit, the plaintiff has also informed the defendants of its intent to



file the Suit. In response thereto, along with an e-mail dated 05.07.2022, the defendant no. 1 has addressed a letter dated 05.07.2022 to the plaintiff, which, *inter alia*, states as under:

- “1. We are interested to solve the matter amicably and request you for not take any hasty steps to proceed with suit proceedings.
2. I state that Tripada Healthcare Pvt. Ltd is getting manufactured pharmaceuticals and medicinal preparations under trade mark **NAPDOM** as per our requirement through Vega Biotec P. Ltd., 23, Sahajanand Industrial Estate, Akota, Mujmahuda, Vadodara, Gujarat – 390020.
3. We deny all allegations against us stated in proposed suit in Hon’ble High Court of Delhi in the matter of **NAXDOM V. NAPDOM**.
4. We state and assure that we will not get manufacture pharmaceuticals and medicinal preparations under trade mark **NAPDOM** henceforth.
4. We are ready to give undertaking to that effect.”

5. He further states that notice of today’s hearing was also given to the defendants by way of an e-mail dated 06.07.2022.

6. None appears for the defendants.

7. In my opinion, the plaintiff has been able to make out a good *prima facie* case in its favour. This is especially in view of the letter dated 05.07.2022 addressed by defendant no. 1 to the plaintiff. The balance of convenience is also in favour of the plaintiff and against the defendants. As it is a pharmaceutical product, the plaintiff and the general public are likely to suffer grave irreparable harm in case an *ad interim* injunction is not granted.

8. In view of the above, by way of an *ad interim* order, the defendants,



their Directors, assignees in business, distributors, dealers, stockists, retailers/chemists, servants and/or agents are restrained from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in medicinal preparations under the impugned mark NAPDOM and/or any other trade mark as may be deceptively similar to the plaintiff's trademark NAXDOM till further orders.

9. The defendants shall also file, on affidavit, the stock of pharmaceutical preparation available with them under the impugned trademark NAPDOM along with their batch numbers. The affidavit shall also state the batch number(s) of the pharmaceutical preparations of which the expiry period has not yet arrived. Such affidavit be filed within four weeks of receipt of notice.

10. Compliance with Order XXXIX Rule 3 of the Code of Civil Procedure, 1908, be made within a period one week from today.

NAVIN CHAWLA, J

JULY 7, 2022/rv/P