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

+ CS(COMM) 237/2021

SUN PHARMACEUTICAL INDUSTRIES LTD..... Plaintiff
Through Mr.Sachin Gupta, Ms.Rajnandini
Mahajan and Ms.Jasleen Kaur, Advs.
Versus
M/S WINGS BIOTECH & ANR. Defendants
Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

O R D E R

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24.05.2021

This hearing is conducted through video-conference.

IA No. 6634/2021 (exemption)

The application is allowed subject to all just exceptions.

IA No.6635/2021 (for additional documents)

The application is allowed subject to all just exceptions.

IA No.6633/2021

The plaintiff may file the court fees within four weeks.

The application is disposed of.

CS(COMM) 237/2021

Let the plaintiff be registered as a suit.

Issue summons to the defendants through speed post, courier and email, returnable for 06.09.2021.

IA No. 6636/2021

1. This application is filed by the plaintiff under Order 39 Rules 1 and 2 CPC seeking an injunction to restrain the defendants, their directors, distributors, etc. from manufacturing, selling, offering for sale, advertising,

directly or indirectly dealing in medicinal preparations/health supplements under the impugned mark/label/carton packaging/trade dress ‘ONEVITAL’ or any other trade mark/label/carton packaging/trade dress which is similar or deceptively similar to the plaintiff’s trade mark/label/carton packaging/trade dress ‘REVITAL’ amounting to infringement of the trade mark & copyright and passing off of the plaintiff’s well-known trade mark.

2. It is the case of the plaintiff that the plaintiff has been using the trade mark REVITAL since 1988 and as such, has acquired immense goodwill and reputation. The plaintiff has registrations for the trade mark REVITAL. The trade mark REVITAL was registered in Class 5 on 26.12.1985.

3. It is the case of the plaintiff that in the second week of May, 2021, it came across a medicinal product under the impugned mark ONEVITAL which is deceptively similar to the plaintiff’s trade mark REVITAL. Label/carton packaging/trade dress of the impugned product is also similar to the plaintiff’s well-known registered trade mark REVITAL and its label/carton packaging/trade dress. It is stated that this is not the first time that defendant No.1 has infringed the plaintiff’s intellectual property rights. Reference is made to CS(COMM) 34/2018 titled as “*Sun Pharmaceutical Industries Ltd. vs. M/s. Novitas Healthcare & Anr.*” filed before the Delhi High Court, which is defendant No. 1’s sister concern.

4. A comparison of the products of the plaintiff and the defendants has been reproduced in the plaint which is as follows:-

Plaintiff’s	Defendants’
	



5. It is clear that the defendants' label is deceptively similar to that of the plaintiff. The trade dress, packaging, etc. are also deceptively similar to that of the plaintiff.
6. The plaintiff has made out a prima facie case. The defendants, their directors, distributors, etc. are hereby restrained by an ex parte injunction from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in medicinal preparations/health supplements under the impugned mark/label/carton packaging/trade dress ONEVITAL or any other trade mark/label/carton packaging/trade dress which is deceptively similar to the plaintiffs trade mark/label/carton packaging/trade dress REVITAL or any other act amounting to infringement of the trade mark, copyright and passing off of the stated mark.
7. Issue notice to the defendants through speed post, courier and email, returnable for 06.09.2021.
8. The plaintiff to comply with the provisions of Order 39 Rule 3 CPC within one week from today.

JAYANT NATH, J

MAY 24, 2021/rb