

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.1386 OF 2013
IN
SUIT NO.3221 OF 2007**

Ranbaxy Laboratories Ltd.	...	Plaintiff
versus		
M/s. Universal Twins Labs	...	Defendant

None for Plaintiff.

Dr. B.B.Saraf with Ms. Pooja Kshirsagar i/by M/s. Bharat Shah and Co., for Defendant.

Ms. Geeta S. Nair, Section Officer of Court Receiver, present.

**CORAM: S.J. KATHAWALLA, J.
DATE: 8th JUNE, 2015**

PC.:

1. The above Suit was filed by the Plaintiff against the Defendant seeking to restrain the Defendant from using its Trademark Vonigel (Exhibits D and E to the Plaint). By an order dated 03-12-2007, the Defendant was restrained by an order and injunction from using the Trademark Vonigel and its cartons. The Defendant preferred an Appeal against the Order dated 03-12-2007, which appeal was dismissed. On 6th March, 2009, the Defendant thereafter, filed its Written Statement to the Suit. The Plaintiff also filed an Application for rectification of register thereby seeking removal of the Defendant's mark from the register of trademarks. On 7th May, 2012, the above Suit was listed for issues. The issues were not framed at the request of

the learned Advocate for the Plaintiff on the ground that the Plaintiff may require amendments. The matter was thereafter adjourned to 13-06-2012. On 05-02-2013, the Suit was listed under the caption for 'Directions' when none appeared for the Plaintiff. In view thereof, the Suit was adjourned to 06-02-2013. On 06-02-2013, the Suit was placed under the caption 'for Dismissal'. However, none appeared for the Plaintiff. The Suit was therefore, dismissed for want of prosecution.

2. On 21-06-2013, the Plaintiff took out the above Notice of Motion for setting aside the order of dismissal dated 06-02-2013. It is pointed out by the learned Advocate for the Defendant that the said Notice of Motion is taken out on an incorrect premise that the Suit was placed for Directions for the first time in the year 2013. It is also pointed out by the learned Advocate for the Defendant that the Plaintiff served the present Notice of Motion on the Defendants only on 13-11-2014 i.e. after 14 months of filing of the above Notice of motion. Today, when the Notice of Motion is called out, none appear for the Plaintiff. The Court is therefore, constrained to dismiss the above Notice of Motion for want of prosecution. The Notice of Motion is accordingly disposed of.

(S.J.KATHAWALLA, J.)