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

+ CS(OS) 3395/2015

BAYER INTELLECTUAL PROPERTY GMBH & ANR Plaintiffs

Through : Ms. Achana Shankar with
Mr. Aditya Gupta, Advocates

versus

MR ABHIJEET AND ANR Defendants

Through : Ms. Pratibha M. Singh, Sr. Advocate
with Mr. Ashutosh Kumar, Advocate
Mr. Ayush Sharma, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

% 27.11.2015

1. The present suit was listed for admission on 26.11.2015. Though there was no caveat filed in the suit, Ms. Pratibha M. Singh, Senior Advocate had entered appearance along with Mr. Aushutosh Kumar, the briefing counsel and stated that they had appeared on seeing the case listed in the cause list. A request for adjournment was made by learned counsel for the defendant to obtain instructions from the defendants as to whether they are proposing to commercially launch the product "RIVAROXABAN", subject matter of the patent IN 211300 and the case was adjourned for today.

2. Today, Ms. Singh, learned Senior Advocate states, on instructions from her briefing counsel, that despite efforts made to contact the defendants, no instructions have been conveyed.

3. At this stage, Mr. Ayush Sharma, Advocate enters appearance for the defendants and states that he has received instructions from Ms. Poonam Raghuvanshi, IPR Head of the defendant No.2/company to the effect that the defendants are not proposing to commercially launch the product "RIVAROXABAN" or any other product during the lifetime of the patent IN 211300, in the name of the plaintiffs.

4. He clarifies that the defendant No.2/company has neither approached the Drug Controller of India or the Drug Controller of any other state in the country for commercially launching/marketing the product, "RIVAROXABAN". He however clarifies that this statement is without prejudice to the defendant's objection that the present suit is not maintainable in Delhi on the ground that this Court is not vested with the territorial jurisdiction to entertain the same.

5. In view of the aforesaid submission, nothing further survives for adjudication in the present suit. By way of an abundant caution, it is deemed appropriate to direct the defendant No.2/company to file an affidavit on the aforesaid lines within one week, with an advance copy to the other side. If the affidavit is not filed within the prescribed

timeline, the plaintiffs shall be at liberty to approach the Court for appropriate orders.

6. The present suit is disposed of, along with the pending application.

NOVEMBER 27, 2015
sk/ap

HIMA KOHLI, J