

JSN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 3188 OF 2006

Lupin Limited	... Plaintiffs
<i>Versus</i>	
Torque Pharmaceuticals and others	... Defendants

Mr. Amit Jamsandekar, *with Ms. Alka Parelkar, Ms. Esha Trivedi i/b V.A. Associates for the Plaintiffs.*

Mr. Hemang Engineer, *i/b Gordhandas and Fozdar for the Defendants.*

CORAM: G.S. PATEL, J
DATED: 13th December 2016

PC:-

1. The learned Advocate for the Defendants has written instructions to submit to a decree in terms of prayers (a), (b) and (c), as amended on the oral application made today and hereby permitted. The Plaintiffs will carry out the formal amendments to the prayers in the Plaint without need of reverification on or before 19th December 2016. The amended prayers are appended to this order.

2. The Defendants will confine themselves to using the new packet, a sample of which is tendered, taken on record and marked "X" for identification. An image of the proposed new label to be used by the Defendants is also appended to this order.

3. In view of the decree, Mr. Jamsandekar does not press for damages.
4. The Suit is disposed of in these terms. Drawn up decree is dispensed with. Refund of Court Fees, if any, in accordance with Rules.
5. The Court Receiver is discharged without passing his accounts, charges and expenses.
6. Notice of Motion is also disposed of in view of the foregoing order.
7. There will be no order as to costs.

(G. S. PATEL, J.)

ANNEXURE “1” : AMENDED PRAYERS

- (a) that the Defendants by themselves or their servants, agents, be restrained by a perpetual order and injunction of this Hon’ble Court from using the impugned mark/label **HEMO FORTE (Label)**” annexed as **Exhibit “H”** or any other similar/deceptively similar label/mark in respect of any products or medicinal preparations or veterinary preparations or any other goods so as to infringe the Plaintiffs’ registered trademarks **“HEPP, HEPP FORTE, HEPP FORTE (label)”** (Registration Nos. 447864, 557464 & 557466).
- (b) that the Defendants by themselves or their servants, agents, stockiest or any other person claiming through or under them be restrained by a perpetual order and injunction of this Hon’ble Court from using the impugned mark/label **“HEMO FORTE (Label)”** annexed as **Exhibit “H”** or any other similar/deceptively similar label/mark in respect of any goods or medicinal or veterinary preparations or any other similar goods so as to pass-off or enable others to pass-off the Defendants’ goods as and for the goods of the Plaintiff.

- (c) that the Defendants by themselves or their servants, agents be restrained by a perpetual order and injunction of this Hon'ble Court from using or exposing for sale any goods bearing the impugned label **HEMO FORTE (Label)**" annexed as **Exhibit "H"** or any other deceptively similar label/artistic work. so as to infringe the Plaintiffs' copyright subsisting in the artistic work of the label **HEPP FORTE (label)"** being **Exhibit 'D'** hereto including its colour scheme, lay out and get up.

ANNEXURE “2” : PERMITTED LABELS



