

ATUL

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT (L) NO. 922 OF 2016
WITH
NOTICE OF MOTION (L) NO. 2785 OF 2016

Ajanta Pharma Limited	...Plaintiffs
<i>Versus</i>	
Arvind Iyer & Another	...Defendants

Mr. H.W. Kane, i/b W.S. Kane & Co., for the Plaintiffs.
Mr. Arvind Iyer, Defendant No. 1 is present.

CORAM: G.S. PATEL, J
DATED: 18th October 2016

PC:-

1. Mr. Arvind Iyer, Defendant No. 1 is personally present in Court. He is the Managing Director of Defendant No. 2. He states that he will submit to a decree in terms of prayer clauses (a) and (c) of the Suit, which read as follows:

“(a) that the Defendants by themselves, their proprietor, partners, directors, servants, stockists, dealers, distributors, agents and all persons claiming through them be restrained by a permanent order and injunction of this Hon'ble Court from infringing the Plaintiff's trade mark ITAPRO bearing registration No.

1571258 in class 05 by use of the trade mark ITPro or any other trade mark deceptively similar to the Plaintiff's said registered trade mark ITAPRO bearing registration No. 1571258 in class 05 in respect of the goods covered by the Plaintiff's aforesaid registration or in any other manner whatsoever;

(c) that the Defendants be ordered and directed to deliver up to the Plaintiff for destruction all goods, labels, cartons, strips, advertising material, packing material, other literature and things bearing/containing the impugned trade mark "ITPro";

2. In view of this, Mr. Kane does not press the prayer for damages.

3. The Suit is decreed in terms of prayer clauses (a) and (c) and is disposed of accordingly. Drawn up decree dispensed with. However, should the parties require a drawn up decree, they will be entitled to apply to the Department for one without having to make a separate application in that behalf and on production of an authenticated copy of this order. Drawn up decree is to be strictly in accordance with this order only.

4. Refund of court fee, if any, in accordance with the Rules.

5. The Defendants, as part of this decree, also agree and undertake to withdraw their application No. 3208445 for registration of the mark ***ITAPRO*** and further agree and undertake

not to apply for registration of this mark in any class hereafter. This statement is also noted and accepted as an undertaking to the Court.

6. In view of this, the Notice of Motion does not survive and is disposed of accordingly.

7. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J.)