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IN THE HIGH COURT DELHI AT NEW DELHI

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CS (OS) 2837/2015 & I.A. No.19631/2015

CADILA HEALTHCARE LIMITED

.... Plaintiff

Through: Ms. Harsha, Advocate.

versus

SUNCARE FORMULATIONS PVT. LTD.

.... Defendant

Through: Mr. D. Verma, Advocate.

CORAM: JUSTICE S.MURALIDHAR

ORDER

10.08.2016

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1. In the written statement filed by the Defendant it has categorically stated that “ the Defendant is neither manufacturing nor marketing any product in the name of the impugned trademark.” It is also pointed out that the “Defendant had dropped the idea to pursue the application for its registration” of the infringing trademark and it has only manufactured a sample product but has never marketed or offered the product LEVOSUN in the market. Learned counsel for the Defendant states that the Defendant stands by the above statement and does not intend to market or offer for sale the product LEVOSUN in the market.

2. Learned counsel for the Defendant states that he, therefore, has no objection to the suit being decreed in terms of prayers (a) & (b).

3. Learned counsel for the Plaintiff, on instructions, states that in view of the above stand of the Defendant, the Plaintiff is not pressing for any other relief including relief for damages.

4. Accordingly a decree for permanent injunction is passed restraining the Defendant, their principal officers, Directors, agents, family members, servants, dealers, distributors and/or anyone acting for and on their behalf from using the trade mark/name LEVOSUN or any other mark/name which is identical and deceptively similar to the Plaintiffs registered trade mark LEVODAY for pharmaceutical preparations, medicines or any product or services in any manner whatsoever, so as to result in infringement of the registered trade mark, passing off and dilution, including use of the mark/name on their website, if any.

5. A decree is also passed in favour of the Plaintiff directing the Defendant to render to the Plaintiff true accounts of the profits earned by the Defendant on account of the use of the product name "LEVOSUN". The right of the Plaintiff to institute further proceedings against the Defendant to claim any sum on that basis in accordance with law is reserved.

6. The suit is decreed in the above terms. The decree sheet be drawn up accordingly. The application is disposed of.

AUGUST 10, 2016
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S. MURALIDHAR, J.