

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.08.2017

Coram :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

C.S.No.575 of 2017 &
O.A.Nos.708 and 709 of 2017

Sun Pharmaceutical Industries Limited,
CD Plot No.3, Door No.8,
Old Tower Block Street,
Nandhanam Extension,
Chennai 600 035,
represented by its Authorised
Signatory Mrs.Radha Kumar ... Plaintiff

-vs-

1. Jenburkt Pharmaceuticals Ltd.,
Nirmala Apartments,
93, Jay Prakash Road,
Andheri West, Mumbai,
Maharashtra 400 058.
2. Optimus Pharma Private Limited,
Plot: 33 and 34,
Phase IV, Bhatoli Kalan,
Baddi, Distt: Solan 173 205
Himachal Pradesh ... Defendants

Plaint filed under Order IV, Rule 1 O.S.Rules and
Order VII, Rule 1 of the C.P.C., r/w.Sections 27, 28, 29,
134 and 135 of the Trade Marks Act, 1999 praying for

(a)granting a permanent injunction, restraining the
defendants, their Directors, manufacturers, distributors,
stockists, servants, agents, wholesalers, retailers,
legal representatives or any other person claiming under
it from in any manner manufacturing, selling, offering

for sale, stocking, trading, advertising directly or indirectly dealing in medicinal and pharmaceutical preparations infringing plaintiff's registered trademark LULIFIN by use of confusingly similar mark LULIJEN or any mark deceptively similar to Plaintiff's registered trademark LULIFIN or in any other manner whatsoever;

(b) granting a permanent injunction restraining the defendants, their directors, manufacturers, distributors, stockists, servants, agents, wholesalers, retailers, legal representatives or any other person claiming under it from in any manner manufacturing, selling, offering for sale, stocking, trading, advertising directly or indirectly dealing in medicinal and pharmaceutical preparations under the trademark LULIJEN or any other trademark that is identical and/or deceptively similar as that of the plaintiff's mark LULIFIN and/or use similar packaging as that of the plaintiff's products under the mark LULIFIN so as to pass off the defendants' medicinal preparations as and for the medicinal preparations of the plaintiff and/or in any other manner whatsoever connected with the plaintiff;

(c) a declaration that the plaintiff's registered trademark LULIFIN is a well-known trademark;

(d) the defendants be ordered to pay to the

plaintiff a sum of Rs.10,,00,000/- as damages for committing acts of infringement against plaintiff's registered trademark so as to pass off its products as and for the plaintiff's products;

(e) the defendants be ordered and decreed to deliver up for destruction to the plaintiff all the preparations, dies, blocks, labels, packaging either filled or empty, brochures, leaflets, pamphlets, hand bills, hoardings, wall posters, calendars, carry bags, stationery items and such other sales promotional materials bearing and/or containing the impugned trademark LULIJEN;

(f) a preliminary decree be passed in favour of the plaintiff directing the defendants to render accounts of profits made by it by use of the trademarks LULIJEN which is identical and/or deceptively similar and a final decree be passed in favour of the plaintiff for the amount of profits found to have been made by the defendants after the latter has rendered accounts; and for costs of the entire proceedings;

For Plaintiff : Mr. Arun C.Mohan
For Defendants : Ms. Gladys Daniel

J U D G M E N T

Learned counsel Mr.Arun C.Mohan appearing for

the plaintiff and Ms. Gladys Daniel, learned counsel appearing for the defendants would agree that the issue in dispute has been settled as recorded under the Memorandum of Compromise executed and duly signed by the parties as well as learned counsel appearing on their behalf.

2. In addition, learned counsel for the defendants would undertake on behalf of the defendants to withdraw the pending Trademark applications before the Trademark Registry forthwith.

3. The suit is thus decreed in terms of the Memorandum of Compromise dated 21.08.2017 along with annexure thereto (unsigned) which details the batch wise stock of Lulijen Cream and Lulijen Lotion as of 29.7.2017, which shall form part and parcel of this order. The parties are left to bear their own costs. Consequently, connected O.A.Nos.708 and 709 of 2017 are closed.

sd/.A.S.M.J

24.08.2017

//Certified to be a true copy//

Dated this the day of 2017

R.s/22.11.217

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.