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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 1450/2016 & IA No.13280/2016 (u/O XXXIX R-1&2
CPC)

TORQUE PHARMACEUTICALS PRIVATE LIMITED Plaintiff

Through: Mr. H.P. Singh, Ms. Geeta Rihwaali,
Mr. Dheeraj Seth, Mr. T.S. Khera,
Mr. Navroop Singh and Mr. Vivek
Chaudhuri, Advs.

Versus

RIDLEY LIFE SCIENCES PRIVATE LIMITED
& ANR

..... Defendants

Through: Mr. Satish Kumar Tripathi, Adv. for
D-1 with AR of D-1.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **24.03.2017**

1. This order is in continuation of the earlier order dated 14th March, 2017.
2. The counsel for the plaintiff with reference to Ex.C-1 states that the defendants should also write the word "MONOSELIC" with each of the alphabets in capital.
3. The counsel for the defendants, after obtaining instructions from defendant No.1 present in court in person, is agreeable thereto.
4. The counsel for the plaintiff further with reference to Ex.C-1 states that the words "Clobetasol Propionate and Salicylic Acid Ointment" should also have each alphabet in capital.
5. The counsel for the defendants is not agreeable thereto.

6. That being the only dispute between the parties, the counsels have been heard on the entitlement of the plaintiff to insist on the defendants writing the words ‘Clobetasol Propionate and Salicylic Acid Ointment’ with all alphabets thereof in capital.

7. The counsel for the plaintiff agrees that the plaintiff has no right to the words ‘Clobetasol Propionate and Salicylic Acid Ointment’ which describe ‘Active Pharmaceutical Ingredient’ (API) of the subject drug and which are required to be written by all the manufacturers / producers of the subject drug.

8. I have further enquired from the counsel for the plaintiff whether not the font used by the defendants in writing the words ‘Clobetasol Propionate and Salicylic Acid Ointment’ is a font which is available to all and which cannot be said to have been designed by the plaintiff and in which the plaintiff can be said to have any proprietary rights.

9. The counsel for the plaintiff has drawn attention to pages 57 and 58 of the plaintiff’s documents to contend that the following label of the plaintiff is registered:



10. However a perusal of the packaging of the product of the plaintiff which is as under:



does not appear to be identical to the registered label of the plaintiff.

11. Be that as it may, even if it were to be presumed that the label of the plaintiff is registered, the same according to the counsel for the plaintiff also now has no similarity to Ex.C-1, which is as under:



and the only insistence of the plaintiff is on the defendant writing the words ‘Clobetasol Propionate and Salicylic Acid Ointment’ with all capital alphabets.

12. The registration of the label aforesaid does not disclose any right of the plaintiff to the font in which the words ‘Clobetasol Propionate and Salicylic Acid Ointment’ are mentioned on the packaging of the plaintiff as well as on the packaging of the defendant. It is not the plea of the plaintiff in the plaint that it is the plaintiff who has designed the font used in writing the words ‘Clobetasol Propionate and Salicylic Acid Ointment’ on the label or on the packaging. Once the plaintiff is not the creator of the font in which the words ‘Clobetasol Propionate and Salicylic Acid Ointment’ are written on the packaging of the plaintiff as well as the defendant, the insistence of the plaintiff on the monopoly to the said font has no basis.

13. No merit is thus found in the aforesaid claim of the plaintiff.

14. Save for the aforesaid controversy, a settlement has been arrived at between the parties.

15. Accordingly the suit is disposed of with the following order:

(I) The defendants are enjoined from using the marks ‘MADISELIC’ and ‘FUNGKILL-B’;

(II) The defendants shall however be entitled to use the marks ‘NO DAAG’ and ‘FUNGRID-B’ with the packaging as under:





to which the plaintiff has no objection;

(III) The defendants shall be entitled to use the mark 'MONOSELIC' with the packaging, which is the same as Ex.C-1 save for the fact that all future production of the defendant shall be with each of the alphabet of 'MONOSELIC' in capital;

(IV) The claim of the plaintiff for order against the defendants to write the words 'Clobetasol Propionate and Salicylic Acid Ointment' also with all alphabets thereof in capital is rejected;

(V) The defendant having agreed to the changes as aforesaid, it is not deemed expedient to order an enquiry on the claim of the plaintiff for damages.

16. Decree sheet in terms of above be prepared. The parties to bear their own costs.

RAJIV SAHAI ENDLAW, J.

MARCH 24, 2017

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