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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 1653/2016**

BAYER INTELLECTUAL PROPERTY

GMBH & ANR

..... Plaintiff

Represented by: Mr. Nishchal Anand, Advocate.

versus

MANUS AKTTEVA BIOPHARMA LLP

..... Defendant

Represented by: Mr. Rishabh Bansal, Advocate.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

20.11.2017

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I.A. No. 13606/2017 (under Order XXIII Rule 3 CPC)

1. By this joint application, the plaintiffs and defendant prays that the suit be decreed in terms of settlement.

2. Taking the settlement on record, the application is disposed of.

CS(COMM) 1653/2016

1. Parties have settled the matter as per terms and conditions noted in paras 2 and 3 of I.A. No. 13606/2017 as under:

“II. The Plaintiff and the Defendants have arrived at a settlement as per the following terms and conditions:

- (i) The Defendants hereby acknowledges the validity of the Plaintiff's Indian Patent No. 211300 and the exclusive rights conferred upon the Plaintiff by virtue of the said patent.*
- (ii) The Defendants hereby undertake, and shall cause their affiliates, directors, employees,*

officers, servants, agents, assignees and all others acting for and on behalf of the Defendants to hereby undertake, not to directly or indirectly make, use, sell, offer to sell, import or export, or conduct any activities such as make or materialize on received offers in relation to the Plaintiff's Indian Patent No. 211300 including but not limited to 5-Chloro-N- ({5S)-2-oxo-3-[4-3(3-oxo-4-morpholinyl)phenyl]-1,3-oxazolidin-5-yl}methyl)-2-thiophenecarboxamide [hereinafter referred to by its INN RIVAROXABAN] during the terms within which it is valid and subsisting;

- (iii) The Defendants hereby undertake and shall cause their affiliates, directors employees, officers, servants, agents, assignees and all others acting for and on behalf of the Defendants to hereby undertake, not to directly or indirectly use the products and processes that infringe the subject matter of the Plaintiff's Indian Patent No. 211300 and/or use, advertise, offer for sale, sell, import or export, or otherwise commercially deal in any product obtained from a process that infringes the Plaintiff's Indian Patent No. 211300 during the term within the said patent is valid and subsisting.*
- (iv) The Defendants shall further undertake, and shall cause their affiliates, directors, employees, officers, servants, agents, assignees and all others acting for and on behalf of the Defendants to undertake, not to infringe any of the Plaintiff's exclusive rights in any products falling within the scope of Plaintiff's Indian Patent No. 211300.*
- (v) The Defendants hereby undertake to forthwith take all necessary steps for the removal of all references, offers for sale, advertisements of their*

infringing version of RIVAROXABAN, covered by Plaintiff's Indian Patent No. 211300, from its own website and also intimate all other third party websites within a period of 7 days from the date on which the compromise application is allowed by this Hon'ble Court.

- (vi) *The Defendants further undertake to disclose the details of all sources, manufacturers, **suppliers** and procurers, both in India and abroad, from whom and for whom the infringing version of the product covered by Plaintiff's Indian Patent No. 211300 was being sourced by them and additionally, furnish any proof they may have regarding the same.*
- (vii) *Subject to the undertakings given by the Defendants, the plaintiff foregoes its claim for delivery up, costs, damages and rendition of accounts as regards the said Defendants.*

III. Notwithstanding the foregoing, in the event of a breach by the Defendants or any of their affiliates, directors, employees, officers, servants, agents, assignees and all other acting for and on behalf of the Defendants, the Plaintiff reserves its right to seek from the Defendants any remedies available to them in law and equity and the Defendant shall be liable to indemnify the Plaintiff against all costs and damages incurred by the Plaintiff or its directors, employees, officers, servants, agents, assignees and all others acting for and on behalf of the Plaintiff as a result of such breach."

2. The application is duly supported by the affidavit of Shri Manoj Saxena, Managing Director and Authorised Signatory of plaintiff No. 2 and also the authorised signatory of plaintiff No. 1, authorisation in whose

favour is at page 8 of the application.

3. The application is also supported by affidavit Mr. Udeet J Banker authorised representative of defendant. The scanned copy of the authorisation in whose favour has been handed over in Court along with affidavit of the learned counsel.

4. Considering the settlement arrived at between the parties, suit is decreed in terms of the settlement noted above and as per prayer Clause 32(a) of the plaint.

5. Since the settlement arrived at out of Court and before settling the issues court fee be returned to the plaintiff under Section 16A of the Court Fee Act.

I.A. No. 15908/2016 (under Order XXXIX Rule 1 and 2 CPC)

Application is dismissed as infructuous.

NOVEMBER 20, 2017
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MUKTA GUPTA, J.