

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM. IP SUIT (L) NO.758 OF 2018
WITH
NOTICE OF MOTION (L) NO.1337 OF 2018**

Secomed Pharma Pvt. Ltd. ... Plaintiff
versus
Areena Lifesciences and Anr. ... Defendants

Mr. Alankar Kirpekar with Mr. Aakash Joshi I/by M/s. MAG Legal, for Plaintiff.
Mr. Premjit Singh Sani with Mr. Amit Singh Sani, Partners and Director of Defendant
present.

**CORAM: S.J. KATHAWALLA, J.
DATE: 26th JUNE, 2018**

P.C.:

1. Heard the learned Advocates for the parties and the following order is passed by
consent :

(i) The Suit is decreed in terms of prayer clauses (a) and (b) which are
reproduced hereunder :

“(a) that this Hon’ble Court be pleased to restrain Defendants by
themselves and/or through their directors, partners, proprietors,
servants, agents, exporters, importers, stockist and/or otherwise
howsoever by an order of perpetual Injunction of this Hon’ble Court,
from in any manner using in relation to any medicinal and
pharmaceutical preparation, the impugned “ANTI Q KOLD” and
impugned packaging being Exhibit ‘E’ and “E1” hereto and/or any
other packaging, that is/are similar and/or colourable imitation and/or

slavish imitation and/or obvious imitation and/or substantially similar with respect to the artistic work, design, lay out, colour scheme and get up and/or otherwise of the Plaintiff's copyright contained in the artistic work of Plaintiff in outer and inner packaging as shown in Exhibits 'A' and "A1" hereto; so as to infringe the Plaintiff's copyright therein in any manner whatsoever;

(b) that this Hon'ble Court be pleased to restrain the Defendants by themselves and/or through their directors, partners, proprietors, servants, agents, exporters, importers, stockist and/or otherwise howsoever by an order of perpetual Injunction of this Hon'ble Court, from in any manner using in relation to any medicinal and pharmaceutical preparation, the impugned Trade Mark "ANTI Q KOLD" and / or impugned packaging being Exhibit 'E' and "E1" hereto and/or any other label and/or packing material that is /are deceptively similar in any manner whatsoever to the Plaintiff's Trade Mark "ANTYCOLD" and / or Plaintiff's packaging as shown in Exhibits 'A', "A1" and 'A2' hereto bearing the mark "ANTYCOLD"; so as to pass off and/or enable others to pass off the Defendants' medicinal and pharmaceutical preparation as and for that of the Plaintiff in any manner whatsoever;

(ii) As regards prayer clause (c), the Defendants have issued a cheque in favour of the Plaintiff. The Plaintiff in turn shall, issue a cheque in favour of a charitable organization.

(iii) Prayer clause (d) of the plaint pertains to destruction of the impugned goods.

Defendants undertake that Defendants shall remove the tablets from the impugned packaging within a period of 30 days from the date of this order in the presence of representative of the Plaintiff and destroy the packaging of impugned goods bearing the mark “ANTI Q KOLD” as shown in Exhibit-E and E1 to the plaintiff or any other deceptively similar mark or carton, which is similar to the Plaintiff’s carton or packaging as shown in Exhibit-A, A1 and A2 to the plaintiff.

(iv) Defendants undertake that Defendants shall withdraw any Trade Mark Application filed by the Defendants for the Trade Mark “ANTI Q KOLD”, if any, and also undertake that they shall not file any Application for any Trade Mark or copyright registration for any other mark which is deceptively similar to the Plaintiff’s Trade Mark “ANTYCOLD” and its packaging as shown in Exhibit-A, A1 and A2 to the plaintiff. Defendants specifically admit and accept the proprietary rights of the Plaintiff’s in the Trade Mark “ANTYCOLD” and its packaging as shown in Exhibit-A, A1 and A2 to the plaintiff.

(v) The Suit is accordingly disposed off. Refund of Court Fees, if any, as per rules. The Notice of Motion also stands disposed of.

(vi) The Court Receiver stands discharged without passing any accounts, but upon payment of his costs, charges and expenses by the Advocate for the Plaintiff.

(S.J.KATHAWALLA, J.)