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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 28TH DAY OF SEPTEMBER 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S. No.1027 of 2007

*** M/s Orchid Pharma Limited,**
313, Valluvar Kottam High Road,
'Orchid Towers', Nungambakkam,
Chennai 600 034

represented by its

Vice President – Int.Audit & Company Secretary

Mr.L.Chandrasekar.

... Plaintiff

***(amended as per order dated
19.07.2021 in Appl.No.2379/21)**

Versus

M/s United Biotech Pvt. Ltd.,
A-127, Synthofine Indus, Estate,
Goregon (E),
Mumbai – 400 063.

... Defendant

Civil Suit praying that this Hon'ble Court be pleased to pass a

judgment and decree for:-

(a) granting a permanent injunction, restraining the Defendant, by themselves, their servants, agents, men or anyone claiming through them from manufacturing, marketing, distributing, offering or advertising for sale any pharmaceutical preparation using the Trade Mark FORZID or any other name which is in any way phonetically or deceptively similar to the

Plaintiffs Trade Mark ORZID and or any other similar sounding expression

which is in any way visually, phonetically or deceptively similar to the



Plaintiffs Registered Trade Mark ORZID or in any manner infringing the Plaintiffs Registered Trademark No.874808 in Class 5 for Medicinal and Pharmaceutical Preparations.

b) granting a permanent injunction, restraining the Defendant, by themselves, their servants, agents, men or anyone claiming through them from manufacturing, marketing, distributing, offering or advertising for sale any pharmaceutical preparation using the Trade Mark FORZID or any other name which is in any way phonetically or deceptively similar to the Plaintiffs Trade Mark ORZID and pass off their pharmaceutical preparation as the pharmaceutical preparation of the Plaintiffs or enable others to pass off in any manner.

c) Directing the Defendant to surrender to the Plaintiffs all the packing material, cartons, advertisement materials and hoardings, letterheads, visiting cards, office stationery and all other materials containing/bearing the Trade Mark FORZID or other deceptively similar Trade Mark in respect of pharmaceutical preparations.

d) For a preliminary decree in favour of the Plaintiffs, directing the Defendant to render an account of profits made by them by the use of the Trade Mark FORZID in relation to medicine and for a final decree in favour of the Plaintiffs for the amount of the profits found to have been



e) Directing the Defendant to pay to the Plaintiffs the costs of the suit.

This suit coming on this day before this court for hearing in the presence of Mrs.Gladys Daniel, Advocate for the plaintiff herein, and Mr.Rahul M.Shankar for M/s Brinda Mohan, Advocates for the defendant herein, and upon reading the plaint filed herein, and the learned counsel for the plaintiff having submitted that she has got instructions to withdraw the suit, and this court doth recording the said statement, it is ordered as follows:-

That the suit C.S.No.1027 of 2007 be and is hereby dismissed as withdrawn.

2. That the connected applications if any do stand closed.

3. That there shall be no costs.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
28th DAY OF SEPTEMBER 2021.

Sd/-

ASSISTANT REGISTRAR (Comm.Cases)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)



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04.01.2022

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C.S. No.1027 of 2007

ORDER:

DATED : 28.09.2021

THE HON'BLE MR. JUSTICE
R.SUBRAMANIAN

FOR APPROVAL: 06.01.2022

APPROVED ON: 10.01.2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.1027 of 2007

M/s.Orchid Pharma Limited

313, Valluvar Kottam High Road,

'Orchid Towers', Nungambakkam

Chennai – 600 034,

Rep.by its Vice President – Int.Audit & Company Secretary,

Mr.L.Chandrasekar

(Amended as per order dated 19.07.2021

in Appl.No.2379 of 2021)

...Plaintiff

Vs.

M/s.United Biotech Pvt.Ltd.,

A-127 Synthofine Indus, Estate,

Goregon (E), Mumbai – 400 063.

...Defendant

Prayer: Complaint filed under Order VII Rule 1 of the Civil Procedure Code and Rule 1 of O.S.Rules read with Section 27, 134 & 135 of the Trade Marks Act, 1999:-

a) granting a permanent injunction restraining the defendant, by themselves, their servants, agents, men or anyone claiming through them from manufacturing, marketing, distributing, offering or advertising for sale any pharmaceutical preparation using the Trade Mark FORZID or any other name which is in any way phonetically or deceptively similar to the plaintiffs Trade Mark ORZID and or any other similar sounding expression which is in any way visually, phonetically or deceptively similar to the plaintiffs Registered Trade Mark ORZID or in any manner infringing the plaintiffs registered Trademark No.874808 in Class 5 for medicinal and pharmaceutical preparations.



b) granting a permanent injunction, restraining the defendant, by themselves, their servants, agents, men or anyone claiming through them from manufacturing, marketing, distributing, offering or advertising for sale any pharmaceutical preparation using the Trade Mark FORZID or any other name which is in any way phonetically or deceptively similar to the plaintiffs Trade Mark ORZID and pass off their pharmaceutical preparation as the pharmaceutical preparation of the plaintiffs or enable others to pass off in any manner.

c) Directing the defendant to surrender to the plaintiffs all the packing material, cartons, advertisement materials and hoardings, letterheads, visiting cards, office stationery and all other materials containing / bearing the Trade Mark FORZID or other deceptively similar Trade Mark in respect of pharmaceutical preparations.

d) For a preliminary decree in favour of the plaintiffs, directing the defendant to render an account of profits made by them by the use of the Trade Mark FORZID in relation to medicine and for a final decree in favour of the plaintiffs for the amount of the profits found to have been made by the defendants, after the defendants have rendered accounts.

e) Directing the defendant to pay to the plaintiffs the costs of the suit.

For Plaintiff : Mrs.Gladys Daniel

For Defendant : Mr.Rahul M.Shankar
for M/s.Brinda Mohan

J U D G M E N T

Mrs.Gladys Daniel, learned counsel appearing for the plaintiff



2. Recording the said statement, this suit is dismissed as withdrawn. No costs. Consequently, connected applications, if any, are closed.

Sd./-R.S.M.J.
28.09.2021

List of witness and documents filed on the side of the plaintiff:

Nil

List of witness and documents filed on the side of the defendant:

Nil

Sd./-R.S.M.J.
28.09.2021

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.