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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 1ST DAY OF SEPTEMBER 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

O.A.NO.343 OF 2012

IN

C.S. No.288 of 2012

1.Unimed Technologies Ltd.,
Part A, Dadha Nagar, Near Kowl Bazar,
Pozhichalur, Pallavaram,
Chennai-600 074.

2.Sun Pharmaceuticals India Limited
CD Plot No.3, Door No.8,
Old Tower Block Street,
Nandhanam Extension
Chennai-600 035.

3.Sun Pharmaceutical Medicare Limited, (*)
SPARC, Tandalia, Vadodara,
Vadodara GJ-390 012.

3rd Plaintiff impleaded as order in A.No.2625/2021 (*)
order dt.17.08.2021.

..Plaintiffs

Vs

1.Eris Lifesciences Pvt. Ltd.,
AF-10, Kanchan Pharma House,
National Highway No.8, Aslali,
Ahmadabad-382 427.

2.Windlas Biotech Limited,
40/1, Mohabewala Industrial Area,
SBI Road, Dehradun-248 110.

..Defendants



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1.Unimed Technologies Ltd.,
Part A, Dadha Nagar, Near Kowl Bazar,
Pozhichalur, Pallavaram,
Chennai-600 074.

2.Sun Pharmaceuticals India Limited
CD Plot No.3, Door No.8,
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..Applicants

VS

1.Eris Lifesciences Pvt. Ltd.,
AF-10, Kanchan Pharma House,
National Highway No.8, Aslali,
Ahmadabad-382 427.

2.Windlas Biotech Limited,
40/1, Mohabewala Industrial Area,
SBI Road, Dehradun-248 110.

..Defendants

Original Application praying that this Hon'ble Court be pleased to grant an order of temporary, interim, ad-interim injunction restraining the Respondents, their manufacturers, marketers, distributors, stockists, promoters, servants, agents, retailers, legal representatives, job-workers or any other person claiming under it from in any manner manufacturing, selling, offering for sale, stocking, advertising directly or indirectly dealing in medicinal and pharmaceutical preparations infringing 1st applicant registered trademark ZEMPRED by use of deceptively similar trademark ZENPRIDE or any mark deceptively similar to 1st applicant registered trademark ZEMPRED in any other manner whatsoever, pending disposal of



the suit.

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This Original Application coming on this day before this Court for hearing, the Court made the following order:

The plaintiffs / applicants, seek an interim injunction restraining the respondents / defendants from infringing their trademark “ZEMPRED” by using the deceptively similar trademark “ZENPRIDE” for their pharmaceutical preparations.

2.The suit was filed during April 2012 and this application for injunction was moved on 24.04.2012. Notice was ordered on the said date and thereafter, the matter was adjourned on various occasions. Finally, interim injunction was granted by this Court on 07.01.2013, after hearing the respondents. The respondents preferred an appeal against the said order mainly, on the ground that though the respondents had filed their counter and addressed arguments, the learned Single Judge, who disposed of this application had observed that no counter has been filed and no arguments were advanced by the respondents.

3.When the above original side appeal in OSA.No.187 of 2013 came up before the Hon'ble Division Bench on 20.12.2016, the learned counsel for the respondents in the appeal / plaintiffs in the suit conceded that the counsel for the appellants in the appeal / respondents in the application had



filed a counter and argued the matter before the learned single Judge.

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4. Recording the said submission of the learned counsel for the respondents / plaintiffs, the Hon'ble Division Bench set aside the order of the learned single Judge and directed the matter to be re-heard. While doing so, the Hon'ble Division Bench also recorded the statement of the learned counsel for the respondents that they had a benefit of interim injunction pending the application and the said interim injunction was directed to be continued till the disposal of the application after remarks. Pursuant to the said order of remand, the application is listed before this Court today.

5. Mr. S. P. Chockalingam, learned counsel appearing for the defendants / respondents would submit that there was no order of injunction at all and therefore, a wrong representation was made before the Division Bench and the Division Bench said order of injunction would continue. He would also add that the respondents are not any longer manufacturing, marketing or selling their pharmaceutical preparations in the name, "ZENPRIDE" and therefore, the very cause of action for the application for injunction is effaced.

6. Ms. Chandini Pradeepkumar, learned counsel appearing for the



plaintiffs is not in a position to either affirm or deny the said statement.

However, in view of the fact that Mr.S.P.Chockalingam, learned counsel appearing for the respondents makes a statement, the said statement is recorded and this application is dismissed as unnecessary.

Sd./-RSMJ

01.09.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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

JJ 09/09/2021