



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 24TH DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S. No.663 of 2014

and

O.A. Nos.813 to 815 of 2014

and

A. Nos.6413 & 6414 of 2014

TTK Healthcare Limited,
6, Cathedral Road,
Chennai – 600 086.
Represented by its Director,
Mr.S.Kalyanaraman

... Plaintiff/Applicant
(in all the applications)

-Versus-

Sifco Pharma,
6-4-52, Bholakpur,
Musheerabad,
Secunderabad – 500080.

... Defendant/Respondent
(in all the applications)

C.S. No.663 of 2014:-

Civil Suit praying that this Hon'ble Court be pleased to grant a
judgment and decree on the following terms:-

a) a permanent injunction restraining the defendant, their men,
distributors, stockists, servants, agents, successors in business, retailers,
legal representatives, assigns or any other person claiming through or under
them from in any manner infringing the Plaintiff's registered trademarks in



the word WOODWARD'S, WOODWARD'S Gripe Water label, logo containing the device of a baby and other features by use of deceptively similar mark, label / logo CHILDWOODS / CHILDWELLS for gripe water or any other medicinal preparations or in any manner whatsoever;

b) a permanent injunction restraining the defendant, their men, distributors, stockists, servants, agents, successors in business, retailers, legal representatives, assigns or any other person/s claiming through or under them from in any manner manufacturing, selling, offering for sale, stocking, advertising, directly or indirectly dealing in products and preparations using a packaging / label / logo CHILDWOODS Gripe Water or CHILDWELLS Gripe Water which is imitative of the Plaintiff's trade dress in the WOODWARD'S Gripe Water packaging / label / logo or any other identical or deceptively similar packaging / label / logo so as to pass off and enable others to pass off the defendant's gripe water, medicinal preparations as and for gripe water, medicinal preparations of the plaintiff or in any other manner whatsoever;

c) a permanent injunction restraining the defendant, their men, distributors, stockists, servants, agents, successors in business, retailers, legal representatives, assigns or any other person claiming through or under them from in any manner committing acts of copyright infringement by



CHILDWELLS Gripe Water label / packaging, which is a substantial reproduction of plaintiff's artistic work 'WOODWARD'S Gripe Water' label containing distinctive colour scheme, get-up, layout, arrangement of features and other artistic features or in any other manner whatsoever;

d) the defendant be ordered to surrender to the plaintiff all their products, medicinal preparations, gripe water in bottles wrapped in imitative trade dress, labels / packaging, leaflet, brochures, dyes, blocks, screen prints and other materials containing the deceptively similar mark, label / logo CHILDWOODS Gripe Water of CHILDWELLS Gripe Water deceptively similar to the Plaintiff's WOODWARD'S Gripe Water label / logo with the device of a baby and other features for destruction purposes;

e) the defendants be ordered to pay to the plaintiff a sum of Rs.1,00,000/- as liquidated damages for passing off their medicinal preparations as and for the plaintiff's medicinal preparations and for committing trademark infringement and copyright infringement by use of imitative trade dress;

f) a preliminary decree be passed in favour of the plaintiff directing the Defendant to render account of profits made by use of the deceptively similar trade mark, trade dress and copyright in the artistic work CHILDWOODS or CHILDWELLS Gripe Water amounting to infringement



decree be passed in favour of the plaintiff for the amount of profits thus found to have been made by the defendant after the latter have rendered accounts;

g) for costs of the suit.

O.A. No.813 of 2014:-

Original Application praying that this Hon'ble Court be pleased to grant an ad-interim, interim, temporary injunction restraining the respondent, their men, distributors, stockists, servants, agents, successors in business, retailers, legal representatives, assigns or any other person claiming through or under them from in any manner infringing the applicant's registered trademarks in the word WOODWARD'S, WOODWARD'S Gripe Water label, logo containing the device of a baby and other features by use of deceptively similar mark, label / logo CHILDWOODS / CHILDWELLS for gripe water or any other medicinal preparations or in any manner whatsoever, pending disposal of the suit.

O.A. No.814 of 2014:-

Original Application praying that this Hon'ble Court be pleased to grant an ad-interim, interim, temporary injunction restraining the respondent, their men, distributors, stockists, servants, agents, successors in business, retailers, legal representatives, assigns or any other person

claiming through or under them from in any manner committing acts of



copyright infringement by printing, producing, using, selling CHILDWOODS Gripe Water / CHILDWELLS Gripe Water label / packaging, which is a substantial reproduction of applicant's artistic work 'WOODWARD'S Gripe Water' label containing distinctive colour scheme, get-up, layout, arrangement of features and other artistic features or in any other manner whatsoever;

O.A. No.815 of 2014:-

Original Application praying that this Hon'ble Court be pleased to grant an ad-interim, interim, temporary injunction restraining the respondent, their men, distributors, stockists, servants, agents, successors in business, retailers, legal representatives, assigns or any other person claiming through or under them from in any manner manufacturing, selling, offering for sale, stocking, advertising, directly or indirectly dealing in products and preparations using a packaging / label / logo CHILDWOODS Gripe Water or CHILDWELLS Gripe Water which is imitative of the applicant's trade dress in the WOODWARD'S Gripe Water packaging / label / logo or any other identical or deceptively similar packaging / label / logo so as to pass off and enable others to pass off the respondent's gripe water, medicinal preparations as and for gripe water, medicinal preparations of the applicant or in any other manner whatsoever, pending disposal of the

<https://hcservices.ecourts.gov.in/hcservices/>
above suit.



A. No.6413 of 2014:-

Application praying that this Hon'ble Court be pleased to grant permission to the applicant to combine the causes of action regarding infringement of trade mark and passing off together in a single suit.

A. No.6414 of 2014:-

Application praying that this Hon'ble Court be pleased to pass an order appointing an Advocate Commissioner to visit the premises of the respondent at 6-4-52, Bholakpur, Musheerabad, Secunderabad-500 080 along with the Godowns, warehouses and other premises in the control of the respondents and to seize and take into actual physical custody of all infringing goods bearing marks CHILDWOODS/CHILDWELLS Gripe Water with identical colour scheme, packaging, layout, get-up, arrangement of features as that of the applicant's celebrated WOODWARD'S Gripe Water, to take into custody all books of accounts, pamphlets, invoices and any other document containing any information/entry/reference regarding the respondents' use of the impugned marks CHILDWOODS/CHILDWELLS Gripe Water and direct them to provide:

i) the names and addresses of the wholesalers and retailers, who distribute, supply, sell, offer for sale etc., products bearing the almost



colour scheme, packaging, layout, get-up, arrangement of features as that of the applicant's celebrated WOODWARD'S Gripe Water, or any other mark/s similar thereto;

ii) the names and addresses of parties, who print the invoices, pamphlets etc., of the almost identical marks CHILDWOODS/ CHILDWELLS Gripe Water with identical colour scheme, packaging, layout, gety-up, arrangement of features as that of the applicant's celebrated WOODWARD'S Gripe Water.

This civil suit along with these applications coming on this day before this court for hearing in the presence of Mr.Rahul M. Shankar for Mr.Arun C. Mohan, advocate for the plaintiff in C.S. No.663 of 2014 and for the applicant in all the applications and upon reading the plaint filed in C.S. No.663 of 2014 and the Judge's Summons and the affidavit of S.Kalyanaraman filed in A. Nos.6413 & 6414 of 2014 and the order dated 07.11.2014 made in O.A. Nos.813 to 815 of 2014 and the other exhibits therein referred to and upon perusing the evidence adduced therein, and it is ordered and decreed as follows:-

That Sifco Pharma, the defendant herein, their men, distributors, stockists, servants, agents, successors in business, retailers, legal



representatives, assigns or any other person claiming through or under them

be and is hereby restrained by order of permanent injunction from in any manner (a) infringing the Plaintiff's registered trademarks in the word WOODWARD'S, WOODWARD'S Gripe Water label, logo containing the device of a baby and other features by use of deceptively similar mark, label / logo CHILDWOODS / CHILDWELLS for gripe water or any other medicinal preparations or in any manner whatsoever; (b) manufacturing, selling, offering for sale, stocking, advertising, directly or indirectly dealing in products and preparations using a packaging / label / logo CHILDWOODS Gripe Water or CHILDWELLS Gripe Water which is imitative of the Plaintiff's trade dress in the WOODWARD'S Gripe Water packaging / label / logo or any other identical or deceptively similar packaging / label / logo so as to pass off and enable others to pass off the defendant's gripe water, medicinal preparations as and for gripe water, medicinal preparations of the plaintiff or in any other manner whatsoever; and (c) committing acts of copyright infringement by printing, producing, using, selling CHILDWOODS Gripe Water / CHILDWELLS Gripe Water label / packaging, which is a substantial reproduction of plaintiff's artistic work 'WOODWARD'S Gripe Water' label containing distinctive colour scheme, get-up, layout, arrangement of features and other artistic features or in any other manner whatsoever.



WEB COPY

2. That the defendant herein be and is hereby directed to surrender to the plaintiff all their products, medicinal preparations, gripe water in bottles wrapped in imitative trade dress, labels / packaging, leaflet, brochures, dyes, blocks, screen prints and other materials containing the deceptively similar mark, label / logo CHILDWOODS Gripe Water of CHILDWELLS Gripe Water deceptively similar to the Plaintiff's WOODWARD'S Gripe Water label / logo with the device of a baby and other features for destruction purposes.

3. That the defendant herein be and is hereby directed to pay to the plaintiff a sum of Rs.1,00,000/- (Rupees one lakh only) as liquidated damages for passing off their medicinal preparations as and for the plaintiff's medicinal preparations and for committing trademark infringement and copyright infringement by use of imitative trade dress.

4. That the defendant herein be and is hereby directed to render account of profits made by use of the deceptively similar trade mark, trade dress and copyright in the artistic work CHILDWOODS or CHILDWELLS Gripe Water amounting to infringement of the plaintiff's registered

trademark, copyright and to pay the plaintiff for the amount of profits thus



found to have been made by the defendant after the latter have rendered accounts.

5. That these O.A. Nos.813 to 815 of 2014 and A. Nos.6413 & 6414 of 2014 do stand closed.

6. That the defendant herein do pay to the plaintiff the costs of this suit as and when taxed by the taxing officer of this court and noted in the margin thereof.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
24TH DAY OF AUGUST 2021.

Sd./-

ASSISTANT REGISTRAR (Comm. Cases)

//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.



KLY-18/09/2021
WEB COPY

11

C.S. No.663 of 2014
and
O.A. Nos.813 to 815 of 2014
and
A. Nos.6413 & 6414 of 2014

DECREE

DATED: 24.08.2021

THE HON'BLE MR. JUSTICE
R.SUBRAMANIAN

FOR APPROVAL:28/09/2021

APPROVED ON:30/09/2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.663 of 2014 and
O.A.Nos.813 to 815 of 2014 and
A.Nos.6413 & 6414 of 2014

TTK Healthcare Limited,
6, Cathedral Road,
Chennai – 600 086.
Represented by its Director,
Mr.S.Kalyanaraman

...Plaintiff

Vs.

Sifco Pharma,
6-4-52, Bholakpur,
Musheerabad,
Secunderabad – 500080.

...Defendant

Prayer: Complaint filed under Order IV Rule 1 of the Original Side rules and Order VII Rule 1 of C.P.C., r/w. Sections 27, 28, 29, 134 & 135 of the Trademarks Act, 1999 r/w. Sections 51, 54, 55 and 62 of the Copyrights Act, 1957:-

a) a permanent injunction restraining the defendant, their men, distributors, stockists, servants, agents, successors in business, retailers, legal representatives, assigns or any other person claiming through or under them from in any manner infringing the Plaintiff's registered trademarks in



the word WOODWARD'S, WOODWARD'S Gripe Water label, logo containing the device of a baby and other features by use of deceptively similar mark, label / logo CHILDWOODS / CHILDWELLS for gripe water or any other medicinal preparations or in any manner whatsoever;

b) a permanent injunction restraining the defendant, their men, distributors, stockists, servants, agents, successors in business, retailers, legal representatives, assigns or any other person/s claiming through or under them from in any manner manufacturing, selling, offering for sale, stocking, advertising, directly or indirectly dealing in products and preparations using a packaging / label / logo CHILDWOODS Gripe Water or CHILDWELLS Gripe Water which is imitative of the Plaintiff's trade dress in the WOODWARD'S Gripe Water packaging / label / logo or any other identical or deceptively similar packaging / label / logo so as to pass off and enable others to pass off the defendant's gripe water, medicinal preparations as and for gripe water, medicinal preparations of the plaintiff or in any other manner whatsoever;

c) a permanent injunction restraining the defendant, their men, distributors, stockists, servants, agents, successors in business, retailers, legal representatives, assigns or any other person claiming through or under them from in any manner committing acts of copyright infringement by



CHILDWELLS Gripe Water label / packaging, which is a substantial reproduction of plaintiff's artistic work 'WOODWARD'S Gripe Water' label containing distinctive colour scheme, get-up, layout, arrangement of features and other artistic features or in any other manner whatsoever;

d) the defendant be ordered to surrender to the plaintiff all their products, medicinal preparations, gripe water in bottles wrapped in imitative trade dress, labels / packaging, leaflet, brochures, dyes, blocks, screen prints and other materials containing the deceptively similar mark, label / logo CHILDWOODS Gripe Water of CHILDWELLS Gripe Water deceptively similar to the Plaintiff's WOODWARD'S Gripe Water label / logo with the device of a baby and other features for destruction purposes;

e) the defendants be ordered to pay to the plaintiff a sum of Rs.1,00,000/- as liquidated damages for passing off their medicinal preparations as and for the plaintiff's medicinal preparations and for committing trademark infringement and copyright infringement by use of imitative trade dress;

f) a preliminary decree be passed in favour of the plaintiff directing the Defendant to render account of profits made by use of the deceptively similar trade mark, trade dress and copyright in the artistic work CHILDWOODS or CHILDWELLS Gripe Water amounting to infringement



decree be passed in favour of the plaintiff for the amount of profits thus found to have been made by the defendant after the latter have rendered accounts;

g) for costs of the suit.

For Plaintiff : Mr.Rahul M Shankar for
Mr.Arun C Mohan

J U D G M E N T

The plaintiff is a registered proprietor of the trademark “WOODWARD'S” with a device depicting a baby holding a snake has come forward with the present suit, seeking a decree for injunction restraining the defendant from in any manner infringing the plaintiff's trademark “WOODWARD'S” with a pictorial depiction of a baby holding a snake, permanent injunction restraining the defendant from manufacturing, selling, offering for sale, stocking, advertising, directly or indirectly dealing in products and preparations using a packaging / label / logo 'CHILDWOODS' or 'CHILDWELLS' for the gripe water manufactured by the defendant, permanent injunction restraining the defendant from infringing the copyright of the plaintiff, for surrender of all the products, bottles wrapped in imitative trade dress, labels, leaflets etc., for liquidated damages and for costs.

2. The plaintiff is a registered proprietor of the mark

'WOODWARD'S'. The mark of the plaintiff and the packaging has been



produced as Ex.P2. The plaintiff has a valid registration of trademark for the word, name and label under Registration Nos.149876 and 149878. The certificate of registration has been produced as Exs.P3 and P4 and the relevant legal user certificate has also been produced. The cease and desist notice has been marked as Ex.P6. The returned cover has been marked as Ex.P8.

3. One Mr.S.Venkataramani, the Senior Deputy General Manager of the plaintiff has been examined as P.W.1. He has filed his proof affidavit reiterating the claim made in the plaint. The defendant has remained exparte. A comparison of the Ex.P2 with Exs.P13 and P14 would demonstrate that there is an attempt to deceive the customers of the plaintiff. The colour scheme and the packaging is also same. The font used for the words 'CHILDWOOD' and 'CHILDWELLS' is also the same as "WOODWARD'S".

4. On examination of the infringing marks as suggested by the Hon'ble Supreme Court in **Parle Products (P) Ltd., Vs. J.P & Co., Mysore** reported in **1972 (1) SCC 618**, it is clear that there is an attempt to deceive and the attempt to deceive is intentional with an aim to pass off the products of the defendant as that of the plaintiff's. The striking similarity that the offending marks bear towards the registered mark of the plaintiff is bound to create confusion in the minds of the consumers. I therefore, find



that the plaintiff is entitled to the decree as prayed for. The suit is decreed as prayed for with costs. Consequently, connected applications are closed.

Sd./-G.J.J.
24/08/2021

List of witness examined on the side of the plaintiff:

Mr.S.Venkataramani (P.W.1)

List of documents marked on the side of the plaintiff:

<i>S.No.</i>	<i>Description of Documents</i>	<i>Exhibit</i>
1	The original Authorization Letter dated 04.03.2021 resolution granted in my favour of deposing.	Ex.P1
2	The copy of specimen of WOODWARD'S Gripe Water label / packaging.	Ex.P2
3	The color xerox copy of the legal use certificate for Registration of trademark WOODWARD'S CELEBRATED Gripe Water label under No.248732 in class 5 with renewal dated 20.04.1968. (Marked after compared with certified copy of legal use certificate).	Ex.P3
4	The color xerox copy of the legal user certificate for Registration for the trademark WOODWARD'S label under No.1404111 in classes 3, 5, 10, 16, 21 & 25 dated 05.12.2005 (Marked after compared with certified copy of legal use certificate).	Ex.P4
5	The color xerox copy of the legal use certificate for Registration for the trademark WOODWARD'S label under No.1404112 in classes 3, 5, 10, 16, 21 & 25 dated 05.12.2005. (Marked after compared with certified copy of legal use certificate).	Ex.P5
6	The original Cease and Desist notice issued to the defendant dated 06.03.2014.	Ex.P6
7	The original Rejoinder along with Draft undertaking issued by the plaintiff dated 23.04.2014.	Ex.P7
8	The original returned cover with postal endorsement.	Ex.P8
9	The original reply to the notice issued by the plaintiff dated 13.03.2014.	Ex.P9
10	The computer generated sample invoices pertaining to the sale of Woodward's Gripe Water along with 65B certificate.	Ex.P10
11	The computer generated copy of promotional materials and advertisements in respect of WOODWARD'S Gripe Water series (6 sheets along with section 65B certificate and C.D).	Ex.P11



S.No.	Description of Documents	Exhibit
12	The photocopy of invoices and certificates (marked with comparing with the originals, verified and returned back).	Ex.P12
13	The downloaded Specimen of CHILDWOODS Gripe Water label / packaging.	Ex.P13
14	The downloaded Specimen of CHILDWELLS Gripe Water label / packaging.	Ex.P14
15	The Section 65B Affidavit of deponent.	Ex.P15

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

Nil

Sd./-G.J.J.
24/08/2021

//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.