

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
 ORDINARY ORIGINAL CIVIL JURISDICTION
 IN ITS COMMERCIAL DIVISION
 COMMERCIAL INTELLECTUAL PROPERTY
 COMIP NO. 125 OF 2022
 SUIT OF INFRINGEMENT OF TRADE MARKS,
 COPYRIGHT AND PASSING OFF

Versus

1. Sun Pharmaceutical Industries Limited)
 A company incorporated under the Companies Act, 1956)
 Having its principal place of business at)
 Sun House CTS No. 201 B/1, Western Express Highway,)
 Goregaon (E), Mumbai, Maharashtra (India) – 400063.)

2. Sun Pharma Laboratories Limited)
 A company incorporated under the)
 Companies Act, 1956 having its registered office)
 At Sun House, CTS No. 201 B/1,)
 Western Express Highway, Goregaon (E), Mumbai)
 Maharashtra (India) – 400063.)..Plaintiffs

V/s

1. Actinova Private Limited)
 A company incorporated under the Companies Act, 2013)
 Having its registered office at SCO 103, D-Block,)
 M-1 Plaza, Jharnajri, Baddi Solan,)
 Himachal Pradesh – 174103.)
 And office / factory / unit at 147, Mauza Sansiwala)

Verma

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- Post. Barotiwala, Tehsil- Kasauli, Dist-Solan,)
Himachal Pradesh - 173204 and also at)
Plot No.30, Godown Area, Pabhat, Zirakpur,)
Dist : S.A.S. Nagar (Mohali), Punjab – 140603)
2. Kriti Agarwal having address at SCO 103,)
D-Block, M-1 Plaza, Jharmajri, Baddi Solan,)
Himachal Pradesh – 174103)
3. Nccraj Kumar having address at SCO 103,)
D-Block, M-1 Plaza, Jharmajri, Baddi Solan,)
Himachal Pradesh – 174103)
4. Anil Agarwal having address at House no. 367,)
Sector 21, Panchkula (Haryana) – 134112)
5. Ankit Agarwal having address at House no. 367,)
Sector 21, Panchkula (Haryana) – 134112)...Defendants

CONSENT MINUTES OF THE ORDER

1. The Defendants have no objection to this Hon'ble Court allowing the Leave Petition (L) No. 30341 of 2021 under Clause XIV of the Letters Patent taken out by the Plaintiff by granting leave in terms of prayer clause (a) of the said Petition. Accordingly, leave is granted.
2. The Defendants confirm and acknowledge that the Defendants have been duly served with copies of the Plaint with all Exhibits, Interim Application, Leave Petition

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under Clause XIV of the Letters Patent and the ex-parte order dated 3rd January, 2022 on 28th January, 2022 and 7th February, 2022, respectively. The Defendants confirm and acknowledge that the Defendants are aware that the said ex-parte order dated 3rd January, 2022, is operational.

3. Decree in terms of prayer clauses (a), (b), (c) and (d) to the plaint which are reproduced below and the Defendants undertake to comply with the same forthwith:

a. that the Defendant by themselves, their directors, proprietors, partners, servants, importers, agents, stockists, distributors, dealers, franchisees, licensees, assigns, predecessors and all persons claiming through and/or under them or acting on their behalf be restrained by a perpetual order and injunction of this Hon'ble Court from infringing the Plaintiffs' said registered trade marks bearing registration nos.292373, 625059, 1290346, 1012709 and 1575060 all in class 5, 1012710 in class 1, 2385014 in class 16 and 2382311 in class 35, by the use of the impugned trade marks/name SPORIPHAX / SPECTRA or any other trade mark/name identical with and/or deceptively similar to the Plaintiffs' said registered trade marks bearing registration nos.292373, 625059, 1290346, 1012709 and 1575060 all in class 5, 1012710 in class 1, 2385014 in class 16 and 2382311 in class 35, in respect of the goods and services covered by the Plaintiffs' said registrations or like goods/services/business or in any other manner whatsoever;

b. that the Defendant by themselves, their directors, proprietors, partners, servants, importers, agents, stockists, distributors, dealers, franchisees, licensees, assigns, predecessors and all persons claiming through and/or under them or acting on their behalf be restrained by a perpetual order and injunction of this Hon'ble Court from infringing the Plaintiff No.1's copyright subsisting in the said artistic packaging / trade dress at Exhibit "B", by reproducing in any material form or communicating to the

Verdict

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public the impugned packaging / trade dress shown at Exhibit "J" or any other packaging / trade dress which is an imitation and/or reproduction and/or a substantial reproduction of the Plaintiff No.1's said artistic packaging / trade dress or substantial part thereof or in any other manner whatsoever:

c. that the Defendants by themselves, their directors, proprietors, partners, servants, importers, agents, stockists, distributors, dealers, franchisees, licensees, assigns, predecessors and all persons claiming through and/or under them or acting on their behalf be restrained by a perpetual order and injunction of this Hon'ble Court from manufacturing, marketing, selling, advertising, distributing, exhibiting for sale or otherwise dealing in medicinal or pharmaceutical preparations / business or like goods / business under the impugned trade marks / name SPORIPILAX / SPECTRA or the impugned packaging / trade dress at Exhibit "J" or any other trade mark/name or packaging / trade dress deceptively similar to the Plaintiffs' said well-known trade marks / name SPORIDEX and SPECTRA and the said artistic packaging / trade dress at Exhibit "B", so as to pass off the Defendant's impugned goods/business or like goods/business as and for the Plaintiffs' well-known goods / business or in any other manner whatsoever:

e. that the Defendant be ordered and directed to deliver up to the Plaintiffs for destruction the impugned goods, labels, wrappers, cartons, stationery, advertising material, packing material, other literature and things bearing the impugned trade marks / name or impugned packaging / trade dress and/or any other trade mark / name or packaging/trade dress which is identical with and/or deceptively similar to the Plaintiffs' said trade marks and/or said artistic packaging / trade dress.

4. The Defendants agree and undertake to this Hon'ble Court that they have not filed and shall not file any application(s) for any trade mark which is identical with or deceptively similar to the Plaintiff's said registered trade marks

bearing registration nos. 292373, 625059, 1290346, 1012709 and 1575060 all in class 5, 1012710 in class 1, 2385014 in class 16 and 2382311 in class 35, before the Trade Marks Registry and in case of any such existing application(s), the Defendants shall file relevant application(s) to withdraw the same within a period of 30 days from today and shall submit copies of such application(s) duly acknowledged by the Trade Marks Registry to the Plaintiff and/or its Attorney within 7 days from submitting such withdrawal applications to the Trade Marks Registry.

5. The Defendants agree and undertake to this Hon'ble Court that they shall destroy all the impugned goods and/or impugned packing/trade dress and other material of which inventory has been taken, details whereof have been recorded in the Court Receiver's report and which goods have been seized by the Court Receiver and are in the possession of the Defendants, at their costs, within a period of 14 days from today. For the purpose of destruction, the representatives of both the sides will be entitled to remove the seal placed by the Court Receiver. The Defendants shall submit the destruction compliance report to the Plaintiff and/or its attorneys within 7 days from such date of destruction.
6. The Defendants agree and undertake to this Hon'ble Court that they shall pay a sum of Rs. 50,000 (Rupees Fifty Thousand Only) to a charitable organization as directed by



this Hon'ble Court, as and by way of costs, within a period of 14 days from today.

7. The Defendants also confirm and undertake that there is no existing stock bearing the impugned trade marks / packaging / trade dress in possession of the Defendants' clearing and forwarding (c & f) agents, apart from the stock which has been seized by the Court Receiver.
8. The Defendants further agree and undertake to provide the details of the last batch of the finished goods bearing the trade mark SPORIPHAX, details whereof are set out herein below:

Impugned Product With All Extensions	Last Batch No.	Mfg. Date	Expiry Date	Existing Stock Qty.
Sporiphax Dry Syp	AS1L048	Dec/21	May/2023	NIL

9. The Defendants acknowledge that the Plaintiff's said registered trademarks *SPORIDEX* and *SPECTRA* and the said artistic packaging / trade dress at Exhibit "B" and the goods sold / business done thereunder has acquired tremendous goodwill and reputation and are well-known.
10. The Court Receiver is discharged without passing accounts but on payment of his costs, charges and expenses to be paid by the Plaintiff within a period of two weeks from today.



11. Refund of court fees as per rules.

12. By consent, the above Commercial IP Suit No. 125 OF 2022, Interim Application No. 1821 OF 2022 and Leave Petition (L) No. 30341 OF 2022 under Clause XIV of the Letters Patent be disposed of accordingly.

Dated this 5th day of July, 2023

Advocates for the Plaintiff

Advocate for the Defendants



Tegasis Partners



B. S. Poojari
Asian Patent Bureau

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SUIT OF INFRINGEMENT OF TRADE
MARKS, COPYRIGHT AND PASSING OFF

Sun Pharmaceutical Industries Limited & Anr. ...Plaintiffs
VERSUS
Actinova Private Limited & OrsDefendants

CONSENT MINUTES OF THE ORDER

Dated this 5th day of July, 2022

Legasis Partners
Advocates for the Plaintiffs
Parinee Crescenzo, G-Block,
Office No. 12A-09,
Bandra (E), Mumbai 400051
Regn. No. 9637(O.S.)
I6611