



WEB COPY

(T)OP(TM).No.291 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2023

CORAM

**THE HONOURABLE MR.JUSTICE SENTHILKUMAR
RAMAMOORTHY**

(T)OP(TM).No.291 of 2023
(ORA/4/2019/TM/CH)

United Biotech Private Limited,
FC/B-1 Extension,
Mohan Co-operative Industrial Estate,
Mathura Road, New Delhi – 110 044.

...Petitioner

Vs.

1.Sun Pharma Laboratories Limited,
Acme Plaza, Andheri-Kurla Road,
Andheri [East], Mumbai -400 059.

2.The Trade Marks Registrar,
Trade Marks Registry Chennai,
Boudhik Sampada Bhavan,
G.S.T. Road, Guindy,
Chennai – 600 032.

...Respondents

Prayer: Transfer Original Petition (Trademarks) filed under Sections 47 and 57 of Trademark Act, 1999 praying that the registered Trade mark Registration No.447044 in Class 5 in favour of first respondent be removed from the Register on the grounds mentioned in the accompanying statement of case.



For Petitioner : Mr.Deepankar Mishra
for M/s.SIM AND SAN

For R1 : Mr.S.Diwakar

For R2 : Mr.T.V.Krishnamachari

ORDER

By this petition, the petitioner seeks removal of the entry relating to Trade Mark ONCONASE, which was registered as Trade Mark No.447044 in Class 5 with effect from 16.12.1985. The petitioner assails the registration both on the ground of non-use under Section 47 and on the ground that the entry was made without sufficient cause and is, therefore, liable to be removed from the register under Section 57 of the Trade Marks Act, 1999 (Trade Marks Act).

2. Upon obtaining instructions, Mr.S.Diwakar, learned counsel for the first respondent, states that the first respondent has not used the mark since obtaining registration thereof.

3. In view of the above submission, no adjudication on merits is necessary and the entry relating to the impugned mark is liable to be removed under Section 47 of the Trade Marks Act.



(T)OP(TM).No.291 of

4. Consequently, (T)OP(TM) No.291 of 2023 is allowed by directing the second respondent to remove the entry relating to Trade Mark No.447044 in Class 5 from the Register of Trade Marks and to take all necessary consequential actions. This exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

22.08.2023

Index:No
Speaking order
Neutral Citation:No
hvk

To

The Trade Marks Registrar,
Trade Marks Registry Chennai,
Boudhik Sampada Bhavan,
G.S.T. Road, Guindy,
Chennai – 600 032.



WEB COPY



(T)OP(TM).No.291 of

SENTHILKUMAR RAMAMOORTHY,J.

hvk

(T)OP(TM).No.291 of 2023
(ORA/4/2019/TM/CH)

22.08.2023