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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 14th December, 2023

+ **C.O. (COMM.IPD-TM) 161/2023**

SANOFI INDIA LIMITED

..... Petitioner

Through: Mr. Peeyoosh Kalra, Ms. V. Mohini,
Ms. Pragati Agrawal, Mr. Rishabh
Thakur, Mr. Yashwant, Mr. Rohan
Kapoor, Advs. (M. 9599041991)

versus

SAINT MICHAEL BIOTECH & ORS.

..... Respondents

Through:

Mr. Harish Vaidyanathan Shankar,
CGSC, with Mr. Srish Kumar
Mishra, Mr. Alexander Mathai
Paikaday, Mr. Krishnan V., Advs.
(M. 9810788606)

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AND

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CS(COMM) 348/2023 & I.A. 10440/2023

SANOFI INDIA LIMITED

..... Plaintiff

Through: Mr. Peeyoosh Kalra, Ms. Mohini V.,
Ms. Pragati Agrawal, Mr. Rishabh
Thakur, Mr. Yashwant, Mr. Rohan
Kapoor, Advs. (M. 9599041991)

versus

SUNNY DRUGS AND PHARMACEUTICALS
LTD & ORS.

..... Defendants

Through:

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.



2. The present suit has been filed by the Plaintiff- Sanofi India Limited, seeking permanent injunction against the Defendants, restraining them from using the marks 'COMFLAM/COMFLAM+' and 'CONIFLAM', as also any mark which is deceptively similar to the Plaintiff's mark 'COMBIFLAM'.

3. The Plaintiff's mark 'COMBIFLAM' bearing no. 426051 is registered under class 5 for 'medicinal and pharmaceutical preparations', is a well-known analgesic and anti-inflammatory tablet adopted in the year 1984 with respect to a combination of 'Ibuprofen' and 'Paracetamol' tablets.

4. It is averred that the Defendants in the present case are also engaged in identical business of manufacturing and selling pharmaceutical and medical preparations under the mark 'COMFLAM' bearing registration number 1052537 under class 5.

5. Vide order dated 10th July, 2023, Defendants had agreed not to use the mark 'CONIFLAM'. As per the last order dated 24th November, 2023 the Court enjoined the use of the mark 'COMFLAM' and the accompanying packing, in respect of pharmaceutical preparations. The Court also directed the owners of both Saint Michael Biotech and Sunny Drugs and Pharmaceuticals Ltd. to be present in Court and present the complete sales figure since inception.

6. Today, the statement of Mr. Amit Kumar who is the representative of M/s. Sunny Drugs & Pharmaceutical Ltd. and Saint Michael Biotech has been recorded in the following terms:-

"I am the authorised representative on behalf of M/s Sunny Drugs & Pharmaceutical Limited and Saint Michael Biotech. Saint Michael Biotech is a partnership firm of Shri Manohar Lal Khanna and



Shri. Naresh Puri and M/s Sunny Drugs & Pharmaceutical Limited is a Company which is promoted by Mr. Khanna and Mr. Puri. I am the authorized representative on behalf of both the entities to make a statement before this Court.

I tender herewith the original letters of Authority issued to me by Shri Manohar Lal Khanna on behalf of both the entities. I have been associated with both the entities as a Chartered Accountant for the last 17 years. I am aware of the business being conducted by the said Defendants.

On behalf of both the entities, I state that we undertake not to use the mark 'COMFLAM', 'COMFLAM+', 'CONIFLAM' or any other mark which is identical or similar to the Plaintiff's mark 'COMBIFLAM' for pharmaceutical preparations.

The Company-M/s Sunny Drugs & Pharmaceutical Limited is the registered proprietor of the mark 'COMFLAM' bearing Registration No. 1052537, dated 17th October, 2001 in Class 5 with claimed user from 1st April, 1997.

On behalf of the said entity, I am willing to make the statement that the Company is willing to surrender the said registration. I undertake to file the request for cancellation/surrender of the said trademark with the Trademark Registry within four weeks from today.

I also make a statement on behalf of both the entities that the said entities shall not use the said mark 'COMFLAM, COMBIFLAM' or any other mark which is similar for pharmaceutical preparations. The said entities have no objections if the suit is decreed for permanent injunction. The Defendants shall henceforth use the mark 'CETFLAM' for pharmaceutical preparations.

On behalf of the Defendants, I also undertake to pay a sum of Rs. 5,00,000/- within a period of three months.

On behalf of M/s Sunny Drugs & Pharmaceutical Limited I also undertake to withdraw the trademark



application No. 1030518 in Class 5 dated 26th July, 2001, which claimed user since 9th April, 2001 for the mark

‘CONIFLAM’ which has been reflected in the name of Mr. Y. P Chail, who is the ex-director of M/s Sunny Drugs & Pharmaceutical Limited.”

7. In view of the said statement, the following directions are issued:-
- i) The Defendants and all others acting for or on their behalf shall stand restrained by a decree of permanent injunction from using the marks ‘COMFLAM’, ‘COMFLAM+’, ‘CONIFLAM’ or any other mark which is identical or similar to the Plaintiff’s trademark ‘COMBIFLAM’ for medicinal or pharmaceutical preparations.
 - ii) The Defendants and all others acting for or on their behalf shall also stand restrained by a decree of permanent injunction from using similar labels/strips having the same color combination and get up as that of the Plaintiff’s ‘COMBIFLAM’ products.
 - iii) Any references to the said trademarks by the Defendants on online or offline platforms shall be removed within two weeks.
 - iv) The Defendants shall pay a sum of Rs.3,00,000/- to the Plaintiffs and Rs.2,00,000/- to the Delhi High Court Legal Aid Service Committee on or before 15th March, 2024.
 - v) The Defendants shall also file the requisite forms/communications before the Trademark Registry for withdrawal and surrender of the Trademark Registration bearing no. 1052537 for the mark ‘COMFLAM’ and trademark



application no. 1030518 for the mark 'CONIFLAM' within four weeks.

vi) The existing unmanufactured stock, if any, shall be destroyed by the Defendants and the confirmation of the same shall be given within four weeks to the Id. Counsel for the Plaintiff.

8. The office of the CGPTDM shall reflect the same within four weeks after the said communications filed.

9. The copies of the communications so filed before the Registry shall be served upon the Id. Counsel for the Plaintiff. The Defendants are free to use the mark 'CETFLAM' in respect of pharmaceutical preparations for which the Plaintiff has no objection.

10. Suit is decreed in the above terms. The cancellation petition is also disposed of. Decree sheet be drawn as per the above stated directions. All pending applications, if any, are disposed of.

11. Copy of this order be communicated to the office of the CGPTDM at llc-ipo@gov.in so that the status of the Register of Trade Marks can be modified to reflect the REMOVAL of trade mark registration numbers 1052537 for the mark 'COMFLAM' and trademark application no.1030518 for the mark 'CONIFLAM' in Class 5.

PRATHIBA M. SINGH
JUDGE

DECEMBER 14, 2023

mr/ks