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C.S. (Comm.Div.) No.24 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2024

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.S. (Comm.Div.) No.24 of 2022

TIL Healthcare Private Limited,
represented by its Authorised Representative
Shabeena Thahseen

.. Plaintiff

Vs

1.Bio Conic Remedies,
represented by Shripal Jain

2.Nucrest Pharma Private Limited,
represented by its Director Vikram Ashok Panjwani

3.Channel Pharmaceuticals Limited,
represented by its Director Sir Nnamdi Henry Obi

.. Defendants

Prayer: Civil Suit filed under Order VII Rule 1 Civil Procedure Code, 1908 read with Order IV Rule 1 of Original Side Rules of the Madras High Court, Section 2(1)(c)(xvii) read with Section 7 of the Commercial Courts Act, 2015 and Sections 11, 27, 29, 134 and 135 of the Trade Marks Act, 1999 and Sections 14, 51, 55 & 62 of the Copyright Act, 1957 to pass a judgment and decree on the following terms:

a.A permanent injunction restraining the Defendants, their partners, their employees, officers, servants, agents, and all others acting for and on their behalf from manufacturing, selling, distributing, exporting, advertising,



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offering for sale, any products and in any other manner, directly or indirectly, dealing with any products under label mark



or any other similar/identical mark to the Plaintiff's registered trademark "APETAMIN label" amounting to an infringement of the Plaintiff's registered trademark No.4145473 in Class 5;

b.A permanent injunction restraining the Defendants, their partners, their employees, officers, servants, agents and all others acting for and on their behalf from manufacturing, selling, distributing, exporting, advertising, offering for sale and in any other manner, directly or indirectly, dealing with any products under the label mark



amounting to passing off;

c.A permanent injunction restraining each of the Defendants, its partners, directors, proprietors, subsidiaries, affiliates, franchisees, officers, servants, agents, distributors, stockists, representatives, licensees and anyone acting for or on their behalf directly or indirectly, as the case may be, from using the



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trade dress or in any manner whatsoever and from selling, offering for sale, advertising, manufacturing, mentioning on their websites dealing in any manner whatsoever or otherwise using the lay-out and/or color combination of the trade dress or get-up almost identical to the Plaintiff's trade dress amounting to passing off of its trade dress;

d.A permanent injunction restraining each of the Defendants, its partners, directors, proprietors, subsidiaries, affiliates, franchisees, officers, servants, agents, distributors, stockists, representatives, licensees and anyone acting for or on their behalf directly or indirectly, as the case may be from performing any actions, especially using artistic works identical to plaintiff's original artistic works amounting to infringement of copyright therein;

e.A permanent injunction restraining the Defendants, their partners, their employees, officers, servants, agents and all others acting for and on their behalf from using impugned mark and trade dress



in any of the websites, domain names, social media platforms, mobile



application and other intermediaries in any language.

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f.The Defendants be ordered to pay the Plaintiff a sum of Rs.34,70,900/- (Rupees Thirty Four lakhs, Seventy thousand and Nine hundred only) as damages for having committing infringement of the plaintiff's registered trademark, passing off trademark and trade dress, infringement of copyright in respect of the plaintiff's artwork, dilution and tarnishment of both trademark and copyright in respect of the mark "APETAMIN".

g.A preliminary decree be passed in favour of the Plaintiff directing the Defendants to render true and proper accounts of the profits arising out of the amount of sales generated by the defendant in respect of their alleged activities especially sales and export of products bearing the label/trade dress



for their business, after the latter have rendered accounts;

h.To grant order of delivery up of any brochures/printed material and/or any material which infringes plaintiff's registered trademarks 'APETAMIN'.

For Plaintiff : Ms.Reshma Rajagopal

For Defendants : Ms.K.Swetha for D2



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JUDGMENT

Both the parties have arrived at a settlement. They have filed a Joint Memorandum of Compromise dated 19.03.2024 before this Court and the same is taken on record. The Joint Memorandum of Compromise dated 19.03.2024 has been signed by all the parties to the dispute and countersigned by their respective counsels.

2.In terms of the Joint Memorandum of Compromise dated 19.03.2024, this suit is decreed. The Joint Memorandum of Compromise dated 19.03.2024 shall form part of this judgment.

20.03.2024

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ABDUL QUDDHOSE, J.

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