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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 342/2023 & I.As. 10171/2023, 22407/2023, 22484/2023**
SANOFI S A & ORS. Plaintiffs

Through: Mr. Peeyoosh Kalra, Ms. V. Mohini
and Ms. Pragati Agrawal, Advocates.

versus

GLENSMITH LABS PVT LTD & ANR. Defendants

Through: Mr. Mohan Vidhani, Mr. Summit
Aggarwal, Mr. Prakhar Singh and Ms.
Neha Vidhani, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
20.03.2024

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1. The order dated 29th January, 2024 records the events that transpired during the pendency of the suit, to the following effect:

"I.A. 10171/2023(u/O XXXIX Rules 1 and 2 of CPC)"

1. The present suit pertains to Plaintiffs No. 1 and 2's registered trademarks "ENTEROGERMINIA" and trade dress/ label/ packaging



" " and " ". They have approached this Court alleging that Defendants' impugned marks "BACTOGERMINA"



and trade dress/ label/ packaging " " amounts to infringement of Plaintiffs' mark and trade dress.

2. Pending final adjudication, Defendants have now, without prejudice to their rights and contentions, agreed to use a different



change the label/ packaging of their product sold under the trademark “BACTOGERMINA” in future, the same shall not be deceptively similar to the Plaintiff’s registered trademark or trade dress.

4. In light of the above development, Mr. Peeyoosh Kalra, counsel for Plaintiffs, on instructions, submits that the suit may be disposed of binding the Defendants’ to the undertaking noted above. At the same time, he clarifies that the Plaintiffs’ assent to the disposal of suit on Defendants’ undertaking is based on the peculiar facts and circumstances of the present case. Mr. Kalra states that this must not be construed as waiver by the Plaintiffs of their right to seek action against any third-party who may be using a trademark that is phonetically similar to the Plaintiff’s trademark “ENTEROGERMINIA”.

5. In view of the above, taking the afore-noted statement of Mr. Vidhani on record and binding the Defendants to the same, the present suit is decreed in favour of the Plaintiff in the said terms.

6. Decree sheet be drawn up.

SANJEEV NARULA, J

MARCH 20, 2024

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