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

+ **CS(COMM) 100/2017, I.A. 1684/2017 & I.A. 1685/2017**

MANKIND PHARMA LIMITED

.....Plaintiff

Through: Mr. Rajiv Nayar, Sr. Adv. with Mr.
Ankur Sangal, Mr. Ankit Arvind, Mr.
Kiratraj Sadana and Ms. Nidhi
Pathan, Advs.

versus

CHANDRA MANI TIWARI & ANR.

.....Defendants

Through: Mr. A.K. Pandey and Mr. Hem
Kumar, Advs.

M: 9811029458

Email: aklegal1966@gmail.com

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

19.09.2024

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1. The present suit has been filed seeking permanent injunction restraining the defendants from infringing the plaintiff's trademark/trade name 'MANKIND' and series of marks with the suffix/prefix 'KIND' in any manner whatsoever, and to stop usage of the trademark/trade name 'MERCYKIND'.

2. As per the case canvassed by the plaintiff, the facts are as follows:

2.1 The plaintiff is the registered proprietor of the mark 'MANKIND' in forty two different Classes, i.e., in Classes-1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44 and 45.

2.2 The plaintiff has for nearly three decades, coined and used numerous



marks by adding a prefix or suffix to the elements MANKIND and/or KIND. As a result of which, the plaintiff's group has more than 150 trademarks registered with the suffix/prefix MANKIND and/or KIND.

2.3 The plaintiff has extensively sold its products under the trade name MANKIND and more than hundred different products with the suffix/prefix KIND across the length and breadth of the country, reaching to millions of people. The goodwill and reputation of its trademark/trade name MANKIND, has made the said trademark/ trade name distinctive, being a symbol of high quality products. Thus, due to the goodwill generated by the plaintiff for nearly three decades, the use and registration of more than hundred trademarks containing the word element MANKIND and/or KIND in various Classes, the public and trade exclusively associate the goods and services with the mark/ trade name MANKIND and marks containing the word element KIND, with the plaintiff and no one else.

2.3 Around November, 2016, while going through the records of the Trademark Registry, the plaintiff came across the trade name of defendant no.2, MERCYKIND Pharmaceuticals Pvt. Ltd., wherein, defendant no.2 claimed to be doing business under the impugned trade name bearing various trademarks, such as MERCYMOX, MERCYCOUGH, MERCYCOPE, in relation to medicinal and pharmaceutical preparations. Hence, the present suit has come to be filed.

3. This Court notes that vide order dated 09th September, 2024, the submission made on behalf of the defendants was recorded, i.e., the defendants have already changed their trademark. However, for changing the corporate name, certain formalities are to be undertaken, for which, the defendants stated that they needed some more time. Further, it was also



submitted on behalf of the defendants that they have certain stock of goods, for disposal of which, time is required.

4. Today, learned counsel appearing for the defendants submit that the defendants are presently engaged in the process of changing its registered company name, as per applicable regulatory requirements. However, the process of changing the company name requires the defendants to undertake multiple formalities, including, but not limited to, drafting and passing a resolution in accordance with the Companies Act; obtaining necessary approvals from regulatory authorities, including, the Registrar of Companies; completing all legal, procedural and administrative formalities associated with the name change; notifying the relevant stakeholders and updating contractual obligations, licenses, permits, etc. Thus, it is submitted that time may be granted for carrying out the requisite formalities for completion of the process for change of name of the defendant company.

5. Learned counsel for the defendants has also handed over details of the existing stock, which is annexed as Annexure-A to the present order. It is submitted that the said existing stock is worth approximately ₹70 lac s, and time may be granted to exhaust the said stock.

6. Learned Senior Counsel appearing for the plaintiff submits, under instructions, that in view of the fact that the defendants have already changed their trade name, decree may be passed in favour of the plaintiff and that the plaintiff is ready to give up its prayer for costs and damages.

7. However, with regard to further prayers of the defendants regarding grant of time, it is submitted that only reasonable time may be granted to the defendants, in that regard.

8. Having heard learned counsels for the parties, it is directed as follows:



8.1 The suit is decreed in favour of the plaintiff and against the defendants in terms of prayers (a) to (d) of paragraph 48 of the Prayer Clause in the plaint.

8.2 The defendants shall withdraw all their opposition/rectification proceedings filed against the plaintiff, pending before the Trade Marks Registry.

8.3 The defendants shall also withdraw their application, if any, for trademark registration, pending before the Trade Marks Registry, for the trademark 'MERCYKIND', or any other trademark, which is deceptively similar to the plaintiff's trademark 'MANKIND'/ 'KIND' and its formative trademarks.

8.4 The defendants shall exhaust their existing stock, as per the details given in Annexure-A of the present order, within a period of one year from today.

8.5 It is also directed that defendants shall change their company name and complete the requisite formalities, within a period of five months from today. Further, the defendants shall not use the corporate name 'MERCYKIND Pharmaceuticals Private Limited', after five months from today.

8.6 The defendants shall also not manufacture any product under the trademark/ trade name MERCYKIND, from today.

9. Let decree sheet be drawn up, in the aforesaid terms.

10. Accordingly, the present suit, along with the pending applications, stands disposed of.

MINI PUSHKARNA, J

SEPTEMBER 19, 2024/kr



Annexure-A

MERCYKIND PHARMACEUTICALS PVT.LTD.
C/01/14C,HAWARE GREEN PARK,SEC NO.22, From : 01/04/24
PHASE-1,PLOT NO.15,KAMOTHE, To : 31/03/25
NAVI MUMBAI-410206. Report Date : 17-Sep-2024

BATCHWISE CLOSING STOCK OF ALL CATEGORY Category AS ON DATE : 17/09/24

PRODUCT	PACKING	COMP	BATCHNO	STOCK	PACKSTK	EXPIRY	MRP	PUR_RATE	AMOUNT	SHRTCODE	CATEGORY
ABOBEN PLUS-10ML	1X10ML	MCR	A187318	14		03/26	45	8.8	1267.2		ALOPATHIK
AGLIS SYR	1X100M	MCR	ZBL-1833	150		02/25	105	12.75	19380		ALOPATHIK
ALAMERCY FORT TAB	1X10	MCR	VH-T9541	92		01/26	159.99	15	13680		ALOPATHIK
ALAMERCY GOLD	1X200M	MCR	DNL-23649	34		06/25	179.99	13.5	4239		ALOPATHIK
ALCICLAV-375 MG	1X10	MCR	DAY-23122	100		02/25	104.75	22.75	2275	1	
ALCICOLD-PLUS TAB	1X10	MCR	T24066	10		04/26	87	8.2	82		ALOPATHIK
ALCOPOD-CV TAB	1X6	MCR	DYT-23241	30		05/25	240	45	1350		ALOPATHIK
APPROVEL	1X1		PRD APPROVEL	5		00/00	750	750	3750		ALOPATHIK
			PRD APPROVEL	1		00/00	2400	2400	2400		
AZLICE-100 SUSP	1X15ML	MCR	UL-230406	6		06/25	45	13	78	1	
BLAZ	1X125M	MCR	B3024	240		11/25	220	28	6720		ALOPATHIK
BLISFT CLINSING LOTION	1X75	MCR	B3024	125		11/25	220	28	3500	1	
CAFILICE-D3 DROP	1X30ML	MCR	DNL-23607	90		05/25	100	9	810		ALOPATHIK
CALIBRATE60K SOFTHL CAP	1X4	MCR	US-24020W	300		12/25	137	8.5	850		ALOPATHIK
COURIER CHARGES	0	MCR	XYZ0	1		00/00	0	280	280		ALOPATHIK
			XYZ0	2		00/00	0	330	660		
			XYZ0	101		00/00	500	500	250500		
			XYZ0	2		00/00	350	350	700		
			XYZ0	1		00/00	350	440	440		
			XYZ0	1		00/00	540	540	540		
CY-BOMIT DROPS	1X30M	MCR	UF28945220	1920		06/26	42.33	8	15360		ALOPATHIK
CY-SUNET TAB	1X6	MCR	VT23440	177		05/25	171	18	4986		ALOPATHIK
			VT241179	2000		07/26	171	16	32000		
CYLINDER	1X3	MCR	MERCYFER XT TAB	1		00/00	1000	1000	1000		ALOPATHIK
			MERCYKAL-Z TAB	2		00/00	1000	1000	2000		
			O-48	3		00/00	1500	1500	4500		
			MPT-081	2		00/00	1500	1500	3000		
			ALAMERCY-9G	1		00/00	1000	1000	1000		
			MERCYPOD-200MG	2		00/00	2000	2000	4000		
			MERCYCOPE M TAB	2		00/00	1200	1200	2400		
			MERCYGLIM M1	2		00/00	1200	1200	2400		
			MERCYCEF PLUS	2		00/00	1200	1200	2400		
			MERCYFER	1		00/00	2500	2500	2500		
			MERCYRIP	2		00/00	3000	3000	6000		



			MERYCEF PLUS	2	00/00	1200	1200	2400	
			MERYCEF PLUS	2	00/00	1250	1250	2500	
			LULUCHANGE CREA	4	00/00	1250	1250	5000	
			MERCYP00-200MG	2	00/00	1250	1250	2500	
			MERCYN0X CV	2	00/00	1250	1250	2500	
			MERCYNAC GEL	4	00/00	1000	1000	4000	
			PC PAN MERYCEF	4	00/00	1000	1000	4000	
			MERCYNAC P	1	00/00	1000	2000	2000	
			MERCYNAC P	1	00/00	2000	2000	2000	
			AM	2	00/00	1000	1000	2000	
			MERCYGLUM	1	00/00	2000	2000	2000	
			TEL CY 40	2	00/00	1000	1000	2000	
			TEL CY 40	4	00/00	68.99	6.5	26	
			ALAMERCY FORT T	2	00/00	1250	1250	2500	
			MERCYP00-200MG	2	00/00	1500	1500	3000	
			MERCYP00-200MG	1004	00/00	1000	1000	1004000	
			MERCYP00-200MG	708	00/00	2.5	2.5	1770	
			MERCYP00-200MG	100	00/00	0	0	0	
				144	09/25	105	11.5	1656	1
D-GUT DRY SYR	1X60ML	MCR	500	50	10/75	135	16	800	1
FERLICE-XT SYR	1X200ML	MCR	DNL-24048	25	05/25	79.96	21	525	ALOPATHIK
FIXLEN-D6 WW DRY SYRUP	1X30ML	MCR	DS23-0519	3	06/25	150	33	99	1
FIXLEN-L8-200MG	1X10TA	MCR	UCT23252E	8	02/26	150	35.5	284	
			DYT-23382	30	04/25	128	18	540	ALOPATHIK
FIXLICE-O DRY SYRUP	1X30ML	MCR	DVD-23398	2	09/25	195	42.5	85	ALOPATHIK
FIXLICE-O2 TAB	1X10	MCR	CRTIB2310009C	95	04/26	195	42.5	4037.5	
			CRTIB2405013A	42	04/25	46	8	336	ALOPATHIK
FLORAFID ORAL SUSP	1X5ML	MCR	AL85513050D	320	02/26	48	9	2880	
			FFD00174	101	03/26	179.65	13	3913	ALOPATHIK
FLUZEET 200MG TAB	1X1	MCR	C-240407	2	00/00	250	250	500	ALOPATHIK
FREIGHT CHARGES	1	MCR	OTHER	1	00/00	220	220	220	
			OTHER	1	00/00	352	352	352	
			GOODS	1	00/00	320	320	320	
			GOODS	1	00/00	330	330	330	
			GOODS	2	00/00	540	540	1080	
			GOODS	2	00/00	800	800	1600	
			GOODS	1	00/00	1160	1160	1160	
			GOODS	1	00/00	450	400	400	
			GOODS	1	00/00	450	150	150	
			GOODS	1	00/00	400	400	400	



			60005	2	00/00	2400	1200	2400	
			60006	2	00/00	300	300	600	
			60006	1	00/00	300	360	360	
			60006	1	00/00	700	700	700	
			60006	3	06/25	490	490	1470	
			60006	1	06/25	672	672	672	
			60006	1	06/25	150	150	150	
			60006	1	06/25	200	200	200	
			60006	1	06/25	3000	3000	3000	
			160005	1	04/24	250	250	250	
			60006	50	12/26	480	60	3000	ALOPATHIK
GLUTA-4U FACEWASH-100ML	1X100M	MCR	E-9957	185	08/25	140	9.8	1813	ALOPATHIK
HATSFREE-M-2.5 TAB	1X10TA	MCR	A7-17990	178	10/25	50	7.2	1281.6	ALOPATHIK
HYDROGIC-25 TAB	1X10	MCR	PNT31227C	80	04/26	50	7.2	576	
			PNT4-0120C	49	09/25	431	47	1303	ALOPATHIK
IDIZOVIR-L TAB	1X10	MCR	T-2301035	231	09/25	94	7	1617	ALOPATHIK
IDINAC-MR	1X10	MCR	UT-2304096F	27	10/25	152	27	729	ALOPATHIK
IDIZOVIR-400MG TAB	1X10	MCR	T-231326	106	04/26	80.3	72	2310	ALOPATHIK
IMBIVTE-100 DRY SYR	1X30ML	MCR	D240183C	1	00/00	0	10	10	1
INSURENCE	1	MCR	0000	1	00/00	18	18	18	
			0000	1	00/00	27	18	18	
			0000	1	00/00	27	5	5	
			0000	1	00/00	50	50	50	
			0000	1	00/00	28	28	28	
			0000	1	00/00	40	28	28	
			0000	2	00/00	2000	2000	4000	ALOPATHIK
INV&APP CHGS	3	MCR	E-547	2	00/00	4000	2000	4000	
			E-0714	1	00/00	650	650	650	
			E-0714	3	00/00	6000	2000	6000	
			E-547	1	00/00	2000	2000	2000	
			E-1011	2	00/00	2000	2000	4000	
			E-1041	1	00/00	3500	3500	3500	
			E-1368	060	00/00	0	0.25	240	ALOPATHIK
INVENTORY	1x2000		ALAMERCY-9G	945	00/00	0	1.7	1606.5	
			ALAMERCY-9G	1	00/00	2000	2000	2000	
			MECYGUM M1	3	00/00	3500	10500	31500	
			9967	3	00/00	2400	2400	7200	
			9967	2	00/00	6790	3395	6790	
			9967	1	00/00	3333	3333	3333	
			GT15236C	2	00/00	2000	2000	4000	



			9967	1	00/00	1	1	1	
			9967	2002	00/00	2	1	2002	
ITAMERCY-200MG	1X10	MCR	23A3597	890	09/25	219.99	30.5	27145	ALOPATHIK
IVERLICE-AZ TAB	10X1X2	MCR	TG24-0941B	338	03/26	52	6	2028	ALOPATHIK
LULICHANGE CREA-30GM	1X30GM	MCR	0200	2486	01/26	199.99	16.5	41019	ALOPATHIK
MASK-3PLAY(SEQURA)	1	MCR	7720	500	00/00	20	4.7	2350	ALOPATHIK
MERCY DEFLACY	1X10	MCR	MT-082351A	3281	07/25	130	12.9	42324.9	ALOPATHIK
			GT15226C	2060	08/26	149.99	15	30900	
MERCY MECYGLIM-M1 TAB	1X10	MCR	MT-092352B	558	08/25	84	6.5	3627	ALOPATHIK
MERCY TELCY-40	1X10	MCR	UT-230749N	2061	10/25	69.99	5.5	11335.5	ALOPATHIK
MERCY TELCY-AM	1X10	MCR	UT-2303741	137	08/25	79.99	6.5	890.5	ALOPATHIK
			UT-2303741	2903	08/25	69.99	6.5	18869.5	
			UT-2303741	70	08/25	79.99	65	4550	
MERCY-NAC GEL	1X30GM	MCR	E2C02	2200	02/25	99.99	10.5	23100	ALOPATHIK
MERCYCEF PLUS TAB	1X10	MCR	UCT-23212M	81	05/25	179.99	42.3	3426.3	ALOPATHIK
			UCT-23418C	22	10/25	179.99	41.8	919.6	
			UCT24186L	1651	04/26	189.9	41.8	69011.8	
MERCYCID SYR	1X170M	MCR	PL-30198	628	06/25	139.99	16.5	10362.27	ALOPATHIK
MERCYCOPE-M SYR	1X100	MCR	RU6817	1202	03/26	149.99	13.5	16227	ALOPATHIK
MERCYCOPE-M TAB	10X10	MCR	GT12220C	2456	02/26	129.99	7.2	17683.213	ALOPATHIK
MERCYCOUGH NATURAL SYP	1X100M	MCR	NS23-424	553	10/26	119.99	9.5	5253.5	AYURVEDIK
MERCYCOUGH PLUS SYR	1X60ML	MCR	RU-5616	1697	07/25	99.99	9.5	16121.5	ALOPATHIK
			BML-1359	840	07/25	84.99	9.5	7980	
MERCYCOUGH-DX SYP	100ml	MRC	UF2014180T	1440	02/26	119.99	9.5	13680.17	ALOPATHIK
MERCYFER-XT	1X10	MCR	RT-2299	300	01/25	129.99	8.2	2460	ALOPATHIK
			GT13807F	2049	05/26	139.99	7	14343	
MERCYMEF-DS	1X60ML	MCR	DSL04709	98	04/25	85	11.2	1097.6	ALOPATHIK
			KPS2023E033R	1087	04/25	85	11.2	12174.4	
MERCYMOX-CV FORT SYR	30ML	MCR	DYD-23108	710	12/24	149.99	27	19170	ALOPATHIK
			ACAH24017E	1438	02/26	159.99	30	43140	
MERCYMOX-CV625 TAB	1X10	MCR	VT232284	76	06/25	204.5	51	3876	ALOPATHIK
			VT-240961	2089	12/25	204	49	102361	
MERCYNAC-P TAB	1X10	MCR	UT-230117D	17	06/25	59	4.2	71.4	ALOPATHIK
			UT-230117D	7095	06/25	59	4.6	32637	
MERCYNAC-SP	10X10	MCR	GT2C39	1500	02/25	119.99	8.5	12750	ALOPATHIK
			GT14871A	2100	07/26	129.99	8.2	17220	
MERCYPOD-200MG TAB	1X10	MCR	VT-232285	620	12/25	199.99	36	22320	ALOPATHIK
MERCYPOD-DS SYR	1X30ML	MCR	DS23-0118	455	12/24	150	25	11375	ALOPATHIK
			ACH24017A	1012	12/24	159.99	30	30360	
MERCYRAB-20TAB	1X10	MCR	ZV23KT083	1285	10/25	89.9	4.5	5782.5	ALOPATHIK



MERCVRAB-DSR	10X10	MCR	UD2C-2341E	26	05/25	119.99	6.8	176.8	ALOPATHIK
			UC-24398G	2242	05/26	119.99	7	15694	
MONO-5 TAB	1X10	MCR	RT231068	79	11/25	50	3.75	296.25	ALOPATHIK
MONO-AM TAB	1X10	MCR	VG230814	47	04/25	90	9	423	ALOPATHIK
MORTIMER CREAM	1X30GM	MCR	KPE24019A	31	01/26	330	18	558	ALOPATHIK
N-Q10 SOFT GEL	1X10	MCR	LFSG-0030	209	10/25	545	16	3344	ALOPATHIK
N95 MASK FRESH	1	MCR	XYZ	5	00/00	250	150	750	ALOPATHIK
OK-DOX CAP	1X10	MCR	KPC230191	209	04/25	145	16.5	3448.5	ALOPATHIK
OSINET-40	1X10	MCR	UGT231856	120	11/25	130	13.5	1620	ALOPATHIK
P.C.PAN DSR CAP	1X10	MCR	UD2C23313G	99	04/25	119.99	8.5	841.5	ALOPATHIK
			UC-24377C	3835	05/26	119.99	8.4	32214	
PARALICE-250 SYR	1X60ML	MCR	LG24-0334	200	02/26	40.5	11	2200	ALOPATHIK
PROCESSING FEES	3		XYZ	3	00/00	0	2083	6249	ALOPATHIK
			2105	1	00/00	0	1500	1500	
			2105	4	00/00	0	2400	9600	
			2105	1	00/00	0	4000	4000	
RANLICE-PD SYR	1X60	MCR	HSLE-610	1	12/25	80	11.5	11.5	ALOPATHIK
			HSLE-24180	152	06/26	80	11.5	1748	
REUSABLE FACE MASK	1	MCR	000	7	00/00	150	48	336	1
SAFECTIV-50M TAB	1X10TA	MCR	PGT24-0695A	117	02/26	220	18	2106	ALOPATHIK
SATINY SOFT FACEWASH	1X150M	MCR	Z-3294	3	11/25	430	67	281	ALOPATHIK
			Z-3541	49	03/26	430	70	3430	
SUPER COFE,MOSTURISING CREAM	1X10GM	MCR	C231536	3	09/25	169	34	102	ALOPATHIK
			C24594	158	03/26	169	33	5214	
THEA-KS SHAMPOO	1X100M	MCR	MA-2402	2	12/25	250	47	94	ALOPATHIK
			MA-2402	45	12/25	250	52.64	2368.8	
THEA-KZ SOAP	1X75GM	MCR	FDS090	252	10/25	155	24.5	6174	ALOPATHIK
THEAGLO TAB	1X10	MCR	UFT-141	8	05/25	650	39	312	ALOPATHIK
			UFT-219	54	08/25	650	39	2106	
TRANSPORT CHARGES	1	MCR	SSS	1	00/00	0	25	25	1
UZIMET-G2 TABS	10X15	MCR	NT-7315	84	01/26	105	10	840	ALOPATHIK
VENUVIGM 2/0.2 TABS	10X10	MCR	NT-7473	73	01/26	138	7.7	562.1	ALOPATHIK
WINDLAST-40 TAB	10X10	MCR	LGN05/346/07	245	04/26	190	25.5	6247.5	ALOPATHIK
ZIRAKMOL-P TAB	1X10	MCR	OT-240041	235	03/26	65	5.5	1292.5	1
ZITHLICE-LB 500	1X5	MCR	ZV23CT097	1	02/25	148	35	35	ALOPATHIK
ZOGBET-S OINTM	1X30GM	MCR	DMO-615	22	01/26	159	16	352	ALOPATHIK
ZONDMETA OINT	1X15	MCR	DMO-601	21	12/25	199.9	12	252	ALOPATHIK
				0		0	0	0	
				0		0	0	2385988.45	