OIPD-1

IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
(Intellectual Property Rights Division)

IA NO. GA-COM/1/2025
In IP-COM/19/2025

HIMALAYA GLOBAL HOLDINGS LTD AND ANR
Vs
KENT PHARMACEUTICALS AND ORS

Before:
The Hon'ble Justice RAVI KRISHAN KAPUR
Date: 17th April 2025

Appearance:
Mr. Subhatosh Majumdar, Adv.
Mr. Sayan Roy Choudhury, Adv.
Mr. Paritosh Sinha, Adv.
Mr. K.K. Pandey, Adv.
Mr. Kironjit Majumdar, Adv.
Ms. Pooja Sett, Adv.
Mr. A. Sinha, Adv.
Ms. Mallika Bothra, Adv.
…for plaintiff.

Mr. Tanmoy Roy, Adv.
…for defendant no. 1 to 4.

The Court: By consent of the parties both the suit and the application are taken up for hearing together.

The suit is filed for infringement and passing off.

The plaintiff no.1 is Himalaya Global Holdings Ltd. The plaintiff no.2 is Himalaya Wellness Company which was formerly known as Himalaya Drug Company and has been involved in the business of manufacturing and marketing of ayurvedic medicines and health products since 1930.

Over the years, the business has diversified into manufacturing and selling of cosmetic products as well. In fact, the business of the plaintiffs has extended beyond India and for easier management of their intellectual property rights have been transferred to the plaintiff no.1 in April 1999.

Presently, the plaintiff no.2 manufactures and sells products under the trademarks owned by the plaintiff no.1 in terms of the understanding between the parties, their close relationship and common ownership.

The plaintiffs are the leading global herbal health and personal care organization, offering close to 500 health care products in the domain of pharmaceuticals, herbal medicines, personal care, food supplements and wellness in over 100 countries and deals in several well-known products and brands including Liv. 52, Septilin, Cystone, Bonnisan, Serpina, Pilex, Koflet and Rumalaya Forte amongst others. Himalaya has been dedicated in providing for highest quality and consistency in herbal care and have been awarded ISO 9001: 2000 certification.

The pharmaceutical division of the plaintiffs and its group entities are highly recognized worldwide for their innovative medicines provided to patients, physicians and healthcare organizations. The trade mark "PILEX" was adopted by the plaintiff no.2 in the year 1937 and now stands in the name of the plaintiff no.1. The plaintiff no.1 is the registered trade mark owner under trade mark "PILEX" under Trade Mark no.123404 in Class 05 for "medicinal preparations" with effect from July 06, 1946, claiming use since the year 1937.

The trade mark "PILEX" has been continuously and exclusively used in the course of trade by the plaintiffs by virtue of which an impeccable goodwill and reputation is associated with the said trade mark within and outside the jurisdiction. The plaintiff no.2 has generated huge sale turnovers over the year figures of which are morefully demonstrated in paragraph 7 of the petition.

The plaintiffs have invested huge amounts to promote and popularize the trade mark “PILEX” amongst the trade and public on print media and electronic media.

In or about February 2025, the plaintiff no.2 on a popular e-commerce website came across the fact that the medicinal preparation was being sold under the trade mark “PILEX” which are identical and/or deceptively similar to the mark of the plaintiffs in respect of identical category of goods.

It is alleged that the defendants have been using the impugned mark “Pilex, Plax or Pilax” which constitutes infringement and passing off of their registered trade mark “Pilex”.

Upon the filing of the suit, notices have been duly served and the defendant nos. 1 to 4 are represented.

It is fairly submitted on behalf of the defendants that they do not intend and shall no longer use any of the impugned marks in the future. It is also submitted that the defendant no. 5 has expired.

In view of the unequivocal and unconditional undertaking furnished by the defendant nos. 1 to 4 that they shall not use the impugned marks or any similar mark in any manner whatsoever, IP-COM/19/2025 stands disposed of.

The connected interlocutory application being GA-COM/1/2025 stands disposed of.

The defendant nos. 1 to 4 are directed to pay consolidated costs assessed at Rs.2 lakhs to the plaintiffs within a period of two weeks from the date of passing of this order. In default, the plaintiffs are granted liberty to mention this matter.

In view of the submissions made on behalf of the parties, there shall be a decree in terms of prayers (a) and (b) of the plaint.

Affidavit of Service filed on behalf of the plaintiffs be kept with the records. The defendant nos. 1 to 4 waive service of the Writ of Summons.

(RAVI KRISHAN KAPUR, J.)

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