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

+ **CS(COMM) 1077/2024 & I.A. 1477/2025**

FDC LIMITED

.....Plaintiff

Through: Mr. Prithvi Gulati, Adv.
M: 9911167179
Email:
litigation@fiduslawchambers.com

versus

BIOTIC HEALTHCARE PRIVATE LIMITED

.....Defendant

Through: Mr. Sunil Thakral, Director (Through
VC)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
20.01.2025

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I.A. 1477/2025

1. The present is a joint application under Order XXIII Rule 3 read with Section 151 of Code of Civil Procedure, 1908 ("CPC") on behalf of the plaintiff and the defendant.
2. The present suit has been filed by the plaintiff for permanent injunction restraining the defendant, their directors, employees, servants, representatives, affiliates and agents or any other person claiming under or through them or acting in concert with them from committing acts of infringement of trademarks, passing off and other incidental reliefs.
3. It is the case of the plaintiff that its registered trademark ZIFI, has been in continuous use since 2001, for medicinal and pharmaceutical preparations, including, but not limited to anti-infectives in the form of



tablets, dry syrups, injections, oral drops, and ready-mix solutions. The defendant was found to be using the mark ZICFI, which is phonetically, structurally and visually similar to the plaintiff's registered trademark ZIFI.

4. Thus, the present suit was filed by the plaintiff before this Court.

5. When the matter was listed for hearing on 04th December, 2024, the authorized representative of the defendant had appeared and made a statement that the defendant will not produce and/or market the products under the mark ZICFI.

6. Today, learned counsel appearing for the plaintiff and Mr. Sunil Thakral, the Director of the defendant, who is present through Video Conferencing, submit that the parties have amicably resolved their disputes in order to put an end to the litigation. They jointly submit that the suit be decreed in terms of the settlement between the parties.

7. The terms of the settlement are contained in paragraph 5 of the present application, which are reproduced as under:

"xxx xxx xxx

a) The Defendant acknowledges that the Plaintiff is the owner and registered proprietor of the well-known trademark ZIFI, and other ZIFI formative trademarks as enumerated in paragraph 11 of the plaint, under the Trade Marks Act, 1999, as well as under common law.

b) The Defendant, including their directors, employees, distributors, marketers, agents, CNF agents, stockists, or anyone who is acting on their behalf, undertake that they will not manufacture, market and/or sell medicinal and pharmaceutical preparations under the mark ZICFI or any other mark that is deceptively similar to the Plaintiff's trademark ZIFI either as a standalone mark or as a prefix or suffix in a composite mark or in any manner whatsoever amounting to infringement of the Plaintiff's registered trademark ZIFI and/or the act of passing off.

c) The Defendant has filed the Form TM-P (Cancellation of Registration), accompanied by stamp paper and relevant documents, to cancel/withdraw the registered trademark ZICFI in Class 5, bearing no. 3140101 and the copy of the said form is filed herewith as Document – A.



The Defendant further undertakes to withdraw all trademark applications, whether pending or registered, that are deceptively similar to the Plaintiff's trademark;

d) The Defendant undertakes that they have not filed any other application for registration of the mark ZICFI as a trademark or device or any other mark deceptively similar to the trademark ZIFI. That Defendant also undertakes that they will not file any application for registration of the mark ZICFI or any other mark identical and/or deceptively similar to ZIFI or any other similar mark whether in the form of a word, label or other composite mark in respect of any goods or services whatsoever.

e) The Defendant undertakes to file an affidavit with respect to stock pertaining to ZICFI products in a tabular form as given below:

BIOTIC HEALTHCARE PVT LTD			
PLOT NO 43 GROUND FLOOR INDUSTRIAL AREA PHASE 2 PANCHKULA HARYANA 134113			
Phone : 8727992600,8727992300 E-Mail : finance.biotic@gmail.com			
GSTIN : 06AAGCB4867M1Z7 TEN NO. : 06352512091			
S. No.	Description	Batch	Expiry
CLOSING STOCK AS ON 31/12/2024			
S. No.	Description	Batch	Expiry
349	ZICFI DRY SYRUP 30 ML.	CD24270E	12/2025
350	ZICFI DRY SYRUP 30 ML.	CD24409E	4/2026
351	ZICFI FORTE DRY SYRUP 1X30ML	CD24251B	11/2025
352	ZICFI FORTE DRY SYRUP 1X30ML	CD24324D	2/2026
353	ZICFI FORTE DRY SYRUP 1X30ML	CD24408A	4/2026
354	ZICFI SL 1500 1'S	24DI26E	8/2026
355	ZICFI TZ 1.125 1'S	24DJ27U	9/2026
356	ZICFI- 1 GM 1'S	SD-622H	10/2025
357	ZICFI- 1 GM 1'S	24DF30X	5/2026
358	ZICFI- 1 GM 1'S	24DJ05W	9/2026
359	ZICFI 500MG 1'S	24DE08H	4/2026
360	ZICFI-100 TAB 10X10	TCFM4005C	4/2026
361	ZICFI-100 TAB 10X10	TCFM4009	9/2026
362	ZICFI-200 LB TAB 10X10	CT240891	1/2026
363	ZICFI-250 INJ 1'S	23DD35G	3/2025
364	ZICFI-OF TAB 10X10	CT240739	10/2026
365	ZICFI-SL 375 SINGLE	24DE10M	4/2026
366	ZICFI-SL 375 SINGLE	24DG18T	6/2026
40	ZICFI-TZ 281.25 INJ SINGLE	24DD07N	3/2026
41	ZICFI TZ 281.25 INJ SINGLE	24DG28D	6/2026
Our Software MARG Epp			

f) The Defendant sent email communication on 21st December 2024 for the recall of all products bearing the impugned mark ZICFI from its distributors and stockists and has furnished documentary proof to the



Plaintiff's counsel. The recalled and remaining products under the impugned mark ZICFI shall not be exhausted, nor shall they be put into the commercial stream or made available in trade by the Defendant.

g) The Defendant undertakes to destroy all goods, including strips, cartons, containers, labels, stationery, flyers or any other printed matter bearing the impugned mark ZICFI or any other mark identical or deceptively similar to the Plaintiff's ZIFI trademarks.

h) The Defendant undertakes to remove all references to the impugned mark ZICFI or any of its variants which are deceptively similar to the Plaintiff's trademark ZIFI from online and offline platforms.

xxx xxx xxx”

8. This Court has perused the terms of the settlement and finds the same to be lawful.
9. Accordingly, considering the submissions made before this Court, the present suit is decreed in favour of the plaintiff and against the defendant in terms of the paragraph 31 (a) to (b) of the plaint.
10. The parties are bound by the terms of the settlement.
11. In view of the fact that parties have arrived at a settlement, the Registry of this Court is directed to issue a Certificate of refund of Full Court Fees in favour of the plaintiff.
12. Decree sheet be drawn up.
13. The present suit, along with the pending application, stands disposed of.
14. The next date of hearing, i.e., 28th February, 2025, stands cancelled.

MINI PUSHKARNA, J

JANUARY 20, 2025/kr