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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
NOTICE OF MOTION (L) NO. 2025 OF 2018
IN
COMIP (L) NO. 1168 OF 2018

Aristo Pharmaceuticals Pvt. Ltd. ... Plaintiff
Versus
Horizon Bioceuticals Pvt. Ltd. ... Defendant

Mr.B.N.Poojari a/w. Ms.Sristhi Poojari for the Plaintiff.
Mr.Hiren Kamod I/b. Mr. A.V.Sakolkar for the Defendant.
Mr.Manoj Garg, Managing Director a/w. Mr.Surinder Sharma, Ms.Mamta,
Mr.Charanjit Arora, Mr. Ashok Kumar, Directors of Defendant, present in person.

CORAM : S.J. KATHAWALLA, J.
DATED : 24TH SEPTEMBER, 2018

P.C.:

1. Heard the learned Advocates appearing for the parties and the following
Order is passed by consent :

i. The above Suit is decreed in terms of prayer Clauses (a) and (b), which are
reproduced hereunder :

*“(a) For perpetual order of injunction of this Court restraining
the Defendant by themselves and / or their servants, agents,
representatives and / or any person (s) claiming under or through
them from infringing the Plaintiffs' trademark 'PANTOP' under
registration No.931937 at Exhibit-G-1 hereto and registration No.
3466331 in class 05 at Exhibit-G2 hereto by adopting and / or in*

any manner using the mark 'PANPOP' with or without suffix or prefix or any mark similar to trademark 'PANTOP' as trademark or otherwise in respect of medicinal and / or pharmaceutical preparations or similar goods.

(b) For perpetual order of injunction of this Court restraining the Defendant by themselves and / or their servants, agents, representatives and / or any person (s) claiming under or through them from infringing the Plaintiffs' trademark 'PANTOP' in respect of medicinal and / or pharmaceutical preparations or similar goods by adopting and / or in any manner using 'PANPOP' with or without suffix or prefix or in any manner as trademark or otherwise or any mark identical with and / or similar to the Plaintiffs' trademark 'PANTOP' or any mark similar to trademark 'PANTOP' as trademark or otherwise or trade dress identical with or similar to trade dress of the Plaintiffs' label at Exhibits-C1 to C10 hereto in respect of the medicinal and / or pharmaceutical preparations or similar goods."

ii. The Managing Director along with the other Directors of the Defendant are present in Court. They undertake to file their Affidavit on or before 3rd October, 2018 giving written undertaking stating that they shall henceforth not use impugned trademark and / or any other deceptively similar trademark of the Plaintiff Company and shall also not infringe any of the trademark of any other company.

iii. The Defendant shall pay an amount of Rs. 1 Crore to the Plaintiff, which will be donated to the Tata Memorial Hospital, Mumbai. However, the said amount shall

be used by the said hospital to carry out cancer research.

iv. The Managing Director as well as other Directors of the Defendant Company have handed over post-dated cheques as follows :

a. Cheque dated 26th September, 2018 in the sum of Rs.25 Lacs

b. Cheque dated 26th October, 2018 in the sum of Rs.75 Lacs

v. The Managing Director as well as other Directors of the Defendant Company undertake that the above cheques shall be honoured upon presentment and shall not be dishonoured under any circumstances.

vi. The undertakings given by the Managing Director as well as other Directors of the Defendant Company are accepted.

vii. The goods / packaging seized by the Court Receiver, shall be forthwith destroyed in the presence of the representative of the Plaintiff.

viii. The Court Receiver stands discharged without passing accounts but subject to payment of his cost, charges and expenses within a period of two weeks from today by the Plaintiff.

ix. The above Notice of Motion as well as Suit are accordingly disposed off.

x. Refund of Court fees, if any, as per Rules.

(S.J.KATHAWALLA, J.)