



2026:DHC:1827



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

% Judgment delivered on: 28/02/2026

+ **CS(COMM) 218/2024 & I.A. 24963/2025**

NOVARTIS AG & ORS.

.....Plaintiffs

Versus

NOVIETS PHARMA & ORS.

.....Defendants

Advocates who appeared in this case

For the Plaintiffs : Mr. Hemant Singh, Ms. Mamta R. Jha,
Ms. Anjeeta Rani, Ms. Pragya Jain &
Mr. Aneesh Raj, Advocates.

For the Defendants : Mr. Davesh Vashishtha & Ms.
Akshatha Deepak, Advocates for
Defendant Nos.1, 2 & 3.

**CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA**

JUDGMENT

TEJAS KARIA, J

I.A. 5655/2024

1. This is an Application filed by the Plaintiffs under Order XXXIX Rules 1 and 2 of Code of Civil Procedure, 1908 (“CPC”) restraining infringement of the Trade Mark, ‘NOVARTIS’ and ‘’, (“Plaintiffs’ Marks”), passing off, unfair competition, dilution etc.



SUBMISSIONS ON BEHALF OF THE PLAINTIFFS:

2. The learned Counsel for the Plaintiffs made the following submissions:
 - 2.1. The Plaintiffs are part of the Novartis Group of Companies. Plaintiff No. 1 is a world leader in the healthcare industry and specializes in innovation through research and development of products that improve the health and well-being of patients around the world. Plaintiff No. 2 is the Indian operating company which is a subsidiary of Plaintiff No. 1 and is engaged in the promotion, sale and distribution of products in India from its parent and its affiliates. Plaintiff No. 2 is the licensee of Plaintiff No. 1 to use the Plaintiffs' Marks in India. Plaintiff No. 1 also markets its pharmaceutical products in India through Plaintiff No. 3 which is its fully owned subsidiary.
 - 2.2. The Plaintiffs have been present in India since 1947 when Plaintiff No. 2 was incorporated through predecessor-in-interest and have developed a strong presence over the decades. Thereafter, in the year 1997, Plaintiff No. 1 incorporated a subsidiary, Novartis Healthcare Private Limited, i.e., Plaintiff No. 3 for marketing its products in India. The Plaintiffs and their group companies have invested huge amounts to create reputation and goodwill.
 - 2.3. The Plaintiffs created and adopted the Plaintiffs' Marks in the year 1996 and have been continuously using the Plaintiffs' Marks since then, in India and throughout the world. As a consequence of high standard of quality of the medicines and allied products and extensive use of the Plaintiffs' Marks, the same have gained



an enviable and widespread reputation and goodwill in the relevant market. The Plaintiffs' Marks denote and connote the origin and source of goods originating from the Plaintiffs. The Plaintiffs' Marks forms a part of the Trade Name of various other Novartis Group of Companies in other jurisdictions as well and is a House Mark of the Plaintiffs. The Plaintiffs' Mark, 'NOVARTIS' has been registered since 1996 in over 100 jurisdictions in the world including in India. The details of registration of the Plaintiffs' Mark, 'NOVARTIS', in India are as under:

Trade Mark	Registration Number	Date of Registration	Classes
NOVARTIS	700020	28.02.1996	05
NOVARTIS	IRDI-3050272	28.04.2015	01, 03, 05, 09, 10, 16, 29, 30, 31, 32, 35, 40, 41, 42 & 44
	711148	11.04.1996	05

2.4. On account of long and continuous use, extensive advertising campaign, marketing network and enormous sale of the Plaintiffs' Marks, the Plaintiffs' Marks have acquired enviable goodwill and reputation amongst the members of the trade and public at large. This formidable goodwill and reputation have been achieved by the Plaintiffs' Marks on account of extensive advertising and promotion through various media, as well as



through extensive sales. Courts have consistently held that volume of sales and promotion are valid indicia to evaluate distinctiveness, goodwill and reputation of a Trade Mark. The annual sales figures of Plaintiff No. 2 for the Financial Years (“FY”) 2007-08 to FY 2022-23, is as under:

YEAR	Net Sales Turnover (in INR millions)
2007-2008	5,535
2008-2009	5,995
2009-2010	6,241
2010-2011	7,086
2011-2012	7,928
2012-2013	8,465
2013-2014	8,104
2014-2015	8,122
2015-2016	7,222
2016-2017	5,836
2017-2018	4,980
2018-2019	4,322
2019-2020	3,997
2020-2021	3,565
2021-2022	3,754
2022-2023	3,672

2.5. Defendant No. 1, Noviets Pharma, is an entity engaged in the business of sale and distribution of pharmaceutical products. Defendant No. 2, Noviets Veterinary Private Limited is a company incorporated under The Companies Act, 2013. Defendant No. 3, Ranjeet Kumar, is the CEO of the Noviets Group of Companies. Defendant No. 4, Noviets Pharmaceuticals Private Limited, is a company incorporated under the Companies



Act, 2013. According to Defendant No. 3, there are various companies under the name Noviets which belong to him therefore, Defendant Nos. 1, 2, 3 and 4 are all interconnected and dealing in pharmaceutical and veterinary products under the

Marks, 'NOVIETS' and '' (**"Impugned Marks"**).

- 2.6. In the month of January 2024, the Plaintiffs came across the products of the Defendants under the Impugned Marks on e-commerce website, Indiamart, which is accessible to customers in Delhi. In the month of October 2020 also, the Plaintiffs had come across the Trade Mark Application No. 3785550 filed by Defendant No. 3 for the registration of the Impugned Mark, 'NOVIETS' in Class 05 for goods being 'Medicinal and Pharmaceutical Preparations under Class 5'. Thereafter, the Plaintiffs conducted an online search upon which the Plaintiffs became aware of Defendant Nos. 1, 2 and 4 as well.
- 2.7. Accordingly, the Plaintiffs sent various legal notices dated 27.10.2020, 17.07.2021, 11.01.2022 and 24.02.2022 (**"Legal Notices"**) to Defendant Nos. 1, 2 and 3, but the Plaintiffs did not receive a response to these Legal Notices. The Plaintiffs further initiated Opposition proceedings against the Trade Mark Application No. 3785550 filed by Defendant No. 3 for the registration of the Impugned Mark, 'NOVIETS' in Class 05, and



the Trade Mark Application No. 3785550 came to be abandoned by the Defendants.

- 2.8. The Plaintiffs further sent a cease and desist notice dated 26.07.2022 to the Trade Marks Agent of Defendant No. 3, upon which the Plaintiffs received a reply to the Cease and Desist Notice from Defendant No. 3 stating that the Plaintiffs' Marks and the Impugned Marks are completely different and further, Defendant No. 3 had received registration for the Impugned

Mark,  under Trade Mark Application No. 3835092. A comparative table of the Plaintiffs' Marks and the Impugned Marks is as under:

Plaintiffs' Marks	Impugned Marks
NOVARTIS	NOVIETS
	

- 2.9. The Defendants have adopted the Impugned Marks which are visually, phonetically and structurally deceptively similar to the Plaintiffs' Marks for identical goods being pharmaceuticals. The colour combination and arrangement of features of the competing Marks are tell-tale of dishonest adoption and deliberate imitation. The Defendants have merely replaced the letters 'AR' with 'IE' and the letter 'I' has been removed from the Plaintiffs' Mark, 'NOVARTIS' to form the Impugned Mark, 'NOVIETS'. The description 'Serving Health Better' and '+'



sign in letter ‘O’ in the Impugned Marks are added matter which are of no significance to the act of infringement. The Defendants’ adoption and use of the Impugned Marks amounts to infringement under Section 29(2), (4), (5) and (6) of the Trade Marks Act, 1999 (“Act”) for which reliance can be placed upon the judgments in *Amritdhara v. Satya Deo*, AIR 1963 SC 449, *Corn Products v. Shangrila Food*, 1959 SCC OnLine SC 11, *Ruston & Hornsby v. Zamindara Eng.*, (1969) 2 SCC 727, *Macleods v. Union of India 2023*, SCC OnLine Bom 408 (DB), *Medley v. Alkem*, 2002 SCC OnLine Bom 444 (DB), *Bloomberg Finance v. Praful*, 2013 SCC OnLine Del 4159 and *Novartis v. Novaegis*, CS(COMM) 86 of 2023.

2.10. The registration of the Impugned Mark,  is not a defence for an infringement action. Under Section 124(5) of the Act this Court is empowered to grant interim injunction even against a registered Trade Mark, if such registration violates proprietary rights of an earlier Trade Mark. The judgments in *Raj Kumar v. Abott*, 2014 SCC OnLine Del 7708 (DB), *Corza v. Future Bath*, 2023 SCC OnLine Del 153 (DB), *Dr. Reddys v. Fast Cure*, 2023 SCC OnLine Del 4953, *Mankind Pharma v. Sepkind* 2024 SCC OnLine Del 8982 and *National Insurance v. Pranay Sethi*, (2017) 16 SCC 680 held that an interim injunction can be granted against the proprietor of a registered trade mark.



2.11. The Supreme Court in *S. Syed Mohideen v. P. Sulochna* (2016) 2 SCC 683 and *N.R. Dongre v. Whirpool*, (1996) 5 SCC 714, have held that the defendant's trade mark registration is no defence to the tort of passing off and the same is, therefore, irrelevant. The proprietary right to a trade mark exists on account of prior use and the registration merely amounts to recordal thereof. If there is no prior use, there is no proprietary right, and none can be conferred by the registration in respect of a Trade Mark, which is likely to cause confusion or deception or whose use is detrimental to reputation of an earlier trade mark.

2.12. The pleadings and evidence on record have established that Plaintiffs' Marks have acquired formidable goodwill and reputation as of 2018-19 in India, i.e., the purported and alleged date of adoption by the Defendants. The annual sales during the FY 2018-19 were to the tune of ₹4,32,20,00,000 in India. The Plaintiffs have taken pain to promote the Plaintiffs' Marks in Jharkhand and Bihar where Defendants are located, at least since 2007 by extensive activities under its rural program Arogya Parivar. Therefore, the Defendants were well-aware of the goodwill and reputation of Plaintiffs' Marks.

2.13. The Defendants have not only adopted a phonetically and visually deceptively similar mark but also copied the Plaintiffs'

Mark, ', in terms of colour combination and placement of features. India being a



multilingual country and there being close phonetic similarity between the marks, there are high chances of slurring of the mark 'NOVIETS' for 'NOVARTIS'. There exists high likelihood of confusion and deception apart from likelihood of injurious association in the minds of consumers. The Supreme Court in *Cadilla Healthcare Ltd. v. Cadilla Pharmaceuticals Ltd*, (2001) 5 SCC 73 has held that while judging deceptive similarity between competing marks used in pharmaceutical sector, stricter approach is applied. The staff of the pharmacists and chemists are not always literate, and the handwriting of the doctors is often illegible, thus confusion and deception is inevitable. Public interest supports lesser degree of proof showing confusing similarity in the case of trade mark in respect of medicinal products as against other non-medicinal products. Confusion between medicinal products may be life threatening, not merely inconvenient and could have dire effects on public health.

2.14. This Court has the jurisdiction to entertain the present Suit as the Defendants are carrying on business from within the jurisdiction of this Court through the interactive website of IndiaMart. Further, the 'Contact us' page on Defendants' IndiaMart page shows the Defendants' place of business as 'Delhi'. Only averments in the Plaint are to be looked into for the purpose of jurisdiction. The principle of dynamic effect and mere looming presence on the internet will also confer jurisdiction on this Court. Notwithstanding, as per the Defendants' own admission /



documents they are carrying on business all across India and not exclusively in Bihar & Jharkhand. This Court in judgment dated 24.11.2025 in *Sun Pharmaceutical Industries Ltd. v. Artura Pharmaceuticals Pvt. Ltd.*, CS(COMM) 1038/2024, held that the question whether the contact us page of the impugned website has led to sales in Delhi would require to be examined by way of evidence by both the parties and therefore the extent and nature of the defendant's online activities, mentioning of the impugned marks on the website having contact us page are sufficient to establish the jurisdiction of this Court and permit the suit to move forward rather than returning the plaint at the preliminary stage.

- 2.15. The Plaintiffs have made a *prima facie* case of infringement and passing off in their favor as the Defendants have adopted deceptively similar Marks for goods identical as those of the Plaintiffs under the Plaintiffs' Marks which were adopted prior to the adoption of the Impugned Marks. The balance of convenience is in Plaintiffs' favor, and the Defendants have only started business under the Impugned Marks allegedly in the year 2018, much subsequent to the Plaintiffs. Irreparable injury will be caused to the Plaintiffs' reputation and goodwill if Defendants are not enjoined as Plaintiffs have no control over quality of products sold by Defendants and sub-standard products / services will lead to tarnishing the Plaintiffs' Marks.



2.16. It has been settled in the judgments in *Midas Hygiene v. Sudhir Bhatia*, (2004) 3 SCC 90, *BK Engineering v. Ubhi*, ILR (1985) I Delhi (DB), *TV Venugopal v. Ushodaya Enterprises*, (2011) 4 SCC 85 and *Lakshmikant Patel v. Chetanbhai Shah*, (2002) 3 SCC 65, that in cases of infringement and passing off, injunction must follow. The Defendants' conduct is *mala fide*, dishonest and unlawful and amounts to infringement of Plaintiffs' Marks, passing off and unfair competition. Being in the identical business of pharmaceuticals, the Defendants ought to be aware of the Plaintiffs' Marks.

SUBMISSIONS ON BEHALF OF THE DEFENDANT NOS. 1 TO 3:

3. The learned Counsel for Defendant Nos. 1 to 3 made the following submissions:

3.1. The present Suit has been wrongly instituted by the Plaintiffs, who seek to restrain the Defendants from carrying on their *bona fide* business under the Impugned Marks. Defendant Nos. 1 to 3 are independent, small-scale enterprises based in Begusarai and Patna, Bihar, engaged in the legitimate trade of pharmaceuticals and veterinary products under the Trade Name, 'Noviets Veterinary Private Limited'. The adoption of the Impugned Marks is honest, distinctive, and unconnected to the Plaintiffs' Marks, which are neither visually, phonetically, nor structurally similar. Defendant Nos. 1 to 3's operations are confined to localized offline markets in Bihar. There is no business, sale, or solicitation by Defendant Nos. 1 to 3 within the jurisdiction of



Delhi. Consequently, no cause of action has arisen in Delhi within the meaning of Section 20 of the CPC and the Plaint is liable to be rejected under Order VII Rule 11 of CPC.

- 3.2. The Plaintiffs, by invoking Section 134(2) of the Act, are attempting to misuse the additional forum provision to institute proceedings in a jurisdiction that has no connection with the present dispute. The Defendant Nos. 1 to 3 website is merely passive and informational and does not enable any commercial transactions. Mere accessibility of such a website cannot confer jurisdiction on this Court. The Plaintiffs have also deliberately undervalued the suit, contrary to the requirements of Section 12 of the Commercial Courts Act, 2015, only to improperly invoke the jurisdiction of this Court. The present proceedings are, therefore, vexatious, amount to forum shopping, and constitute an abuse of process, liable to be dismissed at the very threshold.
- 3.3. It is a settled principle that if, on a meaningful reading of the plaint, it appears to be vexatious, meritless, or discloses no real cause of action, the Court must reject it. The Supreme Court in ***Dahiben v. Arvinbhai Kalyanji Bhanushali***, (2020) 7 SCC 366 has clarified that clever drafting cannot be permitted to create an illusion of a cause of action. Similarly, this Court in ***St. Ives Laboratories Inc. v. Arif Perfumers***, (2009) 40 PTC 104, held that the absence of evidence of business within jurisdiction disentitles the plaintiff from maintaining the suit. Applying these



principles, the plaint filed by the Plaintiffs herein discloses no cause of action in Delhi and the Plaint is liable to be rejected.

- 3.4. The Plaintiffs' reliance on Section 134(2) of the Act is also wholly misplaced. The Supreme Court in ***Indian Performing Right Society Ltd. v. Sanjay Dalia***, (2015) 10 SCC 161 has held that the said provision cannot be misused for forum shopping, and that the plaintiff cannot institute a suit in a forum having no nexus with the dispute merely because it carries on business there. In the present case, the Plaintiffs have a pan-India presence yet deliberately chosen Delhi despite no part of the cause of action arising here.
- 3.5. The Impugned Marks are visually, structurally, and phonetically distinct from the Plaintiffs' Marks. The prefix 'NOV' is a common expression in the pharmaceutical industry, derived from 'nova' or 'new,' and is widely used by numerous third parties. The Plaintiffs cannot claim monopoly over such a generic expression. When compared as a whole, the overall look, sound, and impression of the Impugned Mark 'NOVIETS' differs significantly from that of the Plaintiffs' Mark, 'NOVARTIS', and the average consumer exercising ordinary caution will not be confused or deceived. Defendant Nos. 1 to 3 adopted the Impugned Marks honestly and independently for the purpose of their business. The adoption was *bona fide*, unconnected to the Plaintiffs' Marks, and without any *mala fide* intent. Defendant Nos. 1 to 3 have used the Impugned Marks for their independent



business in Bihar without attempting to ride upon the Plaintiffs' goodwill or reputation.

3.6. The Defendant Nos. 1 to 3 are using the Mark, 'NOVIETS' only as their Trade Name and not as a brand name for any pharmaceutical product or medicine. The adoption of 'Noviets Pharma' is strictly in the capacity of a business identifier and not as a Trade Mark for goods. The products marketed by Defendant Nos. 1 to 3 are sold under different and independent brand names, each of which carries its own distinct packaging, logos, and trade dress. In such circumstances, the Plaintiffs' allegation of Trade Mark infringement is wholly misconceived, as the alleged use is not in relation to any goods or services but merely as a trade name. The Act does not prohibit the *bona fide* use of one's own Trade Name, especially where the same is adopted honestly and without *mala fide* intent. The Plaintiffs have not produced any material to demonstrate that Defendant Nos. 1 to 3 are using 'NOVIETS' as a product brand so as to cause confusion in the minds of consumers. The present matter is, therefore, unfounded and unsustainable.

3.7. The Plaintiffs have failed to establish infringement or passing off. Defendant Nos. 1 to 3 products are distributed solely through offline channels in Bihar and are marketed under distinct packaging, trade dress, and logos. The Plaintiffs' allegations of copying colour schemes or devices are bald assertions, unsupported by documentary evidence. It is trite law that passing



off requires proof of misrepresentation, likelihood of confusion, and damage to goodwill. In *Impresario Entertainment & Hospitality Pvt. Ltd. v. S&D Hospitality*, 2018 SCC OnLine Del 6392, this Court reiterated that mere assertions, without evidence of targeting or confusion, are insufficient. Similarly, in *Karans Gurukul Classes v. Gurukul Classes IIT Division*, 2019 SCC OnLine Del 8444, this Court held that mere interactivity or similarity in name is not enough, the plaintiff must prove actual targeting of customers in the jurisdiction. No such evidence has been led here. The Plaintiffs' claims are therefore unfounded.

- 3.8. The Plaintiffs' claim of dilution under Section 29(4) of the Act is wholly untenable. To establish dilution, the Plaintiffs must demonstrate reputation in India, the use of the Impugned Marks without due cause, and unfair advantage or detriment caused to the distinctive character of the Plaintiffs' Marks. None of these elements are satisfied here. The adoption of the Impugned Marks is *bona fide*, honest, and geographically confined to Bihar. There is no use without due cause, nor any unfair advantage taken. This Court in *Pankaj Ravjibhai v. SSS Pharmachem Pvt. Ltd.*, 2023 SCC OnLine Del 7013 reiterated that a claim of dilution requires strict proof, and bald assertions are insufficient. No such proof has been furnished by the Plaintiffs in the present case. The allegations of dilution and unfair competition are therefore misconceived and unsustainable.



3.9. It is evident that the present Suit is devoid of merits and has been instituted in a forum with no territorial nexus to the Defendants. The Plaintiffs have deliberately indulged in forum shopping, undervalued the Suit to invoke pecuniary jurisdiction improperly, and advanced baseless allegations of infringement, passing off, and dilution, none of which stand the test of law. The Defendants' adoption and use of the Impugned Marks is *bona fide*, honest, and entirely distinct from the Plaintiffs' mark, and no cause of action arises within the jurisdiction of this Court. Accordingly, this Court may be pleased to dismiss the Plaint at the threshold under Order VII Rules 10 and 11 of CPC.

ANALYSIS AND FINDINGS:

Territorial Jurisdiction

4. Defendant Nos. 1 to 3 contend that even though the Plaintiffs have filed the present Suit before this Court, no cause of action arises in Delhi, as Defendant Nos. 1 to 3 are dealing with the pharmaceutical and veterinary products in localised offline markets in Begusarai and Patna, Bihar and, therefore, the cause of action for the present Suit has arisen in Begusarai and Patna, Bihar. Further, Defendant Nos. 1 to 3's online listing is merely passive and informative and does not enable any commercial transaction and Defendant Nos. 1 to 3 are located in Begusarai and Patna, Bihar. Therefore, according to Defendant Nos. 1 to 3, Begusarai and Patna, Bihar is the proper jurisdiction for hearing the present Suit. *Per contra*, the Plaintiffs have submitted that since a part of the cause of action has arisen in Delhi, the present Suit can be filed in Delhi. The Plaintiff contends that when a cause of



action arises in more than one place, the Plaintiffs have the right to file the Suit in any one of those places.

5. At this preliminary stage, the objection to jurisdiction is to be decided by demurrer, thereby all pleaded facts are assumed to be true, and the Plaintiffs are not required to prove those facts through leading evidence. The demurrer principle requires the Court to assume the correctness of all averments made in the Plaint and determine whether, even while accepting those facts to be true, the Court lacks jurisdiction as a matter of law.

6. It is settled law that when jurisdiction is challenged by way of demurrer and not at trial, the objection must proceed on the basis that the facts as pleaded are true, and the objection can succeed only if it is demonstrated that granted those facts, the Court does not have jurisdiction as a matter of law. In Trade Mark infringement and passing off suits, Section 20 of the CPC governs territorial jurisdiction, which arises where the wrong has occurred or where the cause of action, in whole or in part, arises within the jurisdiction of the Court.

7. The Plaintiffs have pleaded that this Court has the jurisdiction to entertain the present Suit as the Defendants are carrying on business from within the jurisdiction of this Court through the website of IndiaMart. Further, the 'Contact us' page on Defendants' IndiaMart page shows the Defendants' place of business as 'Delhi'. In view of the same, the principle of dynamic effect and mere looming presence on the internet will confer jurisdiction on this Court as the Defendants have themselves shown their place of business at Delhi and have not denied the fact of mentioning such fact.



8. Accordingly, it is *prima facie* shown that the Defendants have made its products accessible to consumers in Delhi through internet platforms, and that the Defendants are purposefully availing itself of the forum by maintaining an online presence that is accessible to and targets consumers in Delhi by mentioning the place of business as Delhi thereby creating the potential for confusion and deception among Delhi-based consumers.

9. The Defendant Nos. 1 to 3's contention that the IndiaMart listing for the Defendant's product is merely passive and does not facilitate commercial transactions requires further leading of evidence and cannot be conclusively determined at this stage without examination of the complete functionality of the 'Contact Us' page of the Defendants' IndiaMart listing. The functionality of the Defendants' IndiaMart listing can reasonably be construed as facilitating commercial transactions, and the question as to whether the same amounts to sufficient interactivity to establish jurisdiction, is a mixed question of law and fact requiring determination at the stage of trial.

10. As has been held by this Court in in *Sun Pharmaceutical* (supra), that the question whether the 'contact us' page of the impugned website has led to sales in Delhi would require to be examined by way of evidence by both the parties and, therefore, the factum of extent and nature of the defendant's online activities, mentioning of the impugned marks on the website having 'contact us' page are sufficient to establish the jurisdiction of this Court and permit the suit to move forward rather than returning the plaint at the preliminary stage.



11. In view of the above, the plea of lack of territorial jurisdiction is rejected at this *prima facie* stage. The Defendants would always have the right to raise the issue of territorial jurisdiction at the stage of trial.

Deceptive Similarity of the Impugned Marks to the Plaintiffs' Marks

12. The Plaintiffs have pleaded that the Plaintiffs' Marks serve as source indicator for the products provided by the Plaintiffs and, therefore, the Plaintiffs' Marks have attained a distinctive character and have become identifiers, and distinguish the goods of the Plaintiffs from those of other parties, including, from those of the Defendants. By extensive, continuous, and prolonged usage, the public at large commonly associates the Mark 'NOVARTIS', with the Plaintiff. The Impugned Marks are deceptively similar to the Plaintiffs' Marks. The Plaintiffs have obtained registrations over the Mark, 'NOVARTIS', in Class 05, with the earliest registration in the year 1996.

13. The Plaintiffs are one of the largest manufacturers of pharmaceutical products across the globe and in India. The Defendants are manufacturing and selling pharmaceutical products under the Impugned Marks.

14. The test of infringement and passing off laid down in the decisions of in *Amritdhara Pharmacy* (supra), *Corn Products* (supra), *Ruston & Hornsby* (supra), *Macleods* (supra), *Medley* (supra), *Bloomberg Finance* (supra) and *Novartis* (supra) have been made out in the present case. The Plaintiffs' Marks and the Impugned Marks are deceptively similar, they are visually and phonetically similar, the nature of the rival Marks is similar, the consumer base and the class of consumers is also similar. The Plaintiffs and the Defendants are dealing in a similar category and class of products. The



Plaintiffs have established that the Defendants have not only infringed the Plaintiffs' Marks, but the Defendants have also tried to pass off the Defendants' products as the products of the Plaintiffs.

15. Defendant Nos. 1 to 3 submission is that Defendant Nos. 1 to 3 are using the Mark, 'NOVIETS' only as their Trade Name and not as a brand name for any pharmaceutical product or medicine. The adoption of 'Noviets Pharma' is strictly in the capacity of a business identifier and not as a Trade Mark for goods. However, this submission does not constitute a valid defence against infringement or passing off.

16. In cases of infringement and passing off of Trade Marks an injunction must follow and as held in *Midas Hygiene* (supra), *BK Engineering v. Ubhi*, (supra), *TV Venugopal* (supra) and *Lakshmikant Patel* (supra). Accordingly, the Defendants have failed show a plausible reason as to how the Defendants came up with the Impugned Marks, accordingly, *prima facie* the use of the Impugned Marks is dishonest.

Goodwill and Reputation

17. The Plaintiffs have demonstrated the goodwill and reputation acquired by the Plaintiffs' Marks. Plaintiff No. 2 has earned significant revenue of ₹3,67,20,00,000 for the FY 2022-2023 in India by selling the Plaintiffs' products under the Plaintiffs' Marks. The Plaintiffs are promoting the Plaintiffs' Marks through the Plaintiffs' websites, which are accessible in India and generates huge traffic.

18. It is implausible that the Defendants were not aware of the Plaintiffs and the Plaintiffs' Marks considering the overwhelming goodwill of the Plaintiffs. Accordingly, the use of the Impugned Marks, is *prima facie*



dishonest and appears to be an attempt to ride on the goodwill and reputation of the Plaintiffs' Marks.

Likelihood of Confusion

19. The likelihood of confusion amongst the minds of the consumers is very high given the allied and cognate nature of goods. The use of the Impugned Marks by the Defendants is likely to cause confusion that the Defendants are connected with the Plaintiffs as the Impugned Marks are deceptively similar to the Plaintiffs' Marks. It is trite law that mere likelihood of confusion is enough to establish a case of infringement of Trade Marks and actual confusion is not required to be demonstrated.

20. Further, the test of confusion is to be seen from the perspective of an average person with imperfect recollection getting confused and in view of the Plaintiffs' Marks and the Impugned Marks being almost identical, any ordinary person would get confused and would not be able to distinguish between the Plaintiff's Marks and the Impugned Marks. Replacing the letters 'AR' with 'IE' and removing the letter 'I' from the Plaintiffs' Mark, 'NOVARTIS' to form the Impugned Mark, 'NOVIETS', is not enough to distinguish the goods of the Defendants from those of the Plaintiffs. A consumer of average intelligence and imperfect recollection would be unable to distinguish between the competing products. The substantial similarity in the competing Trade Marks coupled with the confined branding space, significantly increases the risk of confusion in the minds of the public.

21. As has been pleaded by the Plaintiffs that the Defendants have not only adopted a phonetically and visually deceptively similar Mark but also adopted



the Impugned Mark, ‘’, which has been copied from the

Plaintiffs’ Mark, ‘’, in terms of colour combination and placement of features. India being a multilingual country and there being close phonetic similarity between the rival Marks, there are high chances of slurring of the Mark ‘NOVIETS’ for ‘NOVARTIS’. There exists high likelihood of confusion and deception apart from likelihood of injurious association in the minds of consumers. The Supreme Court in *Cadilla Healthcare* (supra) has held that while judging deceptive similarity between competing marks used in pharmaceutical sector, stricter approach is required. The staff of the pharmacists and chemists are not always literate and the handwriting of the doctors are often illegible, thus confusion and deception is inevitable. Public interest supports lesser degree of proof showing confusing similarity in the case of trade mark in respect of medicinal products as against other non-medicinal products. Confusion between medicinal products may be life threatening, not merely inconvenient and could have dire effect on public health.

22. It is settled law that the ‘initial interest confusion’ test proceeds on the principle that confusion in the minds of consumers may arise at the preliminary stage, prior to the actual purchase being completed. At the point of finalising the transaction, the consumer may no longer be in doubt as to the true origin of the goods or services. Nonetheless, even such transient confusion at the initial stage is sufficient to meet the requirement of deceptive similarity under Section 29 of the Act. The infringer’s objective may be served



merely by diverting the consumer's initial attention. The consumer may, thereafter, consciously opt for the infringer's product on account of its own characteristics, with complete knowledge that it is unconnected with the registered Trade Mark. The Defendants' use of the Impugned Marks appears to be with intent of causing confusion in the minds of the customers to increase the revenue of the Defendants by adopting the Impugned Marks which are deceptively similar to the Plaintiffs' Marks.

Passing Off:

23. The Plaintiffs have made a *prima facie* case of passing off as they have shown substantial goodwill for the goods under the Plaintiffs' Marks through the revenue earned by the Plaintiffs and the awards received by the Plaintiffs in the field of medicines across the globe and in India. As the Plaintiffs have been able to demonstrate the likelihood of confusion, the Plaintiffs are likely to suffer loss of reputation, if the goods of the Defendants are allowed to pass off as those of the Plaintiffs.

Generic and Common to Trade

24. It is contended by the Defendant Nos. 1 to 3 that the prefix 'NOV' is generic and common to trade and is derived from the word 'Nova' or 'New'. The Defendants have themselves applied for the registration of the Impugned Marks. The defence of the use of the prefix 'NOV' being common to trade is not available to the Defendants as the Defendants themselves have applied for the registration of the Impugned Marks. The Defendants are not allowed to approbate and reprobate and take contrary stands. Having sought registration over the Impugned Marks, the Defendants cannot claim that the prefix 'NOV' is common to trade.



25. The Plaintiffs' Marks have amassed considerable goodwill and are neither generic, descriptive or common to trade. The Mark, 'NOVARTIS' with respect to pharmaceuticals is linked exclusively with the Plaintiffs and therefore the defence of generic and common to trade is not available to the Defendants.

Dominant Feature Test

26. The dominant feature of the Impugned Marks is the prefix 'NOV', which is identical to the suffix in the Plaintiffs' Mark, 'NOVARTIS' which is being used by the Plaintiffs since 1996. Applying the dominant feature test to the present case, the dominant feature of the Impugned Marks is clearly the prefix 'NOV' and the Impugned Mark, 'NOVIETS' is also deceptively similar to the Plaintiff's Mark, 'NOVARTIS'.

27. The dominant feature of the Plaintiffs' Marks and the Impugned Marks, i.e., the prefix 'NOV', is identical. Applying the dominant feature test, a *prima facie* case of infringement is made out.

CONCLUSION

28. Having considered the submissions advanced by the learned Counsel for the Parties, the pleadings and documents on record, a strong *prima facie* case has been made out on behalf of the Plaintiffs for grant of an interim injunction.

29. This is a case of triple identity where the Plaintiffs' Marks and the Impugned Marks are deceptively similar, the product category is identical and the trade channel as also the consumer base is identical. The identity in the Impugned Marks is so close to the Plaintiffs' Marks that they are indistinguishable.



30. The Plaintiffs have established their prior user and registration as well as goodwill and reputation, based on the documents on record. Injunction is a relief in equity, and in view of the aforesaid discussion, the balance of convenience is in favour of the Plaintiffs and against the Defendants. Grave prejudice is likely to be caused to the Plaintiffs if interim injunction as prayed for is not granted in favour of the Plaintiffs and against the Defendants.

31. In view of the above analysis, it is directed that the Defendants, their directors, proprietors, partners, associates, assigns or assignees in interest, heirs, successors or successors in interest, permitted assigns, sister concerns or group companies, distributors, dealers, wholesalers, retailers, stockiest, agents and all others acting for and on their behalf are restrained from using, soliciting and advertising in any manner including on the internet and e-commerce platform, directly or indirectly dealing in pharmaceuticals and veterinary products under the Impugned Marks, 'NOVIETS' and

‘’, either as a Trade Mark and / or Trade Name and / or any other Trade Mark which is identical and / or deceptively similar to the

Plaintiffs’ Marks, ‘NOVARTIS’ and ‘’, so as to cause infringement and / or passing off of the Plaintiffs’ Marks.

32. The present Application stands disposed of.

TEJAS KARIA, J

FEBRUARY 28, 2026

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