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

+ CS(COMM) 178/2022

**BRISTOL MYERS SQUIBB HOLDINGS IRELAND
UNLIMITED COMPANY & ORS. Plaintiffs**

Through: Ms. Prachi Aggawal, Ms.
Ridhie Bajaj and Ms. Richa Bhargava, Advs.

versus

ANGLE BIO PHARMA & ORS. Defendants

Through: Mr. Anchit Bhandari, Adv for
D-1

Mr. Guneet Sidhu, Adv for D-2

Mr. Pawas Agarwal, Adv. for D-3

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

17.05.2023

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CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

17.05.2023

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1. The disputes between the plaintiffs and all the defendants stand settled. The plaintiffs and the defendants are represented by their respective learned Counsel. The terms of the settlement are as under:

The Settlement Agreement dated 21st February 2023 with Defendant 1:

“1. The Defendant No. 1 acknowledges the validity of the Plaintiff No. 1's patent, IN 247381 during its term which expired on September 17, 2022.

2. The Defendant No. 1 confirms that till date, they never manufactured, sold or exported 'Apixaban' and they have further discontinued using, promoting, distributing, offering for sale, or otherwise dealing in 'Apixaban' and/ or any of its pharmaceutically acceptable salts in any form (API or finished formulation under any the brand name whatsoever).

3. The Defendant No. 1, neither sold any unit of Apixaban to any third party, nor made/earned any profit(s) out of the sale of Apixaban, in any form till date. The undertakings given above by the Defendant No. 1 shall be binding henceforth on the Defendant No. 1, their associates, representatives, successors, partners, agents, employees, affiliates and assignees-in-business.

4. That the Defendant No. 1 undertakes and submits an undertaking to the effect that during the term of the suit patent, the Defendant No. 1 did not launch any infringing products. The affidavit of Mr. Mehul Kumar Varma, proprietor of Defendant No. 1 is annexed as Annexure-E.

5. Subject to Defendant No. 1's undertakings in Clauses 2, 3 and 4 of this Settlement Agreement, the Plaintiffs agree to forego prayers at para 90 (b), (d), 90(e) and 90(f) for any damages, rendition of accounts and costs from the Defendant No. 1.

6. The present suit may be decreed in terms of the prayers in the suit, except to the extent stated in Para 5 hereinabove, and aforesaid terms and the Plaintiffs are entitled to seek MI refund of the court fees paid by it under Section 16 of the Court Fees Act, 1870.

7. That in case of any breach of the terms of settlement, the Plaintiffs reserve their right to seek any remedies available to them in law and equity including a right to revive the suit and claim damages against the Defendant No. 1.

8. The Parties agree that they have executed the present Settlement Agreement of their own free will and volition, without any force or pressure from any person. The Parties also agree that they have understood the contents of the present Settlement Agreement as the same have been explained to them by the Mediator and their respective counsel, in the presence of each other and they have consented to the same in its true letter and spirit, and as such they shall not dispute the same ever in future.

9. The Parties agree that they shall abide by the terms and conditions set out in the present Settlement Agreement and shall not dispute the same hereinafter in future either themselves or through any third parties. The Parties further agree that the statements made by them herein in this Settlement Agreement shall be taken as their respective undertakings before the Hon'ble Court.

10. The Parties hereto state that they have no further claims or demands against each other and all the disputes and differences in respect of the subject matter of the present suit have been amicably settled by the Parties hereto through the process of mediation.

11. The Parties undertake to present themselves before the Hon'ble Court during the hearing, either physically, or virtually confirming the terms of the Settlement Agreement.”

The Settlement Agreement dated 6th May 2023 with Defendant 2:

“1. The Defendant No. 2 acknowledges the validity of the Plaintiff No.1's patent, IN 247381 during its term, which expired on September 17, 2022.

2. The Defendant No. 2 confirms that subsequent to filing of the present proceedings, they have taken-down and blocked the infringing listing <https://www.indiamart.com/proddetail/apixaban-api12706450655.html> available on its platform www.indiamart.com, related to 'Apixaban' in any form (API or a finished formulation under any brand name whatsoever) in compliance with the orders passed by this Hon'ble Court in *Bristol Myers Squibb Holdings Ireland Unlimited Company & Ors. v. Angle Bio Pharma & Ors.* bearing number CS(Comm) No. 178 of 2022 dated March 23, 2022, read with order dated April 28, 2022, which is verified and agreed by the Plaintiff.

3. The Defendant No. 2 further undertakes that whenever the Plaintiffs come to know of any other listings of Apixaban or links where Apixaban is listed on Defendant No. 2's website, notice shall be given by the Plaintiffs to the Defendant No. 2 through counsel, upon which, within 5 days, the said listings shall be taken down, in compliance with the applicable guidelines relating to intermediaries. The request for removal of the impugned product shall be accompanied with the relevant details of the infringing product along with Plaintiff No. 1's relevant documents, validly registered and existing Patent Number in relation to such medicine/pharmaceutical product/product etc. The said details shall be sent by either of the Plaintiffs on this email ID: grievance@indiamart.com.

4. The Defendant No. 2 shall acknowledge the complaint within twenty-four hours and dispose-off such complaint within a period of five days from the date of its receipt.

5. Subject to Defendant No. 2's undertakings hereinabove, the Plaintiffs agree to forego prayers at paras 90(b), 90(c), 90(d), 90(e) and 90 (f) for any damages from the Defendant No. 2.

6. The present suit may be decreed in terms of the prayers in the suit, except to the extent stated in Para 5 hereinabove, and aforesaid terms and the Plaintiffs are entitled to seek full refund of the court fees paid by it under Section 16 of the Court Fees Act, 1870.

7. That in case of any breach of the terms of settlement as stated herein, the Plaintiffs reserve their right to seek any remedies available to them in law and equity including a right to revive the suit and claim damages against the said Defendant No. 2.

8. The Parties agree that they have executed the present Settlement Agreement of their own free will and volition, without any force or pressure from any person. The Parties also agree that they have understood the contents of the present Settlement Agreement as the same have been explained to them by the Mediator and their respective counsel, in the presence of each other and they have consented to the same in its true letter and spirit, and as such they shall not dispute the same ever in future.

9. The Parties agree that they shall abide by the terms and conditions set out in the present Settlement Agreement and shall not dispute the same hereinafter in future either themselves, or through any third parties. The Parties further agree that the statements made by them herein, in this Settlement Agreement, shall be taken as their respective undertakings before the Hon'ble Court.

10. The Parties hereto state that they have no further claims or demands against each other and all the disputes and differences regarding the subject matter of the present suit have been amicably settled by the Parties hereto through the process of mediation.

11. The Parties undertake to present themselves before the Hon'ble Court during the hearing either physically, or virtually confirming the terms of the Settlement Agreement.”

The Settlement Agreement dated 22nd February 2023 with Defendant 3:

“1. The Defendant No. 3 acknowledges the validity of the Plaintiff No.1's patent, IN 247381 during its terms which expired on September 17, 2022.

2. The Defendant No. 3 confirms that it has already disabled the impugned link <https://www.tradeindia.com/products/apixaban-c4466094.html> from the trading and e-market place website of the Defendant No.3 i.e. www.tradeindia.com regarding Apixaban that was being offered for sale, in compliance of the order dated 23.03.2022 read with order dated 28.4.2022 passed by the Hon'ble High Court of Delhi in *Bristol Myers Squibb Holdings Ireland Unlimited Company &Ors. v. Angle Bio Pharma & Ors.* bearing number CS(Comm.) No. 178 of 2022.

3. In terms with the orders passed by this Hon'ble Court in

Bristol Myers Squibb Holdings Ireland Unlimited Company & Ors. v. Angle Bio Pharma & Ors. bearing number CS(Comm) No. 178 of 2022 dated March 23, 2022, the Defendant No. 3 states that whenever the Plaintiffs come to know of any other listings of Apixaban or links where Apixaban is listed on Defendant No. 3's website, the Plaintiffs shall send an email for removal of the impugned listing which shall be accompanied with the relevant details and documents of the infringing product, Patent Number, URL/links which is to be removed etc. to the Grievance Officer: Mr. Varghese Mathew on the email:, grievances@tradeindia.com, helpdesk@tradeindia.com.

4. That on the receipt of the said email, the Defendant No.3 shall remove/take down the said listing from its website within 5 working days.

5. If, even after the removal of any infringing listings from Defendant No. 3's website, upon intimation by the Plaintiffs to the Defendant No.3, new listings are found, the Plaintiffs are at liberty to avail any remedy available under law.

6. Subject to Defendant No. 3's undertakings hereinabove, the Plaintiffs agree to forego prayers at paras 90(d) and 90(e) for any damages and costs from the Defendant No. 3.

7. The present suit may be decreed in terms of the prayers in the suit and aforesaid terms and the Plaintiffs are entitled to seek full refund of the court fees paid by it under Section 16 of the Court Fees Act, 1870.

8. That in case of any breach of the terms of settlement, the parties reserve their right to seek any remedies available to them in law and equity including a right to revive the suit.

9. The Parties agree that they have executed the present Settlement Agreement of their own free will and volition, without any force or pressure from any person. The Parties also agree that they have understood the contents of the present Settlement Agreement as the same have been explained to them by the Mediator and their respective counsel, in the presence of each other and they have consented to the same in its true letter and spirit, and as such they shall not dispute the same ever in future.

10. The Parties agree that they shall abide by the terms and conditions set out in the present Settlement Agreement and shall not dispute the same hereinafter in future either themselves, or through any third parties. The Parties further agree that the statements made by them herein, in this Settlement Agreement, shall be taken as their respective undertakings before the Hon'ble Court.

11. The Parties hereto state that they have no further claims or

demands against each other and all the disputes and differences regarding the subject matter of the present suit have been amicably settled by the Parties hereto through the process of mediation.

12. The Parties undertake to present themselves before the Hon'ble Court during the hearing either physically, or virtually confirming the terms of the Settlement Agreement.”

2. The Court has perused the terms of settlement and finds them to be lawful and in order. As such, nothing survives for adjudication in the present suit.

3. The suit stands decreed *qua* Defendant 1 in terms of the Settlement Agreement dated 21st February 2023, Defendant 2 in terms of the Settlement Agreement dated 6th May 2023 and Defendant 3 in terms of the Settlement Agreement dated 22nd February 2023. Decree-sheet be drawn up accordingly.

4. The plaintiffs would be entitled to refund of the court fee paid by them, if any.

C.HARI SHANKAR, J

MAY 17, 2023

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