



\$~39

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

+ **CS(COMM) 466/2025**

VERTEX PHARMACEUTICALS INCORPORATEDPlaintiff

Through: Mr. Pravin Anand, Ms. Tusha Malhotra and Ms. Sugandha Yadav, Advs.

versus

ALIVUS LIFE SCIENCES LIMITEDDefendant

Through: Ms. Rajeshwari H. and Mr. Tahir A.J., Advs.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

14.05.2025

%

I.A. 12146/2025 (*Exemption from pre institution mediation*)

1. *Vide* the present application under *Section 12A* of the Commercial Courts Act, 2015, read with *Section 151* of the Code of Civil Procedure, 1908 (**CPC**), the plaintiff seeks exemption from instituting pre-litigation mediation.

2. Considering the averments made therein and as also since the plaintiff is seeking an *ad-interim* relief and in view of the judgment passed by the Hon'ble Supreme Court in ***Yamini Manohar v. T.K.D. Krithi*** 2024 (5) SCC 815 and followed by a Division Bench of this Court in ***Chandra Kishore Chaurasia vs. R. A. Perfumery Works Private Limited*** 2022:DHC:4454-DB, the plaintiff is exempted from instituting pre-litigation mediation.

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 16/05/2025 at 13:18:00



3. Accordingly, the present application is allowed and disposed of.

I.A. 12145/2025 (*Exemption*)

4. Exemption allowed, subject to all just exceptions.

5. The application stands disposed of.

I.A. 12144/2025 (*Additional documents*)

6. *Vide* the present application filed under *Order XI Rule 1(4)* read with *Section 151* of the CPC, the plaintiff seeks leave of this Court to file additional documents.

7. The plaintiff will be at liberty to file additional documents at a later stage, *albeit*, after initiating appropriate steps, strictly as per the provisions of the Commercial Courts Act, 2015 read with *Section 151* of the CPC and the Delhi High Court (Original Side) Rules, 2018.

8. Accordingly, the present application stands disposed of.

CS(COMM) 466/2025

9. *Vide* the present plaint, the plaintiff seeks grant of a permanent injunction for infringement of registered Indian patent no.282654, rendition of accounts, delivery up and damages.

10. Let the plaint be registered as a suit.

11. Issue summons.

12. Ms. Rajeshwari H, learned counsel appearing for the defendant, accepts summons.

13. Ms. Rajeshwari H, learned counsel at the very outset, on instructions, submits that the defendant is neither commercially dealing at present nor has any future intentions of dealing with any product containing the chemical *Ivacaftor* during the validity of the patent IN 282654 involved in the present *lis*.

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 16/05/2025 at 13:18:00



14. Learned counsel for the defendant further submits that, in fact, the defendant is only engaged in research and development, which is permissible under *Section 107A* of the Patents Act, 1970, as also to the effect that any and all further steps by the defendant will be in consonance with what has been laid down by the Hon'ble Division Bench of this Court in ***Bayer Corporation vs Union of India & Ors.*** (2019) 78 PTC 521 (DB), specifically *paragraph no.112* thereof.

15. The written statement be filed by the defendant within *thirty days*, along with affidavit of admission/ denial of documents of the plaintiff, without which the written statement shall not be taken on record.

16. Replication thereto, if any, be filed by the plaintiff within *fifteen days* from the date of receipt of written statement. The said replication, if any, shall be accompanied by with affidavit of admission/ denial of documents filed by the defendant, without which the replication shall not be taken on record within the aforesaid period of fifteen days.

17. If any of the parties wish to seek inspection of any document(s), the same shall be sought and given within the requisite timelines.

18. List before the learned Joint Registrar for marking exhibits of documents on 13.08.2025. It is made clear that if any party unjustifiably denies any document(s), then such party would be liable to be burdened with costs.

I.A. 12143/2025 (Stay)

19. *Vide* the present application under *Order XXXIX rules 1 and 2* read with *Section 151* of the CPC, the plaintiff seeks the following reliefs:

“a. An order of ex-parte interim injunction restraining the Defendant, its directors, employees, officers, servants, agents, stockist, retailers, wholesalers, distributors, associate and group companies

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 16/05/2025 at 13:18:00



and all others acting for and on their behalf from using, making, selling, distributing, advertising (including on the Defendant's website and any third party websites), exporting, importing and offering for sale, or in any other manner, directly or indirectly, dealing in any product (in any form), including Ivacaftor either as API or any of its pharmaceutically acceptable salt, or finished formulation or in any other form, that infringes the subject matter of Indian Patent No. IN 282654 (Ivacaftor and its pharmaceutically acceptable salts);

b. An ex-parte interim order directing the Defendant, its directors, employees, officers, servants, agents, stockist, retailers, wholesalers, distributors, associate and group companies and all others acting for and on their behalf to take down all the listings on the Defendant's own website and any other third party websites, of the impugned product either as API or any of its pharmaceutically acceptable salt, or finished formulation or in any other form, that infringes the subject matter of Indian Patent No. IN 282654 (Ivacaftor and its pharmaceutically acceptable salts);

c. An ex-parte interim order directing the Defendant to disclose before this Hon'ble Court all necessary details, including name, contact information, details of previous transactions undertaken by the Defendant with respect to Ivacaftor, including manufacture, purchase and sale, including exports, of the same;

d. Such further orders may also be passed, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

20. Issue notice.

21. Ms. Rajeshwari H, learned counsel appearing for the defendant, accepts notice.

22. Reply, if any, be filed by the defendant within four weeks.

Rejoinder thereto, if any, be filed within two weeks thereafter.

23. List before Court on 10.09.2025.

SAURABH BANERJEE, J

MAY 14, 2025/Ab