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

+ **CS(COMM) 534/2024**

GLAXO GROUP LIMITED

.....Plaintiff

Through: Mr. Urfee Roomi, Ms. Janaki Arun,
Ms. Anuja Chaudhury and Mr. Arpit
Singhal, Advocates.

versus

QPHARM HEALTH CARE LIMITED AND ANR.....Defendants

Through: Mr. K.L. Janjani, Mr. Manindra
Dubey and Mr. Kailash J. Kashyap,
Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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05.05.2025

I.A. 41672/2024 (under Section 151 of the CPC)

1. This application has been filed on behalf of the plaintiff under Rule 26 of the Delhi High Court Intellectual Property Rights Division Rules, 2021, seeking transfer of rectification proceedings against trade mark registration no.2551328 from the Trade Marks Registry, Ahmedabad to this Court. The defendants have obtained registrations for the mark 'BETNOTREAT' in Class 5.
2. Counsel for the plaintiff submits that the aforesaid mark is deceptively similar to the plaintiff's 'BETNOVATE' and the plaintiff is the prior user of its 'BETNOVATE' mark.
3. Counsel further submits that the mark 'BETNOTREAT', against

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which rectification is sought, is also one of the marks which is the subject matter of the present suit for infringement of trade marks.

4. It is the mandate of Rule 26 of the Delhi High Court Intellectual Property Rights Division Rules, 2021 that where there are multiple proceedings relating to the same mark, the Court (Intellectual Property Rights Division) shall have the power to direct consolidation of proceedings in order to reduce multiplicity thereof.

4.1. Reference may be made to the order passed by the coordinate Bench on 28th November 2022, in ***Jumeirah Beach Resort LLC v. Designarch Infrastructure Pvt. Ltd. & Anr.*** bearing C.O.(COMM.IPD-TM 124/2022, C.O.(COMM.IPD-TM) 315/2022 and C.O.(COMM.IPD-TM) 124/2021.

5. Since the aforesaid rectification pertains to the 'BETNOTREAT' mark which is the subject matter of the present suit, in my considered view, the aforesaid rectification petition is liable to be transferred to this Court and consolidated with the present suit.

6. Accordingly, the present application is allowed and a direction is issued to the Registry of this Court to summon the record of the rectification petition no.283010 to trademark application no.2551328 in class 5 filed by the plaintiff herein before the Trade Marks Registry, Ahmedabad within a period of six weeks from today.

7. On the physical files being received, the Registry shall scan the files, convert them into electronic files, register the rectification and number the same.

8. Registry shall provide copies of the said petition to the counsel for the parties.

9. List the transferred rectification petition along with the present suit on

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26th August, 2025.

10. The application is disposed of.

CS(COMM) 534/2024 and I.A. 32058/2024 (O-XXXIX Rules 1 & 2 of CPC)

11. Counsel for the parties have been heard briefly.

12. During the course of hearing, it appears that the trade dress used by the defendants is substantially similar to the trade dress of the plaintiff and counsel for the defendant is willing to make necessary changes in the same so as to distinguish it from plaintiff's trade dress.

13. Further, the defendants only have a registration for the mark 'BETNOTREAT', in respect of which the aforesaid rectification petition has been filed. The defendants have not filed any trademark application for the mark 'PIFOL-Z' and the registration application filed on behalf of the defendants for the mark 'TOPMENTIN' has been opposed by the plaintiff and no counter statement thereto has been filed on behalf of the defendants.

14. At this stage, counsel for the parties submit that the matter may be referred for mediation.

15. Accordingly, the parties are referred for mediation to Delhi High Court Mediation and Conciliation Centre ('Centre').

16. Parties along with their respective counsel shall appear before the Centre on 22nd May, 2025 at 3 PM.

17. List on 26th August, 2025.

18. Interim orders dated 3rd July, 2024 to continue.

AMIT BANSAL, J

MAY 05, 2025

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