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

+ CS(COMM) 766/2025
INCYTE HOLDINGS CORPORATION & ORS.Plaintiffs

Through: Ms. Mamta R. Jha, Mr. Siddhant
Sharma and Mr. Abhay Tandon,
Advocates.

versus

AEON FORMULATIONS PVT. LTD.Defendant
Through:

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA

% **ORDER**
30.07.2025

I.A. 18162/2025 (Exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The Application stands disposed of.

I.A. 18163/2025 (Exemption from dividing the documents)

3. Exemption is granted, subject to all just exceptions.
4. Accordingly, the application stands disposed of.

I.A. 18164/2025(to mask the identities of the parties)

5. The Plaintiff apprehends failure of the Local Commissions if the identity of the Defendant is revealed and has requested masking of identities of the parties, till the filing of the report of the Local Commissioners in compliance with the Practice Direction No.139/Rules/DHC dated 27.05.2025.



6. Exemption is granted, subject to all just exceptions.

7. Accordingly, the application stands disposed of.

I.A. 18156/2025 (Exemption from advance service to the Defendant)

8. This is an Application filed by the Plaintiffs under Section 151 of the Code of Civil Procedure, 1908 (“CPC”), seeking exemption from advance service to the Defendant.

9. Ms. Mamta R. Jha, learned Counsel for the Plaintiffs, submitted that there is a real and imminent likelihood that the Defendant may take immediate steps to dispose of, conceal or suppress its infringing business operations and digital footprints bearing the deceptively similar Trade Mark.

10. In view of the fact that the Plaintiffs have sought an urgent *ex-parte ad-interim* injunction along with the appointment of the Local Commissioners, the exemption from advance service to the Defendant is granted.

11. The Application is disposed of.

I.A. 18157/2025 (Exemption from pre-institution Mediation)

12. This is an Application filed by the Plaintiff seeking exemption from instituting pre-litigation Mediation under Section 12 A of the Commercial Courts Act, 2015 (“CC Act”).

13. As the present matter contemplates urgent interim relief, in light of the judgment of the Supreme Court in *Yamini Manohar v. T.K.D. Krithi* 2023 SCC OnLine SC 1382, exemption from the requirement of pre-institution Mediation is granted.

14. The Application stands disposed of.

I.A. 18159/2025 (O-XI R-1(4) of the Code of Civil Procedure, 1908)

15. The present Application has been filed on behalf of the Plaintiffs



under Order XI Rule 1(4) of the CPC as applicable to Commercial Suits under the CC Act seeking leave to place on record additional documents.

16. The Plaintiff is permitted to file additional documents in accordance with the provisions of the CC Act and the Delhi High Court (Original Side) Rules, 2018.

17. Accordingly, the Application stands disposed of.

I.A. 18161/2025 (seeking leave to file certain documents on a CD / pen drive)

18. This Application has been filed by Plaintiffs seeking permission to place on record CD / pen drive containing video clips of Defendant's infringing activities.

19. In facts and circumstances of the present case as stated in the Application, the same is allowed. Let the CD / pen drive be taken on record.

20. Accordingly, the Application stands disposed of.

I.A. 18160/2025 (seeking exemption from filing the pleadings in the present suit with the seal of the company)

21. The Plaintiffs have filed this Application seeking exemption from filing the pleadings in the present suit with the seal of companies of the Plaintiffs.

22. For the reasons stated in the Application, the same is allowed and the Plaintiffs are exempted from filing the pleadings with the seal of the respective companies.

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23. Let the Complaint be registered as a Suit.

24. Issue summons to the Defendant through all permissible modes upon



filing of the Process Fee.

25. The Summons shall state that the Written Statement shall be filed by the Defendant within four weeks from the date of the receipt of Summons. Along with the Written Statement, the Defendant shall also file Affidavit of Admission / Denial of the documents of the Plaintiffs, without which the Written Statement shall not be taken on record.

26. Liberty is granted to the Plaintiffs to file Replication(s), if any, within thirty days from the receipt of the Written Statement. Along with the Replications filed by the Plaintiffs, Affidavit(s) of Admission / Denial of the documents of Defendant be filed by the Plaintiffs, without which the Replication(s) shall not be taken on record.

27. The Parties shall file all original documents in support of their respective claims along with their respective pleadings. In case any Party is placing reliance on a document, which is not in their power and possession, its details and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

28. If any of the Parties wish to seek inspection of any documents, the same shall be sought and given within the prescribed timelines.

29. List before the Joint Registrar on 23.09.2025 for completion of service and pleadings.

I.A. 18158/2025 (seeking administration of interrogatories)

30. This Application has been filed by the Plaintiffs under Order XI Rule 2 of the CPC as amended by the CC Act read with Section 151 of the CPC, seeking administration of interrogatories upon the Defendant.

31. Issue Notice through all permissible modes upon filing of the Process Fees.



32. Let the Reply to the Application be filed within a period of four weeks from date. Rejoinder thereto, if any, be filed within a period of two weeks thereafter.

33. List before the learned Joint Registrar on 23.09.2025 for completion of service and pleadings.

34. List before this Court on 03.11.2025

I.A 18154/2025 (U/O XXXIX Rule 1 & 2 of CPC)

35. Issue Notice through all permissible modes upon filing of the Process Fees.

36. The present Suit has been filed on behalf of the Plaintiffs seeking relief of permanent injunction restraining the defendant from infringing the Indian Patent No.269841 titled “Ruxolitinib Compounds and their Uses” (“**Suit Patent**”), along with other ancillary reliefs.

37. The learned Counsel for the Plaintiffs submitted that Plaintiff No.1 is the owner of the Suit Patent. Plaintiff No. 2 is the exclusive licensee of the Suit Patent. Plaintiff No. 3 has been granted approval to market and import JAKAVI® (Ruxolitinib tablets) by the Drug Controller General of India.

38. The learned Counsel for the Plaintiffs submitted that the Suit Patent protects the novel and inventive compound ‘Ruxolitinib’. In particular, Claims No. 1, 17 and 21 of the Suit Patent cover and claim the patented compound ‘Ruxolitinib’, pharmaceutically acceptable salt, and composition thereof respectively. This drug is used in the treatment of intermediate or high-risk Myelofibrosis, a type of Myeloproliferative disorder that affects the bone marrow, and for Polycythemia Vera (PV) when there has been an inadequate response to or intolerance of Hydroxyurea. It works by blocking a group of enzymes known as Janus Kinases (“**JAKs**”), which are involved



in the production and growth of blood cells. The details of the Suit Patent is produced hereunder:

Indian Patent No.	269841
Indian Patent Application No.	2365/KOLNP/2008
Priority details dates	US60/749905 (13.12.2005), US60/810231 (02.06.2006), US60/850625 (10.10.2006), US60/856872 (03.11.2006), US60/859404 (16.11.2006)
PCT Application no.	PCT/US2006/047369
International Filing date	12.12.2006
International Publication No.	WO/2007/070514
Filing date of national phase Application	12.06.2008
Publication under Section 11A	23.01.2009
Request for e3xamination	03.12.2009
Pre-grant representation filed under Section 25(1) r/w Rule 55(1)	12.11.2012
First Examination Report (FER)	23.12.2013
Notice of opposition under Rule 55(3)	03.01.2014
Reply statement and evidence filed by the Applicant under Rule 55(4)	04.04.2014
Reply to FER	30.06.2014
Hearing before the Controller of Patents	29.09.2015
Controller's decision on the pre-grant opposition	30.10.2015
Date of grant	10.11.2015
Post grant publication	13.11.2015
Date of expiry of suit patent	12.12.2026

39. The learned Counsel for the Plaintiffs submitted that the Pre-Grant Opposition to the Suit Patent was withdrawn and there has been no Post-Grant Opposition or Rectification filed by any interested person.



40. The learned Counsel for the Plaintiffs submitted that the drug ‘Ruxolitinib’ is a new chemical entity, and has been given an International Non-Proprietary Name (“INN”), which is a name designated by the World Health Organisation which are given to new Active Pharmaceutical Ingredients (“APIs”) to provide a unique name per pharmaceutical drug to help avoid the confusion that can be caused by the number of different ways in which an API can be chemically named based on their chemical structure. The invented compound Ruxolitinib is marketed and sold in India and other countries (except the United States of America) under the brand name “JAKAVI®”, which is a prescription drug containing Ruxolitinib as its phosphate salt. Further, the sales figures pertaining to the drug “JAKAVI®” have also been extracted in Paragraph No. 40 of the Plaint.

SALES FIGURES IN INDIA SINCE 2015

YEAR	JAKAVI® (in INR Crores)
2015	17.02
2016	31.89
2017	28.84
2018	38.21
2019	39.98
2020	38.08
2021	44.92
2022	55.26
2023	74.15
2024 (H2)	39.34

41. The learned Counsel for the Plaintiffs submitted that Plaintiff No.1 spends USD 11.4 billion globally on Research and Development. Further, the Plaintiffs have made a huge investment in inventing the compound



covered by the Suit Patent and disclosed the invention publicly in good faith and pursuant to a statutory protection conferred upon them against anybody else using the said invention during the patent period.

42. The learned Counsel for the Plaintiffs submitted that while conducting periodic market surveys for due diligence the Plaintiffs came across the Defendant's product listing for Ruxolitinib tablets ("**Impugned Drug**") on a third-party website, i.e., 'www.industryexperts.co.in' in the second week of June 2025. Upon conducting further due-diligence for the Impugned Drug under the brand name RUXOVEON, the Plaintiffs found that RUXOVEON 5mg/15mg/20mg (Ruxolitinib tablets) are Registered Medicines by the National Medicine Regulatory Authority ("**NMRA**") of Sri Lanka bearing Registration Nos. M014898, M015052, and, M014878 respectively.

43. The learned Counsel for the Plaintiffs submitted that in order to verify whether the Defendant has manufactured, sold, offered for sale, supplied, exported, stockpiled, any pharmaceutical products containing Ruxolitinib for commercial purpose the Plaintiff No. 2 instructed an investigator, to conduct market search and survey about the commercial use/ launch of the drug product containing Ruxolitinib and also to find out the details of the export of Ruxolitinib API by the Defendant.

44. The learned Counsel for the Plaintiffs submitted that as per the Investigation Report dated 14.07.2025 ("**Investigation Report**"), confirmed that the Defendant has successfully obtained Ruxolitinib Phosphate API from China and has developed the Impugned Drug in the strength of 5mg, 15mg and 20mg at its manufacturing facility located in Puducherry, India. The Investigation Report further confirmed that the Defendant has obtained manufacturing/ export license for Ruxolitinib (tablets) from the Tamil Ndu



Food Safety and Drug Administration and has commercially manufactured and exported/supplied the Impugned Drug in domestic markets soon and has plans to export/ supply the same to countries such as Philippines, Singapore, Malaysia, and UAE based on demand in the export market.

45. The learned Counsel for the Plaintiffs submitted that Claims No. 1, 17 and 21 of the Suit Patent cover and claim the drug Ruxolitinib, pharmaceutically acceptable salt, and composition thereof respectively. The Defendant does not have any right whatsoever to embark upon the production of Drugs using the Ruxolitinib compound. Thus, manufacture and supply for use of the Drugs with the Ruxolitinib compound by the Defendant would infringe Plaintiff No. 1's exclusive rights under Section 48 of the Patents Act, 1970

46. Having considered the submissions advanced by the learned Counsel for the Plaintiffs, the pleadings and the documents on record, a *prima facie* case has been made out on behalf of the Plaintiffs. Balance of convenience is in favour of the Plaintiffs and against the Defendant. Irreparable injury would be caused to the Plaintiffs if the Defendant commercially launches the Impugned Drug in the Indian Market.

47. Accordingly, the Plaintiff has made out a *prima facie* case for grant of an *ex-parte ad-interim* injunction. Till the next date of hearing, the Defendant, and anybody acting on their behalf, are restrained from using, manufacturing, stockpiling, exporting, offering for sale and/or supplying, directly or indirectly, the pharmaceutical drug product containing the compound Ruxolitinib and/ or Ruxolitinib API along with any other form or compound or formulation which would amount to infringement of the Suit Patent bearing No. IN 269841.



48. Let the Reply to the present Application be filed within four weeks after service of pleadings and documents. Rejoinder thereto, if any, be filed before the next date of hearing.

49. List before this Court on 03.11.2025.

I.A. No. 18155/2025 (Appointment of Local Commissioners)

50. The present Application has been filed by the Plaintiff under Order XXVI Rule 9 read with Order XXXIX Rule 7 of the CPC, seeking appointment of Local Commissioners. The Court has considered the merits of the Plaintiff's case and has granted an *ex-parte ad-interim* injunction as recorded above in I.A. 18154/2025 under Order XXXIX Rule 1 & 2 of the CPC.

51. Accordingly, in order to ensure that the injunction is fully complied with, it is deemed appropriate to appoint the Local Commissioners to visit the Defendants' premises at the following addresses:

Sr. No.	Particulars	Name of the Local Commissioners
1.	Plot No.21, Door No.2, Velu Naicker Street, Venkateshwara Nagar, Ramapuram, Chennai – 600089 Tamil Nadu, India	Mr. Anshul Vats, Advocate Mobile No. [+91 99117 00665]
2.	R.S. No.:515/1, 515/2 & 514 & No.152/7, Vinayagar Koli Street, Thirubuvanaipalayam, Puducherry – 605107, India	Mr. Snehil Tiwari, Advocate Mobile No. [+91 8934045903]

52. The mandate of the Local Commissioners is as under:

- i. The Local Commissioners shall conduct a search at the



Defendant's premises to inspect and seize any Impugned Drug or Drug Products (including unfinished/ semi-finished Drugs), i.e. Ruxolitinib tablets, which may be found at the premises of the Defendant.

- ii. The Local Commissioners are permitted to seize the Impugned Drug at the above premises and if knowledge is acquired of any other premises where the pharmaceutical drug product could be stored. The Local Commissioners are free to record the same and then visit the other premises and conduct a seizure there as well;
- iii. The Local Commissioners shall make an inventory of all the Ruxolitinib tablets or Drug Products (including unfinished/ semi-finished Drugs).
- iv. The Local Commissioners shall also obtain the details as to since when Impugned Drug is being used, manufactured, exported, and being offered for sale/ supply.
- v. After preparation of the inventory, the Impugned Drug, Ruxolitinib tablets, or Drug Products in any form shall be released to the Defendant on *superdari*. The monetary value of the stock shall also be ascertained;
- vi. The Defendant and its representatives are directed to provide full assistance to the Local Commissioners for executing the present commissions.
- vii. The Local Commissioners are also permitted to break open the locks, with police help, if access to the premises where the Ruxolitinib tablets have been stocked / manufactured, is denied to the Commissioners;



- viii. Upon being requested, the concerned Commissioners of Police / Superintendent of Police in Tamil Nadu and Puducherry shall render necessary cooperation for execution of the Commissions, as per this order;
- ix. The Local Commissioners are permitted to take photographs and videographs of the proceedings of the Commissions, if it is deemed appropriate. Two representatives of the Plaintiffs, which would include a lawyer, are permitted to accompany the Local Commissioners;
- x. The Local Commissioners shall obtain accounts including ledgers, stock registers, invoice books, receipt books, cash books, purchase and sale records and any other books of record or commercial transactions kept at the premises of the Defendant, and take photocopy and / or record of all such transactions that pertain to the Drug seized, if any. The Defendant shall cooperate and give passwords to the computers and the files containing the accounts, if the same is stored on the computer or a specific software;
- xi. The Local Commissioners shall take a sample of the Ruxolitinib tablets which may be lying or stocked or stored for sale in the above-mentioned premises for submitting before this Court along with the report.
- xii. The Local Commissioners, while executing the Commissions, shall ensure that there is no disruption to the business of the Defendant, except for the purposes of the execution of the Commissions. The Commissions shall be executed in a peaceful



manner.

53. The order passed today shall be communicated by the Local Commissioners to the Defendant. Copy of the order and complete paper book shall be served by the Local Commissioners upon the Defendant at the time of execution of the Commissions.

54. The fees of the Local Commissioners is fixed at ₹2,00,000/- (Rupees Two Lakhs only) each excluding out of pocket expenses, travel, lodging etc. All the aforesaid expenses shall be borne by the Plaintiffs and paid in advance to the Local Commissioners named hereinabove.

55. The Commissions shall be executed on 06.08.2025, and the report of the Local Commissioners shall be filed within a period of two weeks thereafter.

56. A copy of this Order be provided to the Local Commissioners.

57. Compliance of Order XXXIX Rule 3 of CPC shall be done within two weeks after the execution of the Commissions.

58. It is directed that this Order shall be uploaded on the Court's website after the execution of the Commissions is completed, to enable effective execution thereof.

59. Order *dasti* under the signature of the Court Master.

TEJAS KARIA, J

JULY 30, 2025

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