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

+ **CS(COMM) 1132/2025**

MANKIND PHARMA LIMITED

.....Plaintiff

Through: Mr. Gopal Jain, Senior Advocate with
Mr. Ankur Sangal, Mr. Ankit Arvind,
Ms. Nidhi Pathak and Mr. Rishabh
Rao, Advocates.

versus

N.D VET PHARMA AND ORS.

.....Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

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17.10.2025

I.A. 26159/2025 (Exemption)

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

I.A. No. 26156/2025 (Exemption from pre-institution Mediation)

3. This is an Application filed by the Plaintiff seeking exemption from instituting pre-litigation Mediation under Section 12A of the Commercial Courts Act, 2015 ("CC Act").
4. 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.
5. The Application stands disposed of.



I.A. No. 26160/2025 (Exemption from advance service to the Defendants)

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

7. Mr. Gopal Jain, learned Senior Counsel for the Plaintiff, submits that there is a real and imminent likelihood that the Defendants may take immediate steps to dispose of, conceal or suppress their infringing business operations and digital footprints.

8. In view of the fact that Plaintiff has sought an urgent *ex-parte ad-interim* injunction along with the appointment of the Local Commissioners, the exemption from advance service to the Defendants is granted.

9. The Application is disposed of.

I.A. 26158/2025 (Extension of time to file Court Fees)

10. The present Application has been filed by the Plaintiff under Section 149 read with Section 151 of the CPC, seeking exemption from payment of Court Fees at the time of the filing of the Suit.

11. Considering the submissions made in the present Application, time of two weeks is granted to deposit the Court Fees.

12. The Application stands disposed of.

CS(COMM) 1132/2025

13. Let the Plaint be registered as a Suit.

14. Issue Summons. Let the Summons be served to the Defendants through all permissible modes upon filing of the Process Fee.

15. The Summons shall state that the Written Statement(s) shall be filed by the Defendants within 30 days from the date of the receipt of Summons. Along with the Written Statement(s), the Defendants shall also file Affidavit(s) of



Admission / Denial of the documents of the Plaintiff, without which the Written Statement(s) shall not be taken on record.

16. Liberty is granted to the Plaintiff to file Replication(s), if any, within 30 days from the receipt of the Written Statement(s). Along with the Replication(s) filed by the Plaintiff, Affidavit(s) of Admission / Denial of the documents of Defendants be filed by the Plaintiff, without which the Replication(s) shall not be taken on record.

17. 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.

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

19. List before the learned Joint Registrar on 15.12.2025 for completion of service and pleadings.

I.A. 26157/2025 (O-XI R-1(4) of the Code of Civil Procedure, 1908)

20. The present Application has been filed on behalf of the Plaintiff 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.

21. 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.

22. Accordingly, the Application stands disposed of.

I.A. 26154/2025 (U/O XXXIX R-1 & 2 of the CPC)

23. Issue Notice. Notice be served through all permissible modes upon filing of the Process Fees.

24. The present Suit has been filed by the Plaintiff seeking permanent



injunction restraining infringement of the registered Trade Mark, ‘CALCIMUST’ (“**Plaintiff’s Trade Mark**”) and Trade Dress ‘



’ (“**Plaintiff’s Trade Dress**”),

Copyright, passing off, unfair trade practices and other ancillary reliefs.

25. The learned Counsel for the Plaintiff made the following submissions:

25.1. The Plaintiff is a company duly incorporated in the year 1991 and is a leading marketer of a wide range of pharmaceutical and medicinal preparations in India under its various well-known Trade Marks. It has been a constant endeavour of the Plaintiff to provide good quality medicines at an affordable cost.

25.2. Plaintiff has grown into a successful and profitable enterprise and enjoys an exemplary reputation and goodwill for its products. In the year 2024, Plaintiff’s group of companies had achieved a consolidated audited turnover of over Rs. 9,264 crores.

25.3. In the year 2009, the Plaintiff adopted the Trade Mark ‘CALCIMUST’ with respect to veterinary preparations. The prefix ‘CALCI’ of the Plaintiff’s Trade Mark ‘CALCIMUST’ has been adopted from the word ‘Calcium’, which was suffixed with the word ‘MUST’ in order to convey the message to the consumers



that the products are essential for the development of the animal. The Plaintiff's goods under the Mark 'CALCIMUST' are renowned in the market and resultantly, the Plaintiff's goods under the said Mark generate a turnover of around INR 123.30 crores.

25.4. In order to fortify its rights, the Plaintiff applied for and obtained the registration of the Trade Mark 'MANKIND's CALCIMUST' with respect to pharmaceutical and medicinal preparations under Registration No. 2307162 and 'CALCIMUST' under Registration No. 2491898.

25.5. The Plaintiff also sells its goods under the Plaintiff's Trade Dress and the artwork / getup / label on the Plaintiff's goods was designed by the Plaintiff's employee with respect to goods sold under the Plaintiff's Trade Mark, and the same qualifies as an artistic work under the Copyright Act, 1957. Across the front portion of the Plaintiff's Trade Dress, there is a white silhouette-style illustration featuring multiple animals — typically a cow, buffalo, goat, horse, and dog — representing its broad use in livestock and pets.

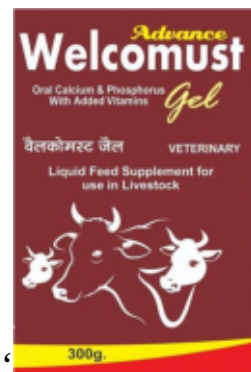
25.6. Defendant No. 1, *N.D. Vet Pharma*, is a proprietorship firm engaged in marketing, trading, buying, selling, reselling, importing, exporting veterinary products having its address at Amroha, Uttar Pradesh. Defendant No. 2, Mr. Nitin Kumar is the proprietor of Defendant No. 1. Defendant No. 3, *Oxford Exim Company* is a proprietorship concern engaged in manufacturing Defendant No. 1 having its address at Saharanpur, Uttar Pradesh. Defendant No. 4, Mr. Saksham Gilhotra is the proprietor of



Defendant No. 3. Defendant Nos. 1 to 4 are engaged in the manufacturing, marketing, sale and supply of products i.e., veterinary solutions and supplements for livestock.

25.7. On 13.10.2025, the Plaintiff came across a product sold by the Defendants under a deceptively similar Mark ‘WELCOMUST’ (“**Impugned Mark**”) with an identical / deceptively similar



artwork / getup / label, ‘’ / ‘’ (“**Impugned Trade Dress**”) as that of the Plaintiff (“**Infringing Product**”).

25.8. In addition to adopting a deceptively similar mark as that of the Plaintiff, the Defendants have adopted the Impugned Trade Dress which is also deceptively similar / virtually identical to the Plaintiff’s Trade Dress as they both feature a predominantly brown background with white bold lettering for the brand name at the top, accompanied by the term “Gel” in a contrasting yellow script, and descriptive text below, with the lower portion prominently depicting white-outline illustrations of cattle heads, positioned in a similar style, conveying identical visual cues to the target market.

25.9. The Defendants have flooded the market with the Infringing Product under the Impugned Mark and the Impugned Trade Dress



so as to ride upon the goodwill of the Plaintiff and cash upon it by creating a sense of confusion in the minds of the general public.

25.10. A comparison table of the Plaintiff's Trade Mark and Plaintiff's Trade Dress with the Impugned Mark and Impugned Trade Dress is hereunder:

PLAINTIFF'S TRADE MARK AND TRADE DRESS	DEFENDANTS' IMPUGNED MARK AND TRADE DRESS
CALCIMUST GEL	WELCOMUST GEL



Points of Similarity

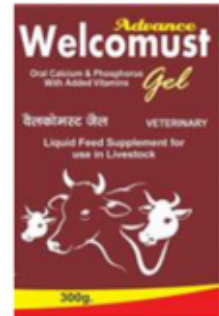
- The shape and outlines of the packaging are identical.
- The shape and contour of the bottles are identical.
- Colour combination of the packaging is identical i.e. the upper portion is white, and the lower portion is a dark reddish-brown.
- Both the products are labelled as a “GEL” and written in identical manner and colour.
- The bottles feature a long, ribbed neck with a dark cap.
- The main body of the label is a dark maroon/ brown colour with a white bottle.
- The font on the label is identical.
- Device of three cows at the centre of the packaging.
- Same product being sold under the Impugned Mark / Impugned Trade Dress.

26. Having considered the pleadings, documents and submissions, *prima facie*, this is a case of triple identity, where the Impugned Mark and Impugned Trade Dress is identical, the product category is identical and the trade channel as also the consumer base is identical to the Plaintiff’s Trade Mark and Plaintiff’s Trade Dress, as the overall layout, colour scheme, and animal imagery combine to create a visual resemblance that is likely to cause confusion amongst the members of the public and trade, who may associate the Defendants’ Infringing Products bearing the Impugned Mark and Impugned Trade Dress with the Plaintiff, consequently, diluting the goodwill and reputation of the Plaintiff’s products.

27. Accordingly, till the next date of hearing, Defendants, their proprietors, partners or directors, as the case may be, their principal officers, servants,



distributors, dealers and agents, and all others acting for and on behalf of the Defendants, from selling, marketing, supplying, offering for sale, advertising, directly or indirectly dealing in any goods and services under the Impugned



Mark 'WELCOMUST' and Impugned Trade Dress,' / '



' and or any other Trade Mark / Trade Dress which may be identical to or deceptively similar with the Plaintiff's Trade Mark



'CALCIMUST' and the Plaintiff's Trade Dress, ' / '



’, so as to cause infringement of Copyright, infringement of Trade Mark as well as passing off.

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

29. List before this Court on 16.02.2026.

I.A. 26155/2025 (for Appointment of Local Commissioners)

30. The present Application has been filed by the Plaintiff under Order XXVI Rule 9 of the CPC, seeking appointment 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. 26154/2025 under Order XXXIX Rule 1 & 2 of the CPC.

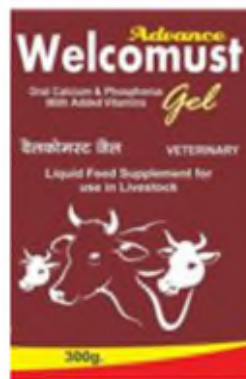
31. Accordingly, in order to ensure that the injunction is fully complied with, it is deemed appropriate to appoint Local Commissioners to visit the Defendants’ premises at the following addresses:

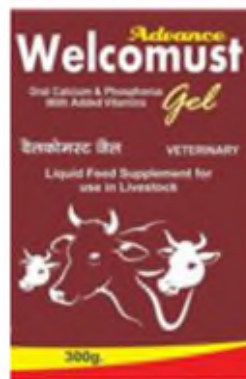


Sr. No.	Particulars	Name of Local Commissioner
1.	Defendant No. 1 N.D VET PHARMA Khata No: 481 near Prathma Bank Kailsa Road, Vill. Chak Kalilet Post Hasanpur Kachiya, Amroha, Uttar Pradesh – 244221	Mr. Vineeth Varma, Advocate. [Mobile No.: 7093459359]
2.	Defendant No. 3 OXFORD EXIM COMPANY Industrial Estate, D-15, Saharanpur-Delhi Rd, Near ITI, Vasant Vihar, Saharanpur, Uttar Pradesh – 247001	Ms. Abhipriya Rai, Advocate. [Mobile No.: 7508549780]

32. The mandate of the learned Local Commissioners is as under:

- i) The learned Local Commissioners shall visit the premises of the Defendants as per the above table, to inspect and seize any Infringing Products, fully or semi-manufactured infringing products of the Defendants bearing the Impugned Mark and Impugned Trade Dress



‘WELCOMUST’ / ‘’, and ‘’ or packaging which is identical or deceptively similar to the Plaintiff’s Trade Mark /



Trade Dress ‘CALCIMUST’ / ‘’, and ‘’.

- ii) If knowledge is acquired of any other premises than the aforesaid premises, where the goods under the Impugned Trade Mark and Impugned Trade Dress could be stored or services can be provided from, the learned Local Commissioners are free to record the same and then visit the other premises and conduct a seizure there as well;
- iii) The learned Local Commissioners shall also inspect and seize any product materials including pamphlets, brochures, stickers, packaging materials, dyes or blocks used for preparing the manufacturing materials, display boards, sign boards, advertising material, dies or blocks, unfinished, packed, unpacked infringing goods or any other documents, wrapper etc. so that it can be ensured that no fresh manufacturing of the infringing products can take place;



- iv) The learned Local Commissioners shall also obtain the details as to since when Infringing Products are being used by the Defendants under the Impugned Trade Mark and Impugned Trade Dress and obtain copies of the accounts if the same is found to be sold in market;
- v) The learned 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 Defendants, and take photocopy and / or record of all such transactions that pertain to infringing goods, if any. The Defendants 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;
- vi) After preparation of the inventory, the infringing goods under the Impugned Trade Mark and Impugned Trade Dress including packaging materials, advertising, promotional materials, pamphlets, brochures, boxes, videos, hoardings, banners, signage, cartons and other material bearing the Impugned Trade Mark and Impugned Trade Dress and packaging which are similar to the Plaintiff's Trade Mark and Plaintiff's Trade Dress shall be released to the Defendants on *superdari*. The monetary value of the stock shall also be ascertained;
- vii) The learned Local Commissioners is also permitted to break open the locks, with Police help, if access to the premises where the infringing goods have been stocked / manufactured, is denied to the Commissioners;



viii) Upon being requested, the concerned Station House Officer (SHO) shall render necessary cooperation for execution of the Commission, as per this order;

ix) The learned Local Commissioners are permitted to take photographs and record videos of the proceedings of the Commission, if it is deemed appropriate. Two representatives of the Plaintiff, which would include a lawyer, are permitted to accompany the learned Local Commissioners;

x) The learned Local Commissioners, while executing the Commission, shall ensure that there is no disruption to the business of the Defendants, except for the purposes of the execution of the Commission. The Commission shall be executed in a peaceful manner.

33. Either the learned Counsel for the Plaintiff or the learned Local Commissioner is directed to collect the certified copy of this Order from the Registry (Dispatch Branch) before the execution of the Commission.

34. The learned Local Commissioner shall carry the certified copy of this Order for execution of the Commission and a copy of the same shall be served upon the Defendant by the learned Local Commissioner at the time of the execution of the Commission.

35. The fees of the learned 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 Plaintiff and paid in advance to the learned Local Commissioners named hereinabove.

36. The Commission shall be executed within a period of two week, and the report of the learned Local Commissioners shall be filed within a period



of two weeks thereafter.

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

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

39. List before this Court on 16.02.2026.

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

TEJAS KARIA, J

OCTOBER 17, 2025

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