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

\+ CS(COMM) 1430/2025 & I.A.No. 32832/2025

GLAXOSMITHKLINE PHARMACEUTICALS LTD.....Plaintiff

Through: Ms. Tanya Varma, Mr. Vardaan Anand & Ms. Ruchika Yadav, Advocates.

Versus

SHIVANSH SHRIVASTAVA AND ORS .....Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

O R D E R

% 24.12.2025

IA No. 32829/2025 (Exemption)

1. Exemption is allowed, subject to all just exceptions.

2. The Application stands disposed of.

IA No. 32827/2025 (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.

IA No.32831/2025 (Extension of time to file Court Fees)

6. The present Application has been filed by the Plaintiffs under Section 149 read with Section 151 of the Code of Civil Procedure, 1908 (**"CPC"**),

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seeking exemption from payment of Court Fees at the time of the filing of the Suit.

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

8. The Application stands disposed of.

CS(COMM) 1430/2025

9. Let the Plaint be registered as a Suit.

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

11. The Summons shall state that the Written Statement shall be filed by the Defendant within 30 days from the date of the receipt of Summons. Along with the Written Statement, the Defendant shall also file an Affidavit of Admission / Denial of the documents of the Plaintiffs, without which the Written Statement shall not be taken on record.

12. Liberty is granted to the Plaintiffs to file Replication, if any, within 30 days from the receipt of the Written Statement. Along with the Replication filed by the Plaintiffs, an Affidavit of Admission / Denial of the documents of Defendant be filed by the Plaintiffs, without which the Replication shall not be taken on record.

13. 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.

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

15. List before the learned Joint Registrar on 25.02.2026 for completion of service and pleadings.

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IA No.32828/2025 (O-XI R-1(4) of the Code of Civil Procedure, 1908)

16. The present Application has been filed on behalf of the Plaintiffs under Order XI Rule 1(4) of the Code of Civil Procedure, 1908 ("CPC") as applicable to Commercial Suits under the Commercial Courts Act, 2015 ("**CC Act**") seeking leave to place on record additional documents.

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

18. Accordingly, the Application stands disposed of.

I.A. No.32830/2025 (for permission to file documents in sealed cover)

19. This is an Application filed by the Plaintiff under Section 151 of the CPC read with Rule 19 of the Delhi High Court Intellectual Property Division Rules, 2022, seeking leave to file certain documents in a sealed cover.

20. The Plaintiff seeks to rely on sales figures in relation with products under the Trade Mark 'PHEXIN' ("**Plaintiff's Mark**"). The Plaintiff has filed the sales figures for each of the products, which are stated to be commercially sensitive data. Accordingly, the Plaintiff is directed to furnish the sales figures in the instant Application, in a sealed cover, within two weeks from today.

21. The Application stands disposed of.

IA No.32832/2025 (for transfer of the Rectification Proceedings)

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

23. 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.

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24. List before the learned Joint Registrar on 25.02.2026 for completion of service and pleadings.

IA No.32826/2025 (U/O XXXIX Rule 1 and 2 of CPC)

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

26. The present Suit has been filed for permanent injunction restraining infringement of the registered Trade Mark, passing off, along with the other ancillary reliefs.

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

27.1 The Plaintiff is a member of the GlaxoSmithKline ("**GSK**") group of companies of which GSK plc is the ultimate parent company. GSK group of companies has numerous subsidiaries, of which the Plaintiff is one such subsidiary. The GSK group of companies is one of the world's leading global healthcare companies and is involved in the research, development, and manufacture of a broad range of innovative products in the three primary areas of pharmaceuticals, vaccines and historically consumer healthcare. The GSK Group of Companies has had a presence in India dating back over 100 years with the Plaintiff being incorporated in 1924.

27.2 The Plaintiff is one of the market leaders in the pharmaceutical and vaccines sector in India, with a turnover of approximately ₹3,723 crores in the Financial Year ("FY") 2024-25. The Plaintiff's products under the Plaintiff's Mark have widespread sales in India. Further, the Plaintiff has also advertised and promoted the product under the Plaintiff's Mark in India over the years.

27.3 The Plaintiff's Mark is a coined Mark that is used by the Plaintiff on and in relation to antibiotic medication for treatment of respiratory tract infections, urinary tract infections, skin and soft tissue infections, otitis media

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and other infections (including dental infections) due to bacteria. The product under the Plaintiff's Mark is manufactured, marketed and sold only in India by the Plaintiff. The details of the registration of the Plaintiff's Mark are reproduced hereunder:

Trade Mark	Registration No.	Date of Registration	Class	Valid Till
PHEXIN	418731	07.03.1984	05	Registered

27.4 Defendant No. 1, Mr. Shivansh Shrivastava, is the Director of Defendant No. 2. Defendant No. 2, *Saveo Healthtech Pvt. Ltd.*, is a private limited company incorporated under the Companies Act, 2013. Defendant No. 2 is accessible at the website, https://saveo.in/ and operates through two internal pharmaceutical divisions namely, 'Silver Cross' and 'Carin'. Defendant Nos. 1 and 2 are engaged in the business of selling medicinal and pharmaceutical preparations under the Marks, 'C-FIXIN', 'FEXRIN' and 'FEXRIM M' ("**Impugned Marks**"). Defendant No. 3, *Silver Cross Medisciences Pvt. Ltd.*, is the marketer of the products under the Impugned Marks manufactured by Defendant No. 2. Defendant No. 4, *Malik Lifesciences Pvt. Ltd.*, is a company incorporated under the Companies Act, 1956 and is manufacturer of products under the Impugned Marks.

27.5 In April 2025, the Plaintiff came across a Trade Mark Application filed by Defendant No. 1 for the Impugned Mark, 'FEXRIM M', bearing Application No. 5398060 in Class 5 ("**Impugned Application I**"). The Impugned Application I was filed on 06.04.2022 on a 'proposed to be used' basis and was published in Trade Marks Journal No. 2188-0 dated 23.12.2024. Since the Impugned Application I was open to opposition, the Plaintiff filed a Notice of Opposition dated 17.04.2025. Consequently, *vide*

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order dated 08.10.2025, the Impugned Application I has been deemed abandoned due to the non-filing of counterstatement.

27.6 Defendant No. 1 has also secured an erstwhile registration, in respect of the Impugned Mark, 'FEXRIN', bearing Registration No. 4954794, on 23.04.2021 on a 'proposed to be used' basis, and the Mark was published in Trade Marks Journal No. 2051-0 dated 09.05.2022. Subsequently, the application proceeded to registration on 08.10.2022.

27.7 Upon further enquiry, the Trade Marks Registry records revealed that Defendant No. 1 had previously filed a Trade Mark Application No. 4954798 for the Impugned Mark, 'C-FIXIN' on 23.04.2021 ("**Impugned Application II**") on 'proposed to be used' basis. The Impugned Application II was objected to under Section 11(1) *vide* Examination Report dated 21.05.2021. Defendant No. 1 filed a reply to the Examination Report on 19.06.2021, followed by written submissions on 26.04.2022, along with documents evidencing the use of the Impugned Mark, 'C-FIXIN' comprising invoices of Defendant No. 2. *Vide* order dated 08.02.2024, the Registrar of Trade Marks maintained the objection and refused the Impugned Application II.

27.8 The Plaintiff, upon further research, came across listings of products under the Impugned Marks, 'C-FIXIN' and 'FEXRIN' on various third-party platforms, including e-pharmacies and IndiaMart listings of Defendant No. 2. As per these listings, the products under the Impugned Marks are marketed by Defendant No. 2's pharmaceutical division 'Carin'.

27.9 The Plaintiff, through its Counsel, issued a cease and desist notice dated 15.05.2025 ("**Legal Notice**") to Defendant Nos. 1 and 2, calling upon them to *inter alia* cease the use of the Impugned Marks and refrain from adoption of any other Mark identical or deceptively similar to the Plaintiff's

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Mark. Defendant Nos. 1 and 2 failed to respond to the Legal Notice and thereafter, the Plaintiff addressed follow-up letters dated 23.05.2025 and 02.06.2025.

27.10 Further, in October 2025, the Plaintiff proceeded to conduct another market check in the region of Delhi, during which it was found that the product under the Impugned Mark, 'C-FIXIN' was available in the markets of Delhi.

27.11 Thereafter, the Plaintiff again conducted a market check in December, 2025 and procured products under the Impugned Mark, 'C-FIXIN'. Defendant Nos. 1 and 2 after the advance service of the Suit sent an e-mail dated 22.12.2025 to the Plaintiff stating that Defendant Nos. 1 and 2 have ceased to use the Impugned Marks.

27.12 A comparative table of the Plaintiff's Mark and the Impugned Marks is set out hereunder:

Basis	**Plaintiff's Mark**	**Impugned Marks**	
Mark	**PHEXIN**	**FEXRIN**	**C-FIXIN**
Salts	Cephalexin Capsules IP (500 mg)	Fexofenadine Hydrochloride Tablets (180mg)	Cefixime Tablets IP (200mg)
Usage	An antibiotic used to treat various bacterial infections against respiratory tract, ear, skin, bones, and urinary tract. It works by killing the bacteria responsible for the infection, helping to relieve symptoms and promote recovery.	An anti-allergy medicine used in the treatment of allergic symptoms such as runny nose, congestion or stuffiness, sneezing, itching, swelling, and watery eyes. It also helps treat skin allergies with itching, redness, or swelling.	Used to treat bacterial infections of the ear, nose, sinuses (sinusitis), throat (tonsillitis, pharyngitis), chest and lungs (bronchitis, pneumonia) and urinary system (cystitis and kidney infections).

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28. Having considered the submissions advanced by the learned Counsel for the Plaintiff, the pleadings and the documents on record it is clear that the Plaintiff is the registered proprietor of the Plaintiff's Mark, with the earliest registration for the Plaintiff's Mark was in the year 1984. Plaintiff has been able to establish long and continuous use of the Plaintiff's Mark with respect to the products under the Plaintiff's Mark. The Plaintiff has demonstrated the goodwill and reputation acquired by the Plaintiff's Mark with a turnover of approximately ₹3,723 crores in the FY 2024-25. The Defendants' use of the Impugned Marks is prima facie dishonest and nothing but an attempt to ride the goodwill and reputation of the Plaintiff's Mark so as to cause confusion in the market.

29. This is a case of triple identity where the Marks are identical, the product category is identical and the trade channel as also the consumer base is identical. The Plaintiff being the prior user, adopter of the Plaintiff's Mark is entitled to protection. The identity in the Impugned Marks is so close to the Plaintiff's Mark that the two are indistinguishable.

30. A *prima facie* case has been made out by the Plaintiff as the alleged acts attributed to the Defendants are likely to cause confusion in the course of trade of the Plaintiff, such that the consumers may associate the Impugned Marks with the Plaintiff, leading to erosion of consumer trust and dilution of the goodwill and reputation of the Plaintiff amongst the members of the trade and public. Thus, the balance of convenience lies in favour of the Plaintiff. Irreparable injury would be caused to the Plaintiff if an *ex-parte ad-interim* injunction is not granted to the Plaintiff.

31. Accordingly, the Defendant, its directors, assignees in business, its associates, affiliates, franchisees, licensees, distributors, dealers, stockists,

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retailers and agents are restrained from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in medicinal and pharmaceutical preparations under the Impugned Marks, 'C-FIXIN', 'FEXRIN' and 'FEXRIM M' or any other Mark that may be phonetically, visually, structurally and deceptively similar to the Plaintiff's Mark 'PHEXIN', amounting to infringement and / or passing off of the Plaintiff's Mark.

32. 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.

33. The compliance of Order XXXIX Rule 3 of the CPC be done within three weeks.

34. In view of the e-mail dated 22.12.2025 of Defendant Nos. 1 and 2, the learned Counsel for the Plaintiff submits that the Plaintiff is willing to explore the possibility of discussing and resolving the dispute amicably through mediation.

35. Accordingly, the Parties are referred to Mediation before the Delhi High Court Mediation and Conciliation Centre ("**DHCMCC**"). The Parties shall appear before the DHCMCC on 12.01.2026 at 2:30PM. The learned Co-ordinator is requested to issue Notice to the Defendant for the date and time fixed before DHCMCC.

36. List before this Court on 28.04.2026.

TEJAS KARIA, J

DECEMBER 24, 2025
'gsr'

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