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

+ **CS(COMM) 97/2025 & I.A. 2908/2025, I.A. 2909/2025, I.A. 2910/2025**

**NOVARTIS AG & ANR.**

.....Plaintiffs

Through: Ms. Mamta Jha, Mr. Abhijeet  
Rastogi, Ms. Anjeeta Rani, Ms.  
Diksha, Advocates (M:9871019683)

versus

**NOVITAS LIFESCIENCES & ANR.**

.....Defendants

Through: None.

**CORAM:**

**HON'BLE MS. JUSTICE MINI PUSHKARNA**

**ORDER**

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**03.02.2025**

**I.A. 2909/2025 (Application seeking leave to file additional documents)**

1. This is an application under Order XI Rule 1(4) read with Section 151 CPC, as amended by the Commercial Courts Act, 2015, seeking leave to file additional documents.
2. The plaintiffs, if they wish to file additional documents at a later stage, shall do so strictly as per the provisions of Commercial Courts Act, 2015, and the Delhi High Court (Original Side) Rules, 2018.
3. The application is disposed of, with the aforesaid directions.

**I.A. 2910/2025 (Exemption from undergoing Pre-Institution Mediation)**

4. The present is an application under Section 12A of the Commercial Courts Act, 2015, read with Section 151 of CPC, seeking exemption from undergoing Pre-Institution Mediation.
5. Having regard to the facts of the present case, and in the light of the judgment of Supreme Court in the case of ***Yamini Manohar Versus T.K.D. Keerthi***, 2023 SCC OnLine SC 1382, and Division Bench of this Court in



***Chandra Kishore Chaurasia Versus RA Perfumery Works Private Ltd.,***  
***2022 SCC OnLine Del 3529***, exemption from attempting Pre-Institution Mediation, is granted.

6. Accordingly, the application stands disposed of.

**CS(COMM) 97/2025**

7. None appears for the defendants despite advance service.

8. Learned counsel for the plaintiffs has drawn the attention of this Court to the affidavit of service as well as the proof of service.

9. Accordingly, let the plaint be registered as suit.

10. Upon filing of the process fee, issue summons to the defendants by all permissible modes. Summons shall state that the written statement be filed by the defendants within thirty days from the date of receipt of summons. Along with the written statement, the defendants shall also file affidavit of admission/denial of the plaintiffs' documents, without which, the written statement shall not be taken on record.

11. Liberty is given to the plaintiffs to file replication within thirty days from the date of receipt of the written statement. Further, along with the replication, if any, filed by the plaintiffs, an affidavit of admission/denial of documents of the defendants, be filed by the plaintiffs, without which, the replication shall not be taken on record. If any of the parties wish to seek inspection of the documents, the same shall be sought and given within the timelines.

12. List before the Joint Registrar (Judicial) for marking of exhibits, on 04<sup>th</sup> April, 2025.

13. List before the Court on 14<sup>th</sup> July, 2025.

**I.A. 2908/2025 (Application under Order XXXIX Rules 1 and 2 CPC)**

14. The present suit has been filed for permanent injunction restraining



infringement of registered trade mark, passing off, dilution, unfair competition for rendition of accounts/damages, delivery up, etc.

15. It is submitted that plaintiff no. 1 is one of the leading pharmaceutical companies in the world carrying on business through its affiliates and subsidiaries, *inter alia*, of manufacturing, marketing, research and development of high-quality pharmaceutical preparations and services in relation thereto. The plaintiff no. 1 has acquired a worldwide reputation for safe and high-quality pharmaceutical products and services. The products emanating from plaintiff no. 1 are sold and marketed by plaintiff no. 2 and other group companies like Novartis India Limited in India under their well-known trade mark/trade name/house mark/company name NOVARTIS.

16. It is submitted that plaintiffs adopted the fanciful trade mark/trade name/ house mark/ company name/ domain name NOVARTIS and its logo as early as in the year 1996 and have continuously and extensively been using the trade mark since then, internationally as well as in India. As a consequence of high standard of quality of the medicines and allied products and extensive use of the trade mark/trade name/house mark/ company name NOVARTIS, the same has gained enviable and widespread reputation and goodwill in the market.

17. It is submitted that trade mark/trade name/house mark/company name NOVARTIS connotes and denotes the trade origin and the source of goods as originating from the plaintiffs and none else, the world over, including, India. The trade mark NOVARTIS, is thus, the key and distinguishing feature of the trade name/house mark/company name of Novartis Group Companies.

18. It is submitted that the plaintiffs also have several domain name registrations for NOVARTIS. An illustrative list of such domain name



registrations which are actively being used in several jurisdictions for dealing in products and services originating from the Novartis Group Companies, including the plaintiffs, is reproduced as under:

| Domain Name                                                             | Date of registration |
|-------------------------------------------------------------------------|----------------------|
| <a href="https://www.novartis.com/">https://www.novartis.com/</a>       | 02/04/1996           |
| <a href="https://www.novartis.dk/">https://www.novartis.dk/</a>         | 07/10/1996           |
| <a href="https://www.novartis.co.za/">https://www.novartis.co.za/</a>   | 14/11/1996           |
| <a href="https://www.novartis.ie/">https://www.novartis.ie/</a>         | 11/05/1997           |
| <a href="https://www.novartis.nl/">https://www.novartis.nl/</a>         | 29/08/1997           |
| <a href="https://www.novartis.it/">https://www.novartis.it/</a>         | 17/04/1998           |
| <a href="https://www.novartis.com.cn/">https://www.novartis.com.cn/</a> | 20/08/1999           |
| <a href="https://www.novartis.ru/">https://www.novartis.ru/</a>         | 31/05/2000           |
| <a href="https://www.novartis.co.kr/">https://www.novartis.co.kr/</a>   | 18/08/2000           |
| <a href="https://www.novartis.ca/en">https://www.novartis.ca/en</a>     | 27/11/2000           |
| <a href="https://www.novartis.com.sg/">https://www.novartis.com.sg/</a> | 12/01/2001           |
| <a href="https://www.novartis.com.mx/">https://www.novartis.com.mx/</a> | 05/09/2001           |
| <a href="https://www.novartis.us/">https://www.novartis.us/</a>         | 19/04/2002           |
| <a href="https://www.novartis.sk/">https://www.novartis.sk/</a>         | 20/02/2003           |
| <a href="https://www.novartis.in/">https://www.novartis.in/</a>         | 16/02/2005           |
| <a href="https://www.novartis.fr/">https://www.novartis.fr/</a>         | 20/08/2007           |
| <a href="https://www.novartis.com.ar/">https://www.novartis.com.ar/</a> | 24/11/2009           |

|                                                                         |            |
|-------------------------------------------------------------------------|------------|
| <a href="https://www.novartis.fi/">https://www.novartis.fi/</a>         | 07/03/2010 |
| <a href="https://www.novartis.ee/">https://www.novartis.ee/</a>         | 04/07/2010 |
| <a href="https://www.novartis.cz/cs">https://www.novartis.cz/cs</a>     | 30/10/2012 |
| <a href="https://www.novartis.com.ve/">https://www.novartis.com.ve/</a> | 04/08/2019 |

19. It is submitted that the trade mark NOVARTIS is a registered trade mark internationally as well as in India. The earliest international registration of the trade mark NOVARTIS dates back to 15<sup>th</sup> February, 1996 in Switzerland, and presently there are several valid and subsisting registrations for NOVARTIS formative trade marks in favour of plaintiff no. 1. Further, the said trademarks are registered/granted protection in over 100 jurisdictions.

20. It is submitted that the plaintiffs in order to further strengthen their



proprietary rights over the trade mark NOVARTIS emanating from prior adoption and use in India, have filed applications for registration of the trade mark NOVARTIS in various Classes, including, in Class 05. The earliest registration of NOVARTIS in India was in the year 1996 under registration no. 700020 in Class 05. The details of few such registrations for the trade mark NOVARTIS in India, are reproduced as under:

| Trade Mark      | Registration Number | Date of Registration | Classes                                                     |
|-----------------|---------------------|----------------------|-------------------------------------------------------------|
| NOVARTIS        | 700020              | 28/02/1996           | 05                                                          |
| <b>NOVARTIS</b> | IRDI-3050272        | 28/04/2015           | 01, 03, 05, 09, 10, 16, 29, 30, 31, 32, 35, 40, 41, 42 & 44 |

21. It is submitted that the aforesaid trademarks have been renewed from time to time and are valid and subsisting in the name of plaintiff no.1. The abovementioned trade mark registrations give plaintiffs the exclusive right to use such trade marks in relation to the goods and services emanating from the plaintiffs. Further, the plaintiffs enjoy common law as well as statutory rights in their trade mark NOVARTIS on account of long and continuous use since its adoption.

22. It is submitted that on account of long and continuous use, extensive advertising campaign and marketing network, enormous sale and painstaking quality control, the trade mark/trade name/ house mark/company name NOVARTIS and its logo has acquired enviable goodwill and reputation amongst the members of trade and public at large. Thus, the trade mark NOVARTIS has become a well-known brand, which connotes and denotes quality as well as origin of goods and/or business of the plaintiffs exclusively. This goodwill and reputation have been achieved by the said brand on account of extensive advertising and promotion through



various media, as well as through extensive sales.

23. It is submitted that the trade mark NOVARTIS is a well-known trade mark as per Section 2(1)(zg) of the Trade Marks Act, 1999. It is submitted that trade mark NOVARTIS of the plaintiffs has been declared a well-known trade mark by the Trade Marks Registry in India and has been included in the list of well-known trademarks maintained by the Registrar of Trade Marks. Thus, the said trade mark of the plaintiffs is entitled to the highest degree of protection against any nearly identical/deceptively similar mark of any other third parties.

24. It is submitted that the defendants are engaged in the business of manufacturing and selling pharmaceuticals and veterinary preparations to which the plaintiffs have no objection. However, the grievance of the plaintiffs is that the defendants have adopted the mark NOVITAS as part of their trade name/corporate name which is almost visually and phonetically identical to the plaintiffs' prior adopted, prior registered and well-known trade mark and trade name NOVARTIS. Apart from their trade name, the defendants are also using the almost identical impugned mark as part of their domain name, [www.novitaslifesciences.com](http://www.novitaslifesciences.com). Such adoption of the almost identical impugned mark by the defendants is without any justification and *ex-facie* dishonest. The competing mark of the parties evidencing the dishonest adoption by the defendant, is reproduced as under:

| Plaintiffs' trade mark | Defendants' mark |
|------------------------|------------------|
| NOVARTIS               | NOVITAS          |

25. It is submitted that the plaintiffs became aware about the defendants in the month of July, 2024 when they came across the defendants' website [www.novitaslifesciences.com](http://www.novitaslifesciences.com), wherein, the defendants claimed to be engaged in the business of manufacturing of pharmaceutical preparations for



humans and animals. Further online search about the defendants revealed that the defendants are also advertising and promoting their business on e-commerce platform, IndiaMart wherein the defendants are offering their goods for sale all across India, including consumers located in Delhi.

26. It is submitted that upon becoming aware about the defendants, the plaintiff no. 1 immediately took steps to issue a cease and desist notice to defendant no. 1 on 16<sup>th</sup> July, 2024 *via* courier asking it to cease use of the impugned mark NOVITAS as part of its trade name/corporate name/domain name. The said notice was returned undelivered as the same was not accepted. The cease and desist notice was also sent to the defendants *via* email on 16<sup>th</sup> July, 2024. The email sent to defendant no. 1 at the email address novitas@novitaslifesciences.com was duly delivered. Thereafter, the plaintiff no. 1 took steps to serve the cease and desist upon the defendant no. 1 by hand delivering the same through an independent investigator. The investigator attempted to serve the cease and desist notice upon defendant no. 1 on 12<sup>th</sup> September, 2024, at its address which also turned out to be the residential address of defendant no. 2. The investigator tried to hand deliver the cease and desist notice to the defendants but defendant no. 2 again refused to accept the same.

27. In the month of December 2024, while conducting a regular check of the Trade Marks Registry, the plaintiff no. 1 came across the Trade Mark Application no. 6531550 for the trade mark NOVITAS dated 18<sup>th</sup> July, 2024 filed by defendant no. 1 claiming use since 21<sup>st</sup> November, 2021. However, the defendant no. 1 has not filed any document in support of such user claim. The defendant no. 1 has filed only one sales invoice dated 21<sup>st</sup> November, 2023 in support of its claim of use. It is submitted that the aforementioned application was filed by defendant no. 1 on 18<sup>th</sup> July, 2024,



which is subsequent to the service of legal notice *via* email on 16<sup>th</sup> July, 2024 by the plaintiffs, and after being intimated about the plaintiffs' objection to the adoption and use of the impugned mark NOVITAS.

28. It is submitted that the defendants have cleverly adopted the impugned mark by merely rearranging the letters 'A' and 'T' and removing the letter 'R' from the trade mark NOVARTIS, thereby, resulting in the impugned mark NOVITAS which in itself shows the *mala fide* intention to ride upon the goodwill and reputation earned by the well-known trade mark of the plaintiffs. The competing marks NOVARTIS and NOVITAS are almost visually and phonetically identical to each other. It is submitted that India being a multilingual country with varied accents accorded to each region, confusion and deception amongst the members of public may arise on account of close phonetic identity between the competing marks and slurring of the impugned mark NOVITAS as plaintiffs' trade mark NOVARTIS.

29. It is submitted that there can be no plausible justification on part of the defendants to adopt the impugned mark NOVITAS for pharmaceutical goods. The plaintiffs have been using the trade mark NOVARTIS for their pharmaceutical business for past several years and on account of such long, continuous and uninterrupted use the plaintiff's trade mark/ trade name/company name NOVARTIS has firmly established itself as a well-known trade mark in the field of pharmaceuticals. Thus, the defendants being in the same field of business ought to have been aware of the plaintiff's prior adopted, registered and well-known trade mark/trade name NOVARTIS.

30. It is submitted that the trade mark/trade name NOVARTIS is a registered trade mark of the plaintiffs in Class 05 under registration nos.





700020 and IRDI-3050272 in respect of pharmaceutical goods. The defendants are also engaged in the business of manufacturing and sale of pharmaceuticals and veterinary preparations under the impugned mark NOVITAS. The defendants' impugned mark NOVITAS is almost visually and phonetically identical to the plaintiffs' registered and well-known trade mark NOVARTIS.

31. It is submitted that confusion and deception amongst the competing marks is inevitable on account of identity of trademarks and commonality of goods, trade channel and class of consumers. An unwary consumer of average intelligence and imperfect recollection is bound to get confused by the adoption of the almost identical mark by the defendants who would assume that the impugned mark is a variant of the plaintiffs' trade mark NOVARTIS which is not the case. There can be no plausible justification on part of the defendants to adopt the almost identical mark NOVITAS for their business, except to ride upon the goodwill and reputation that vests in the trade mark NOVARTIS of the plaintiffs.

32. It is submitted that the defendants are guilty of violating plaintiffs' statutory right of exclusive use of the trade mark NOVARTIS and committing infringement thereof. The trade mark NOVARTIS enjoys immense goodwill and reputation and any unauthorized use of almost identical impugned mark would lead to misappropriation of the goodwill and reputation that vests therein as well as dilution thereof, thereby, causing irreparable damage and injury to the plaintiffs which is beyond suitable compensation or qualification. There is no 'due cause' or any justifiable reasons for the defendants to adopt a trade mark which is almost identical to plaintiffs' well-known trade mark NOVARTIS. The competing marks, NOVARTIS and NOVITAS are almost identical *ex-facie* and ought to be



injunctioned in the interest of public. The confusingly similar trade mark in the field of pharmaceuticals, create greater injury as compared to products and services in other fields. Hence, it is submitted that there is great urgency for issuance of *ad-interim* injunction order restraining the defendants from continuing with the infringing use of the impugned mark.

33. In view of the above circumstances, the plaintiffs have demonstrated a *prima facie* case for grant of injunction and in case no *ex-parte ad-interim* injunction is granted, the plaintiffs will suffer an irreparable loss. Further, the balance of convenience also lies in favour of the plaintiffs and against the defendants.

34. This Court further notes that none appears for the defendants despite service.

35. Accordingly, till the next date of hearing, defendants, its directors, assignees in business, its associates, affiliates, franchisees, licensees, distributors, dealers, stockists, retailers, and agents are restrained from selling, offering for sale, advertising, directly or indirectly dealing in medicinal and pharmaceutical preparations under the impugned mark NOVITAS or any other trade mark/trade name as may be phonetically, visually and structurally deceptively similar to the plaintiffs' trade mark(s) NOVARTIS, amounting to infringement of registered trade mark, passing off, dilution and unfair competition.

36. It is clarified that the defendants are at liberty to carry on their business by adopting any other mark, which is not identical or deceptively similar to the mark of the plaintiffs.

37. Issue notice to the defendants by all permissible modes, upon filing of process fees, returnable on the next date of hearing.

38. Reply be filed within a period of four weeks, from the date of service.



39. Rejoinder thereto, if any, be filed within a period of two weeks, thereafter.
40. Compliance of Order XXXIX Rule 3 CPC, be done, within a period of one week, from today.
41. List before the Court on 14<sup>th</sup> July, 2025.

**MINI PUSHKARNA, J**

**FEBRUARY 3, 2025**

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