



Intellectual Property Appellate Board

Delhi Registry –Cum-Bench

G-62 to 67 & 196 to 204, August Kranti Bhawan, Bhikaji Cama Place,
New Delhi – 110 066

Tele No: 011-26180613/14

Website: <http://www.ipab.gov.in>

Original Application No.

OA/46/2020/PT/DEL

1) PHARMACYCLICS, LLC

APPLICANT/APPELLANT

Versus

1) CONTROLLER OF PATENTS, DESIGNS
TRADEMARK AND GEOGRAPHICAL
INDICATIONS OFFICE

RESPONDENT

2) JOINT CONTROLLER OF PATENTS AND
DESIGNS

3) LAURUS LABS PVT. LTD

CORAM

HON'BLE SHRI JUSTICE MANMOHAN SINGH
HON'BLE DR. ONKAR NATH SINGH

CHAIRMAN
TECHNICAL MEMBER (PVPAT)

ORDER SHEET

10/06/2020

Counsel for the Applicant/Appellant : Mr. Pravin Anand

Counsel for the Respondent : Shri Parag P. Tripathi and Ms. Rajeshwari

Fresh appeal has been filed by the appellant against the order dated 04.03.2020 passed by the Joint Controller of Patents by which he has invoked the patent No. IN-262968. Along with the appeal an interim application has also been filed. As far as the appeal is concerned, issue notice to the respondents. Respondent No.3 accepted the notice and seeks two weeks time to file the reply to the appeal as well as the interim application.

As far as respondent No.1 and 2 are concerned, counter affidavit be filed within two weeks. Parties to file written synopsis by the next date of hearing in this matter on 09.07.2020. With regard to interim prayer made in the Misc. Petition is concerned which is strongly opposed by respondent No.3. A small submission has been made by the parties to list it for order on 12.06.2020.

List appeal and Misc. application on 09/07/2020.

sd/-

sd/-

Technical Member (PVPAT)

Chairman

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M.P.No.8/2020

OA/46/2020/PT/DEL

FRIDAY, THIS THE 12th DAY OF JUNE, 2020

HON'BLE SHRI JUSTICE MANMOHAN SINGH
HON'BLE DR. ONKAR NATH SINGH

CHAIRMAN
TECHNICAL MEMBER (PVPAT)

1. **PHARMACYCLICS, LLC**
1209 ORANGE STREET, WILMINGTON
DELAWARE 19801, USA

...APPLICANT/APPELLANT

(Represented by: Mr.Pravin Anand and Ms.Archana Shankar)

Versus

1. **CONTROLLER OF PATENTS, DESIGNS**
2. **TRADEMARK AND GEOGRAPHICAL INDICATIONS OFFICE**
PLOT NO.32, SECTOR-14, DWARKA
NEW DELHI- 110075
2. **JOINT CONTROLLER OF PATENTS AND DESIGNS**
PLOT NO.32, SECTOR-14, DWARKA
NEW DELHI- 110075
3. **LAURUS LABS PVT. LTD**
PLOT NO.21, JAWAHARLA NEHRU PHARMA CITY
PARAWADA
VISHAKAPATNAM -531021, ANDHRA PRADESH,
INDIA

...RESPONDENT

(Represented by - Mr.Parag P. Tripathi, Sr. Counsel with Ms.Rajeshwari for Respondent No.3
None for respondents 1 and 2)

ORDER

HON'BLE SHRI JUSTICE MANMOHAN SINGH, CHAIRMAN

1. Notice in the main appeal has already issued for 9.7.2020 for final hearing.

2. The interim prayer sought by the appellant is opposed by Mr Parag P Tripathi the learned senior counsel appearing on behalf of respondent no. 3 who has supported the impugned orders and stated that the respondent no 2 has complied with all directions of the order dated 20.11.2020 passed by the Hon'ble Delhi High Court in W.P(C) 12105/2019.

3. On the other hand Mr Pravin Anand, advocate appearing on behalf of Appellant has made his submissions on few issues on merit involved in the matter. It is also stated by him that in case the interim orders are not passed, his clients suit for infringement of Patent being CS(COMM) 709/2019 filed by his client may lead to the dismissal on 16.6.2020. It is also submitted by him that respondent no 2 disregarded the order of the Hon'ble High Court wherein it was directed to ensure that the members of Opposition Board are present so that new documents and evidences are discussed in the presence of the Opposition Board.. The said documents/ Additional evidences were not sent mainly on the reasons as given in the impugned order that it will cause further delay of six months and there is no procedure. It is also argued by him that all other issues including novelty has been decided in favour of the Appellant except the issue of obviousness which is a mix question of law and fact as per settled law. It is argued by him that even the said point of obviousness is decided against the settled law and without application of mind.

4. As per material available on record, we are of the view that the appellant has made a strong prima facie case in its favour. The balance of convenience is also in favour of the appellant and if interim order is not passed, the appellant will suffer irreparable loss and injury.

5. Consequently, till the next the order is modified or vacated the operation of the impugned order dated 4.3.2020 shall remain stayed.

6. Copy of order be communicated to both parties by Email also.

Sd/-

(Dr.Onkar Nath Singh)
Technical Member (PVPAT)

Sd/-

(Justice Manmohan Singh)
Chairman

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