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

% *Date of Decision: 02nd June, 2022*

+ CS(COMM) 243/2022

INTAS PHARMACEUTICALS PRIVATE LIMITED Plaintiff

Through: Mr. Luv Virmani and Ms. Aadya Chawla, Advocates.

versus

INTRA LIFE PRIVATE LIMITED & ORS. Defendants

Through: Mr. Paramesh G., Advocate for D-1.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

JYOTI SINGH, J. (ORAL)

I.A. 7856/2022 (under Order 23 Rule 3 CPC, by Plaintiff and Defendant No.1)

1. Present application has been preferred jointly on behalf of the Plaintiff and Defendant No. 1 under Order 23 Rule 3 CPC, for recording of settlement.
2. Learned counsels appearing on behalf of the Plaintiff and Defendant No.1 submit that parties have amicably resolved their disputes and terms of settlement have been incorporated in paragraph 3(a) to (l) of the application.
3. The application is duly signed by the Authorized Representatives of the Plaintiff and Defendant No.1 and counter-signed by learned counsels for the parties. The same is also supported by the affidavits of the authorized representatives.

4. Court has perused the terms of settlement and finds the same to be lawful. Needless to state, the parties shall remain bound by the terms of the settlement.

5. Application is allowed and disposed of.

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6. In view of the aforesaid order passed in I.A. 7856/2022, suit stands decreed *qua* Defendant No.1 in terms of the settlement arrived at between the said parties as incorporated in paragraph 3(a) to (l) of the application. Terms of the settlement shall form part of the decree.

7. Defendants No. 2 and 3 were proceeded *ex-parte vide* order dated 19.05.2022. When the matter was listed yesterday, a counsel had appeared on behalf of Defendants No. 2 and 3 and submitted that an application would be filed for setting aside the *ex-parte* order, as the said Defendants were also willing to settle the matter. A request was made for adjournment as well as for listing the matter today.

8. When the matter is called today, there is no appearance on behalf of Defendants No. 2 and 3. No application has been filed for setting aside the order dated 19.05.2022.

9. Defendants No. 2 and 3 are the manufacturers of the pharmaceutical products bearing the impugned mark 'LOOZOUT', which is deceptively similar to Plaintiff's trademark 'LOOZ'. Defendants No. 2 and 3 have chosen to stay away from the proceedings, despite service and thus there is no justification or reasonable explanation to adopt the infringing mark on the products manufactured by them. Defendant No.1 has settled the matter with the Plaintiff acknowledging the proprietary and common law rights of the Plaintiff in the trademark 'LOOZ' as well as its variants and formatives

including the priority of the Plaintiff in adoption, usage in trade and the validity and subsistence of the trademark registrations.

10. Accordingly, Defendants No. 2 and 3, their assignees, agents and all others working on their behalf are permanently restrained from manufacturing, selling, offering for sale, advertising and promoting the products using the mark 'LOOZOUT' in isolation or in conjunction with any other prefix/suffix. They are also restrained from manufacturing and selling products under any other mark, which is identical or deceptively similar to the registered mark of the Plaintiff 'LOOZ' and/or its variants so as to amount to infringement or passing off.

11. Suit is accordingly decreed against Defendants No. 2 and 3 with costs of Rs.2,00,000/- in terms of para 62(a), (b) and (f) of the Plaint.

12. Registry is directed to draw up the Decree sheet.

13. Since the suit has been settled *qua* Defendant No.1 at an early stage of litigation, Plaintiff is entitled to refund of 50% of the Court Fees deposited by it, in accordance with provisions of Section 16A of the Court Fees Act, 1870 read with Section 89 CPC, 1908.

14. Suit is disposed of along with pending application.

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JYOTI SINGH, J

JUNE 02, 2022/rk