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

% *Date of Decision: 16.12.2025*

+ **CS(COMM) 1041/2024 & IA No. 45875/2024**

SUN PHARMACEUTICAL INDUSTRIES
LTD.

.....Plaintiff

Through: Mr. Sachin Gupta, Mr. Prashansa
Singh, Mr. Rohit Pradhan, Mr. Ajay
Kumar & Archana, Advocates

versus

OZIEL PHARMACEUTICALS P. LTD. & ANR.Defendants

Through: None.

**CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA**

TEJAS KARIA, J. (Oral)

IA No. 22739/2025

1. The Plaintiff has filed the present Application under Order XIII A read with Section 151 of the Code of Civil Procedure, 1908, as amended by the Commercial Courts Act, 2015 (“CC Act”) and Rule 27 of the Delhi High Court Intellectual Property Division Rules, 2022 (“**Rules, 2022**”) for passing a Summary Judgment against Defendant No. 2.

2. The present Suit has been filed for permanent injunction restraining infringement of the registered Trade Mark, ‘PEPFIZ’ and ‘MINOZ’ (“**Plaintiff’s Marks**”) passing off, dilution, unfair competition for rendition of accounts / damages, delivery up, etc.



SUBMISSIONS ON BEHALF OF THE PLAINTIFF

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

3.1. The Plaintiff coined and adopted the Plaintiff's Mark, 'PEPFIZ' in the year 1991 and has been continuously, openly and extensively using since the year 2004. The details of the registration of the Plaintiff's Mark, 'PEPFIZ' is reproduced hereunder:

Trade Mark	Registration No. & Date	Class / goods
PEPFIZ (word)	555726 dt. 02.08.1991	Class 5- Pharmaceutical and Medical Preparations for Human and Veterinary use.

3.2. The Plaintiff coined and adopted the Plaintiff's Mark, 'MINOZ' in the year 2003, and has been continuously, openly and extensively using since 2003 itself. The details of the registration of the Plaintiff's Mark, 'MINOZ' is reproduced hereunder:

Trade Mark	Registration No. & Date	User	Class / goods
MINOZ (word)	1171648 dt. 04.02.2003	Proposed to be used	Class 5- Pharmaceutical and Medical Preparations for Human and Veterinary use.
MINOZ (word)	3283907 dt. 13.06.2016	04.02.2003	Class 3- Cosmetics; Beauty Care & Skin Care Preparations and Products; Toiletries; Essential Oils; Creams; Lotions; Shampoo &



			Conditioners; Deodorant; Perfumes; Face Wash; Soap; Talcum Powder.
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- 3.3. The Plaintiff had annual sales of ₹22.6 million for the Plaintiff's Mark, 'PEPFIZ' and ₹216 million for the Plaintiff's Mark, 'MINOZ', respectively in the Financial Year ("FY") 2023-24.
- 3.4. Defendant No. 2, *Biodeal Pharmaceuticals P. Ltd.*, is a company incorporated in 2005. Defendant No. 2 is the manufacturer of the products under the Impugned Mark, 'PEPFI-DSR'.
- 3.5. *Vide* order dated 22.12.2024, an *ex-parte ad-interim* injunction was passed restraining the Defendants from selling, offering for sale, advertising, distributing, marketing, exhibiting for sale, trading in or otherwise directly or indirectly dealing in medicinal preparations or similar or like or allied goods under the impugned Marks, 'PEPFI-DSR' and 'MINOZIL' ("**Impugned Marks**"), or any other extensions and / or any other Trade Marks containing the words, 'PEPFI' and 'MINOZIL', and / or any other Trade Marks that may be identical with and / or deceptively similar to the Plaintiff's Marks amounting to infringement of the Plaintiff's Marks, as well as passing off the Defendants' goods and business, for those of the Plaintiff's goods and business. Further, the learned Local Commissioners were appointed to conduct Commissions at the premises of Defendant Nos. 1 and 2, respectively.



- 3.6. According to the learned Local Commissioner's Report dated 09.12.2024, the learned Local Commissioner at the premises of Defendant No. 2 had seized approximately 19,000 infringing products under the Impugned Marks.
- 3.7. Further, the Plaintiff has entered into a settlement with Defendant Nos. 1 and 4 and accordingly, the present Suit was decreed against Defendant Nos. 1 and 4 *vide* order dated 16.05.2025.
- 3.8. *Vide* order dated 29.08.2025, Defendant No. 3 had undertaken to not deal with the Impugned Marks and consented to be bound by the decree passed against Defendant Nos. 1 and 4 *vide* order dated 16.05.2025. Accordingly, the present Suit stood disposed of against Defendant No. 3 as well *vide* order dated 29.08.2025.
- 3.9. The Plaintiff filed the present Application against Defendant No. 2 for passing a Summary Judgment against Defendant No. 2. Defendant No. 2 was served on 22.12.2024 and despite service, Defendant No. 2 has neither entered appearance nor filed the Written Statement.
- 3.10. The Plaintiff is willing to forego the claim for damages and only requests that costs involved in the litigation be granted to the Plaintiff. Accordingly, the Plaintiff submitted that prayers made in Paragraph No. 37(a), (b) and (f) of the present Suit pertaining to grant of permanent injunction and cost of the present proceedings be allowed and a decree may be passed against Defendant No. 2 in terms thereof.



ANALYSIS AND FINDINGS

4. Defendant No. 2 was issued Notice in this Application on 12.09.2025. None appeared on behalf of Defendant No. 2. Hence, Defendant No. 2 is proceeded against *ex-parte*.

5. In view of the fact that Defendant No. 2 has not entered appearance and no Written Statement has been filed on behalf of Defendant No. 2, all the averments made in the Plaint are considered to be admitted. Further, since no Affidavit of Admission / Denial has been filed on behalf of Defendant No. 2 in respect of the documents filed with the Plaint, in terms of Rule 3 of the Delhi High Court (Original Side) Rules, 2018 (“**Rules, 2018**”), the same are deemed to have been admitted.

6. The Plaintiff is a renowned company with consistently high sales figures and the Plaintiff had annual sales of ₹22.6 million for the Plaintiff’s Mark, ‘PEPFIZ’ and ₹216 million for the Plaintiff’s Mark, ‘MINOZ’, respectively in the FY 2023-24.

7. The Plaintiff is the registered proprietor of the Plaintiff’s Marks and the Plaintiff’s Marks have amassed considerable goodwill across India. The Plaintiff being the registered proprietor of the Plaintiff’s Marks is entitled to protect the Plaintiff’s Marks from infringement. In view of the above, a clear case of infringement of the Plaintiff’s Marks is made out. Therefore, the Plaintiff has established a case of passing off as well.

8. From the averments made in the Plaint and the evidence on record, the Plaintiff has been able to prove that the Plaintiff is the registered proprietor of the Plaintiff’s Marks. Due to its long and extensive use, the Plaintiff has also been able to demonstrate and prove its goodwill and reputation in respect of



the same.

9. This is a case of triple identity, where the Plaintiff's Marks and the Impugned Mark 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 and the registered owner of the Plaintiff's Marks are entitled to protection. The near identical Impugned Mark indicates a deliberate and dishonest adoption by Defendant No. 2, aimed at riding upon the goodwill and reputation of the Plaintiff's Marks.

10. *Prima facie*, the Impugned Marks adopted and used by Defendant No. 2 is visually, phonetically and structurally similar to the Plaintiff's Marks. To an unwary consumer of average intelligence and imperfect recollection, the Impugned Marks and the Plaintiff's Marks are likely to appear identical, leading to confusion and deception as to the source, origin or association of the products under the Impugned Marks.

11. Report of the learned Local Commissioner dated 09.12.2024, the learned Local Commissioner at the premises of Defendant No. 2 had seized approximately 19,000 infringing products under the Impugned Marks. Along with the seizure of the infringing products under the Impugned Marks, the learned Local Commissioner had seized a significant number of leaflets with the Impugned Marks.

12. A comparative table with the Plaintiff's Marks and the Impugned Marks is hereunder:

Plaintiff's Marks	Impugned Marks
PEPFIZ	PEPFIK-DSR
MINOZ	MINOZIL



13. Having considered the submissions advanced by the learned Counsel for the Plaintiff, the pleadings, the documents on record, and the conduct of Defendant No. 2, a case of infringement of the Plaintiff's products has been made out by the Plaintiff and are likely to cause confusion in the course of trade of the Plaintiff, such that the consumers may associate the infringing products 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.

14. Defendant No. 2 has attempted to ride on the immense and valuable goodwill and reputation enjoyed by the Plaintiff, but is also attempting to show association or nexus with the Plaintiff, where none exists. There is a strong likelihood that unwary consumers will be duped into buying the infringing products under the Impugned Marks by believing them to be originating from the Plaintiff, which is detrimental to not only the reputation and goodwill of the Plaintiff, but is also detrimental to the consumers as they are being deceived into buying inferior quality products of Defendant No. 2. Defendant No. 2 is dealing with identical goods. Even the trade channels as well as the consumers of Defendant No. 2 are identical to that of the Plaintiff.

15. Accordingly, the present Application is allowed and it is directed that the present Suit be decreed in terms of prayers made in Paragraph No. 13(i) and (ii) of this Application.

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16. The present Suit is decreed against Defendant No. 2 in terms of prayers made in Paragraph No. 37(a), (b) and (f) of the present Suit.

17. As regards the relief for costs as pressed by the Plaintiff, considering



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the facts and circumstances of this case and non-appearance of Defendant No. 2, the Plaintiff shall be entitled to recover the costs of these proceedings from Defendant No. 2 in terms of the provisions of the CC Act and Rules, 2018 read with Rules, 2022.

18. List on 04.02.2026 before the learned Joint Registrar (Judicial), who shall assess the Bill of Costs filed by the Plaintiff as a Taxing Officer.

19. Let the Decree Sheet be drawn up against Defendant No. 2 accordingly.

20. Accordingly, the Suit is disposed of in the aforesaid terms. All pending Applications also stand disposed of.

TEJAS KARIA, J

DECEMBER 16, 2025

‘gsr’