

# Novartis Ag & Anr vs Torrent Pharmaceuticals Limited on 8 October, 2020

**Author: Rajiv Shakdher**

**Bench: Rajiv Shakdher**

\$~3

\*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

CS (COMM) No. 425/2020 & I.A. Nos. 9072-74/2020

NOVARTIS AG & ANR.

Through :

Mr. Hemant Singh, Adv

versus

TORRENT PHARMACEUTICALS LIMITED

.....Defend

Through : Mr. Sanjeev Sindhwani, Sr. Adv. w

Ms. Rajeshwari H. and Saif Rehman

Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% 08.10.2020 [Court hearing convened via video-conferencing on account of COVID-19]

1. Allowed. The plaintiffs are permitted to file additional documents. 1.1 The additional documents will be filed within 30 days from today. CS (COMM) No. 425/2020 & I.A. Nos. 9072-73/2020

2. The case which the plaintiffs have, broadly, set up is one of infringement of the Indian patent no. 229051 [hereafter referred to as "the suit patent"].

2.1 The plaintiffs claim that they are producing a pharmaceutical composition consisting of sacubitril and valsartan. The product is sold under the brand name "Vymada".

CS (COMM) No. 425/2020

2.2 It is claimed that the said drug reduces the risk of c

complications.

2.3 The grievance of the plaintiffs, presently, is that the

obtained approval of the Directorate General of Health Services for manufacturing a Fixed-Dose combination of sacubitril and valsartan which, according to them, infringes the suit patent.

3. Mr. Sanjeev Sindhvani, learned senior counsel, who appears on behalf of the defendant, says that the assertions made by the plaintiffs are incorrect.

3.1 According to Mr. Sindhvani, the defendant uses a supra molecular complex [amorphous] of the concerned compounds i.e. sacubitril and valsartan and skirts clear of the charge of infringing the suit patent. 3.2 It is also Mr. Sindhvani's assertion that the plaintiffs have filed an application for obtaining a patent for supra molecular complex [amorphous] in India which is, presently, pending consideration. 3.3 I am also informed by Mr. Sindhvani that the defendant has moved for revocation of the suit patent before the IPAB. 3.4 It is Mr. Sindhvani's say, though, that the step taken towards revocation of the suit patent is de hors the defendant's claim that what the defendant proposes to manufacture is different from what is protected by the suit patent.

3.5 Mr. Sindhvani goes on to say that the plaintiffs have not only obtained patent for the subject drug in the United States of America [USA] but have also launched proceedings against the defendant in the USA.

CS(COMM)No.425/2020 page 2 of 3 3.6 According to Mr. Sindhvani, the concerned court in the USA has not enjoined the defendant.

4. On the other hand, Mr. Hemant Singh, who appears on behalf of the plaintiffs, says that Mr. Sindhvani's contention, in this behalf, is not correct.

5. On being queried, Mr. Sindhvani informs me that the defendant has not, as yet, commenced manufacture of a drug involving usage of supra molecular complex [amorphous] pertaining to the aforementioned compounds i.e. sacubitril and valsartan.

6. Given the aforesaid backdrop, issue summons in the suit and notice in the captioned applications.

6.1 Ms. Rajeshwari H. accepts service on behalf of the defendant. 6.2 A written statement in the suit and replies to the captioned applications will be filed within two weeks from today. Replication and rejoinders thereto, if any, will be filed before the next date of hearing.

7. The defendant will approach the Court, at least two weeks prior to the date when it proposes to commence its manufacturing activity. This information will also be furnished to the plaintiffs.

8. List the matter on 11.12.2020.

OCTOBER 08, 2020

Aj/KK

[Click here to check con](#)

CS (COMM)No.425/2020