

# Bristol Myers Squibb Holdings Ireland ... vs Angle Bio Pharma & Ors on 23 March, 2022

**Author: Prathiba M. Singh**

**Bench: Prathiba M. Singh**

Signature Not Verified  
Digitally Signed  
By:DEVANSHU JOSHI  
Signing Date:26.03.2022  
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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ CS(COMM) 178/2022 & I.As. 4518-21/2022  
BRISTOL MYERS SQUIBB HOLDINGS IRELAND UNLIMITED  
COMPANY & ORS. .... Plaintiffs  
Through: Mr. Pravin Anand, Ms. Tusha  
Malhotra, Ms. Ridhi Bajaj & Ms.  
Richa Bhargava, Advocates (M-  
9999954489)  
versus  
ANGLE BIO PHARMA & ORS. .... Defendants  
Through: Mr. Naman Joshi, Advocate for D-2.  
CORAM:  
JUSTICE PRATHIBA M. SINGH  
ORDER

% 23.03.2022

1. This hearing has been done through hybrid mode. I.A. 4521/2022 (for exemption)
2. This is an application seeking exemption from filing original, clear and translated copies of documents. Exemption is allowed, subject to all just exceptions.
3. I.A. 4521/2022 is disposed of.  
I.A. 4519/2022 (for additional documents)
4. This is an application seeking leave to file additional documents under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter, 'Commercial Courts Act'). The Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act.
5. I.A. 4519/2022 is disposed of.

6. This is an application seeking exemption from filing notarized affidavit.
  7. For the reasons stated in the application, let the said affidavit be filed along with notarization within one week.
  8. I.A. 4520/2022 is disposed of.
- CS (COMM) 178/2022
9. Let the plaint be registered as a suit.
  10. Issue summons to the Defendants through all modes upon filing of Process Fee.
  11. The summons to the Defendants shall indicate that a written statement to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement, the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiffs, without which the written statement shall not be taken on record.
  12. Liberty is given to the Plaintiffs to file a replication within 15 days of the receipt of the written statement(s). 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 any documents, the same shall be sought and given within the timelines.
  13. List before the Joint Registrar for marking of exhibits on 20 th May, 2022. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.
  14. List before Court on 20th July, 2022.

I.A. 4518/2022 (u/O XXXIX Rule 1 and 2 CPC)

15. Issue notice.
16. Ld. counsel for Defendant No.2/Indiamart Intermesh Ltd. (hereinafter "Indiamart") accepts notice.
17. The Plaintiffs have filed the present suit seeking an injunction restraining infringement of granted patent no.247381 titled Lactam- Containing Compounds and Derivatives Thereof as Factor Xa Inhibitors' (hereinafter "IN'381"), which is a novel pharmaceutical preparation, also known by the INN name 'APIXABAN'. The said product relates generally to the lactam-containing compounds and derivatives thereof which are inhibitors of trypsin-like serine protease enzymes, which is used as an anticoagulant agent for the treatment of thromboembolic disorders. The same was granted by the Patent Office on 4th April, 2011 and the term of the patent is till 17th September, 2022. The submission of Ld. Counsel appearing for the Plaintiffs, is that Defendant No.1/Angle Bio Pharma is

advertising, offering and selling the product 'APIXABAN' on its website as also through various other platforms such as the websites of Indiamart and Defendant No.3/Infocom Network Private Limited (hereinafter "Tradeindia").

18. Mr. Pravin Anand, Id. Counsel for the Plaintiffs, submits that a perusal of the Defendant No.1's website would show that in fact the listings are designed by IndiaMart and Tradeindia - Defendant Nos.2 & 3, who are supporting Defendant No.1 in the sale of the product in question.

19. Reliance is also placed on various orders and judgments which have been granted, protecting the patent rights of the Plaintiffs in the product 'APIXABAN' across jurisdictions. Apart from the judgments passed by this Court, including the Id. Division Bench, inter alia, in Indoco Remedies Ltd.

v. Bristol Myers Squibb Holdings Ireland Unlimited Co. [FAO (OS)(COMM) 3 of 2020, order dated 18th September, 2020], reliance is also placed upon the judgments passed by the U.S. Court of Appeals for the Federal Circuit, as also the Federal Court, Ontario, Canada and the decision of the Supreme Court of South Korea protecting the rights in the said product.

20. A perusal of the website of Defendant No.1, shows that Defendant No.1 though located in Ahmadabad, is clearly offering the product for sale across the country and the quantities which are being offered are also bulk in nature. The products have also been listed on the IndiaMart and Tradeindia websites.

21. Since, there is no doubt that 'APIXABAN' is the molecule over which the Plaintiff enjoys exclusivity in view of the Section 48 of the Patents Act, 1970, the Plaintiffs have made out a prima facie case for grant of an ex parte ad interim injunction.

22. Accordingly, till the next date of hearing, Defendant No.1 - Angle Bio Pharma or anyone else acting for or on its behalf, is restrained from, in any manner, manufacturing, selling or offering for sale any pharmaceutical preparation of 'APIXABAN' without license or authorization from the Plaintiff. Insofar as the third party websites of Defendant No.2- Indiamart and Defendant No.3- Tradeindia are concerned, they are directed to take down the listings of the 'APIXABAN' product within 36 hours upon receipt of this order, including at <https://www.indiamart.com/zati-import-and-export/antipsychotic-Anti-depressant.html> and <https://www.tradeindia.com/delhi/apixaban-city-228067.html>.

23. Mr. Naman Joshi, Id. Counsel appears for Indiamart and submits that since Indiamart is only an intermediary, the order ought to be restricted to the current listings of Defendant No.1, as specified in the plaint, i.e., <https://www.indiamart.com/zati-import-and-export/antipsychotic-Anti-depressant.html> and <https://www.tradeindia.com/delhi/apixaban-city-228067.html>.

24. Since Defendant Nos.2 claims to be an intermediary and Defendant no.3 is yet to appear and in view of the Plaintiffs' patent, a granted patent, it is made clear that whenever the Plaintiffs come to know of any other links where 'APIXABAN' is listed on Indiamart's/Tradeindia's website, notice

shall be issued by the Plaintiff to Defendant No.2-Indiamart and/or Defendant No.3-Tradeindia through counsel, upon which, within 36 hours, the said listings shall also be taken down, in compliance with the applicable guidelines relating to intermediaries.

25. Compliance of Order XXXIX Rule 3 CPC be made within one week.

26. Reply to the application be filed within 4 weeks from service of the present order along with the paper book.

27. List before the Court on 20th July, 2022.

28. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, [www.delhihighcourt.nic.in](http://www.delhihighcourt.nic.in), shall be treated as the certified copy of the order for the purpose of ensuring compliance. No physical copy of orders shall be insisted by any authority/entity or litigant.

29. Order be uploaded forthwith.

PRATHIBA M. SINGH, J.

MARCH 23, 2022 Rahul/MS