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

+ **CS(COMM) 541/2026**

EMCURE PHARMACEUTICALS LIMITEDPlaintiff

Through: Ms. Archana Sahadeva, Ms. Shiwangi Singh, Ms. Monisha Mane Bhangale, Ms. Bijal Vora, Ms. Amishi Sodani, Ms. Kavish Arora, Mr. Pranav Sarthi, Mr. Ayush Raj, Ms. Prachi Dhingra, Mr. Udit Bajpai, Mr. Utkarsh Vatsa, Advocates.

versus

ORZIVA HEALTHCARE PRIVATE LIMITED & ORS.

.....Defendants

Through: None.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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29.05.2026

CS(COMM) 541/2026

1. List before the learned Joint Registrar on 03.08.2026.

I.A. 14298/2026

2. This application is filed on behalf of Plaintiffs under Order XI Rules 1, 2 and 5 of CPC read with Section 151 CPC seeking discovery and disclosure along with supporting affidavit.

3. Issue notice to the Defendants, through all permissible modes, returnable before the learned Joint Registrar on 25.09.2026.



I.A. 14297/2026 (u/O XXXIX Rules 1 and 2 r/w Section 151 CPC)

4. Summons were issued in the suit as also notice in the present application on 21.05.2026, returnable before Court on 26.05.2026. Affidavit



of service filed by the Plaintiff shows that Defendants have been served through electronic mode on email id taken from the website of Ministry of Corporate Affairs. Matter was passed over twice but there is no appearance on behalf of the Defendants. Be it noted that even on 26.05.2026, none had appeared for the Defendants despite service and in the interest justice, adverse order was deferred and matter was listed for today.

5. Case of Plaintiff as set out in the plaint is that Plaintiff is one of the leading pharmaceutical companies in the world, offering a wide range of products in categories including gynaecology, cardiology, blood-related, oncology, respiratory, CNS & HIV amongst others. Plaintiff operates and maintains its website <https://www.emcure.com/> dispensing extensive information about its functioning and objectives.

6. It is stated that Plaintiff is the registered proprietor of the trademark **OROFER** which was conceived and adopted in 1996 and has been continuously used since then for gynaecological products used especially during Anaemia. Plaintiff has also introduced multiple variants of the said trademark such as **OROFER-EPO**, **OROFER-XT**, **OROFER FCM**, **OROFER-S**,  / . The trademark registrations in favour of the Plaintiff are as follows:-

Application No.	Class	Trade Mark	Application Date	Status
720115	05	OROFER	30.10.1996	Registered
1638746	05	OROFER-EPO	07.01.2008	Registered
1016282	29	OROFER	12.06.2001	Registered

7. It is stated that Plaintiff enjoys trademarks registrations in foreign jurisdiction also as follows:-

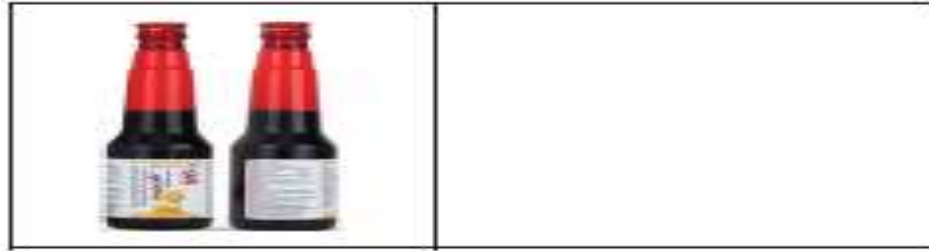


Trade Mark	Country	Date of Application	Application No.	Class	Status	Expiry Date
OROFER	Zambia	28/02/2018	2017/000318	5	Registered	28/02/2038
OROFER	Zimbabwe	07/11/2016	1082/2016	5	Registered	07/11/2026
OROFER XT	Canada	21/06/2019	1792474	5	Registered	20/06/2029
OROFER	Ghana	19/09/2016	1665/2016	5	Pending	NA
OROFER	Guatemala	18/10/2016	2016-010414	5	Registered	06/04/2027
OROFER	Jamaica	17/08/2016	0-70743	5	Registered	17/08/2026
OROFER	Kazakhstan	14/10/2016	77337	5	Registered	14/10/2026
OROFER	Kenya	28/02/2017	96133	5	Registered	28/02/2027
OROFER	Kyrgyzstan	12/01/2017	20170012.3	5	Registered	12/01/2027
OROFER	Malawi	25/08/2016	MW/TM/2016/00832	5	Registered	25/08/2033
OROFER	Mauritius	24/08/2016	MU/M/2016/23559	5	Registered	24/08/2026
OROFER	Tajikistan	13/09/2016	V-07233	5	Registered	13/09/2026
OROFER	Tanzania	16/12/2016	TZ/T/2016/2846	5	Pending	NA
OROFER	Uganda	02/03/2017	UG/T/2017/058079	5	Registered	02/03/2034
OROFER	Uzbekistan	21/10/2016	MGU 20162524	5	Pending	NA
OROFER	Zanzibar	23/12/2016	ZN/T/2016/969	5	Registered	23/12/2026
OROFER	Chile	27/09/2022	1519062	5	Registered	26/05/2033
OROFER	Trinidad & Tobago	17/01/2023	59663	5	Pending	NA
OROFER	Congo	16.12.2022	08687/2022	5	Registered	16.12.2032
OROFER	Bolivia	27.09.2024	SM-4371-2024	5	Registered	09.12.2035

8. It is stated that Plaintiff has devised a distinctive trade dress/packaging for its capsules and tonics, the artistic work in which was designed by in-house designers and in which copyright subsists in favour of the Plaintiff. The unique products and packaging are as follows:-



PLAINTIFF'S PRODUCTS	
OROFER TABLETS	
	
Orofer-Xt Tonic	Orofer-Xt Tablets
 	  



9. It is stated that Plaintiff has earned enviable goodwill and reputation by sale of its products under its registered marks and unique trade dress/packaging. Plaintiff has extensive social media presence for its products including with respect to trademark **OROFER-XT**, as follows:-

Social Media	Followers
Facebook- OROFER XT https://www.facebook.com/EmcureforAnemiaFreeIndia/	2000+ Followers
Instagram - OROFER XT https://www.instagram.com/emcureforanemiafreeindia/?hl=en	500 Followers
Youtube https://www.youtube.com/@oroferxt3974/videos	50+ videos

10. It is stated that the goodwill and reputation is corroborated by the revenues earned and expenditure incurred on promotion and advertisements, details of which are as follows:-

Sales Turnover

Financial Year	Sales in Rs. (lakhs)
2012-2013	10,364.90
2013-2014	11,937.16
2014-2015	14,191.76
2015-2016	16,535.15
2016-2017	17,087.24
2017-2018	19,689.54
2018-2019	21,858.65
2019-2020	25,164.40
2020-2021	23,906.27
2021-2022	28,969.74
2022-2023	32,143.66
2023-2024	31,261.82
2024-2025	29,351.76
2025-2026	29,515.08



Expenses incurred on promotion


Financial Year	Physician Samples in Rs. (lakhs)
2012-2013	189.73
2013-2014	175.49
2014-2015	224.92
2015-2016	148.93
2016-2017	121.22
2017-2018	195.00
2018-2019	233.66
2019-2020	261.17
2020-2021	143.24
2021-2022	123.68
2022-2023	72.91
2023-2024	199.06
2024-2025	146.46
2025-2026	79.64




11. It is stated that trademarks OROFER/**Orofer** including its variant OROFER-XT/**Orofer Xt** is a highly coveted brand of the Plaintiff and for the said trademark, Plaintiff was awarded 'Brand of the Year — Chronic/ Subchronic Gold Award' in 2018 and the 'Bronze Award' in 2019. Plaintiff has been extremely vigilant in prosecuting its rights pertaining to its intellectual property and has filed several law suits in different High Courts, as detailed in the plaint.

12. It is stated that Defendants have adopted the impugned marks ORZIFER-XT/**Orzifer-XT**, which are nearly identical to Plaintiff's trademarks OROFER/**Orofer**/OROFER-XT/**Orofer Xt** for identical product used for treating anaemia and comprise of same ingredients as those of Plaintiff's drug. Defendants' impugned product prominently displays the impugned marks on the packaging with a view to confuse the public.



Defendants make available their products on online market places such as www.indiamart.com and www.apollopharmacy.in, URLs for which have been furnished in the plaint. On becoming aware, Plaintiff issued a cease and desist notice dated 17.12.2025, however, there was no response.


13. Learned counsel for the Plaintiff submits that Defendants have adopted nearly identical marks ORZIFER-XT/  for nearly identical products and trade channels and consumer base being common, confusion amongst members of public is inevitable. Plaintiff's products under the marks OROFER/OROFER-XT are Schedule-H drugs which are essentially prescribed by doctors for treating anaemia *inter alia* during pregnancy. The confusion arising out of the Defendants' adopted a nearly identical mark for nearly identical products can cause serious harm and injury to the patients especially pregnant women who may end up purchasing Defendants' nutraceuticals.

14. Learned counsel for the Plaintiff submits that Plaintiff is the registered proprietor of trademark OROFER and its variations in Classes 05 and 29 and any unauthorized use of a deceptively similar mark by Defendants for nearly identical products amounts to infringement under Section 29 of the Trade Marks Act, 1999 ('1999 Act') and violates statutory rights of the Plaintiff. The trademarks OROFER/  /OROFER-XT/  are unique and distinct trademarks and Plaintiff has acquired immense goodwill in the said marks and they are associated in the minds of the public only with the Plaintiff. By using the impugned marks ORZIFER-XT/ , Defendants are attempting to misrepresent to the public that there is some connection of their products with the Plaintiff so as to pass off their goods.






Plaintiff has been extremely vigilant in protecting its intellectual property rights in its trademarks and has filed law suits in this Court to restrain infringers and refers to order dated 19.09.2024 in CS(COMM) 810/2024 and order dated 11.12.2025 in CS(COMM) 1327/2025 where Courts have granted *ex parte* ad interim injunctions against third parties.

15. Having heard learned counsel for Plaintiff and upon perusal of the documents as well as the rival marks, I am of the view that Plaintiff has made out a *prima facie* for grant of *ex parte* ad interim injunction against the Defendant. Balance of convenience lies in favour of Plaintiff and it is likely to suffer irreparable harm in case the interim injunction, as prayed for, is not granted.

16. Plaintiff is the registered proprietor of OROFER trademarks and its variants. Defendants are using the impugned marks ORZIFER-XT/  which are visually, structurally and phonetically deceptively similar. The impugned products are nutraceutical in the form of iron tonic. Trade channels and consumer base are common and thus there is likelihood of confusion amongst members of public. Plaintiff is right that any confusion in the nature of products in question can be extremely harmful for consuming patients. In my *prima facie* view, Defendants are infringing the marks of the Plaintiff and violating the statutory right of the Plaintiff to exclusive use of its registered marks as also to restrain third parties from infringing. The intent and purpose of the Defendants to adopt deceptively similar/nearly identical marks for nearly identical products is with the objective of encashing on the formidable goodwill and reputation of the Plaintiff, garnered over the years to misrepresent to the public and



potential customers that their goods emanate from the house of the Plaintiff. Plaintiff rightly contends that Defendants are causing irreparable damage to its goodwill and reputation. Defendants are *prima facie* passing off their goods as those of the Plaintiff. In my view, the three ingredients of trinity principles for grant of injunction are met in the present case. Plaintiff has furnished some URLs in paragraph 31 of the plaint, on which at some stage impugned products were available, however, it is stated in the same paragraph that as of date, products are not shown on these links. In light of this stand, no order of take down is being passed. Plaintiff will, however, be at liberty to take recourse to appropriate remedies in case the impugned products re-surface on these links.

17. Accordingly, till the next date of hearing, Defendants, their directors, executives, partners, proprietors, principal officers, assignees, retailers, distributors, wholesalers, family members and anyone acting for and on their behalf are restrained from manufacturing and selling, distributing, offering for sale, advertising or promoting the impugned products under the impugned marks ORZIFER-XT/ or any other mark which is identical/deceptively similar to Plaintiff's trademarks OROFER/// OROFER-XT/, amounting to infringement of trademarks and/or passing off.

18. Plaintiff shall comply with the provisions of Order XXXIX Rule 3 CPC within a period of two weeks from today.

19. List before Court on 25.09.2026.

JYOTI SINGH, J

MAY 29, 2026/S.Sharma