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CMA(PT) No. 37 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-07-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CMA(PT) No. 37 of 2024

Elanco Us Inc
2500 Innovation Way,
Greenfiled, Indiana 46140,
United states of America,
Amended vide court order dated 15/04/2025 made
in CMP No.9197 of 2025 in CMA (PT) No.37 of
2024

..Petitioner(s)

Vs

Assistant Controller Of Patents And Designs
Government of India, Patent Office Intellectual
Property rights Building, GST Road, Guindy,
Chennai-600 032

..Respondent(s)

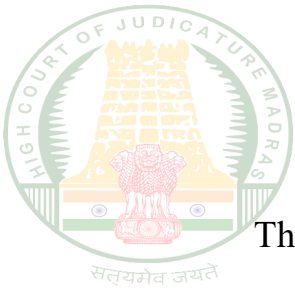
Appeal filed under Section 117A of the Patents Act, 1970 against the order of the Controller of Patents and Designs, praying to call for the records of the Respondent culminating in the impugned order dated 20th May 2024, rejecting the Grant of Patent and set aside the same and consequently direct Grant of the Patent in respect of the Appellant's Application No.201948050412.

For Petitioner(s):

Mr.Rahul Balaji

For Respondent(s):

Mr.R.Subramanian
Additional Central Government
Standing Counsel (ACGSC)



JUDGMENT

This appeal has been filed to call for the records of the Respondent culminating in the impugned order dated 20th May 2024, rejecting the Grant of Patent and set aside the same and consequently to direct Grant of the Patent in respect of the Appellant's Application No.201948050412.

2. Heard both sides.

3. The appellant's claim for invention of an oral pharmaceutical composition for treating chronic inappetence and chronic weight loss in a companion animal had been rejected. A perusal of the impugned order would indicate that the reason for rejection was the lack of inventive step required under Section 2(1)(ja) of the Patents Act, 1920 on the strength of the prior art D1. The claims made in the original application had been set out in detail in the order and the reply to the objections raised to the First Examination Report had also been extracted. Under the order, the respondent had indicated that the invention under the patent is substantially the same as disclosed in the prior art under D1. In the analysis, a finding had been given that the invention under the application under consideration differs from the closest prior art document under D1, as the prior do not provide any safety data on the maximum dose of the drug for continued use. It had also been further recorded that the drug sought to be patented has no adverse clinical side effects on the companion



animals.

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4. In that regard, this Court is of the view that, having given such a reasoning, the rejection simpliciter that there is no inventive step is smacked by arbitrariness.

5. For the aforesaid reasons, the impugned order dated 20.05.2024 stands set aside on the following terms:

(a) In order to preclude the possibility of pre determination, an officer other than the officer who issued the impugned order shall undertake re-consideration.

(b) After providing a reasonable opportunity to the appellant, a reasoned decision shall be issued within a period of four months from the date of receipt of a copy of this order.

(c) For the avoidance of doubt, it is made clear that no observation has been made on the merits of the patent application.”

6. On the above terms, this Appeal is disposed of. No costs.

14-07-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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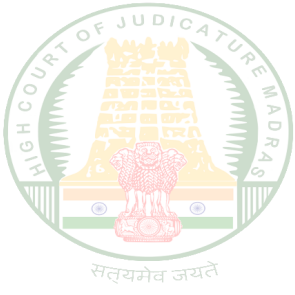


To

The Assistant Controller Of Patents And Designs
Government of India,
Patent Office Intellectual Property rights Building,
GST Road, Guindy, Chennai-600 032.

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K.KUMARESH BABU, J.

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