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

\# **CNR No. DLHC010342012026**

\+ CS(COMM) 816/2026

GLAXOSMITHKLINE PHARMACEUTICALS LIMITED .....Plaintiff

Through: Ms. Tanya Varma, Mr. Vardaan Anand and Ms. Hansika Bajaj, Advocates.

versus

SCOTT EDIL PHARMACIA LIMITED AND ANR .....Defendants

Through:

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

O R D E R

% **05.08.2026**

I.A. 20334/2026 *(Exemption)*

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

I.A. 20333/2026 *(u/O XI Rule 1 (4) r/w Section 151 CPC)*

3. This application is filed on behalf of the Plaintiff seeking to place on record additional documents within 30 days.

4. Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly in accordance with provisions of the Commercial Courts Act, 2015.

5. Application is allowed and disposed of.

I.A. 20332/2026 *(for pre-institution mediation)*

6. This application is filed on behalf of the Plaintiff under Section 151

CPC read with Section 12A of the Commercial Courts Act, 2015 seeking exemption from Pre-Institution Mediation.

7. Having regard to the facts of the present case wherein urgent relief is prayed for and in light of the judgment of Supreme Court in ***Yamini Manohar v. T.K.D. Keerthi, (2024) 5 SCC 815***, as also Division Bench of this Court in ***Chandra Kishore Chaurasia v. RA Perfumery Works Private Ltd., 2022 SCC OnLine Del 3529***, exemption is granted to the Plaintiff from Pre-Institution Mediation.

8. Application is allowed and disposed of.

I.A. 20335/2026 *(u/S 151 CPC)*

9. This application is filed on behalf of the Plaintiff seeking permission to file documents pertaining to sales figures to the Registrar of the Delhi High Court in sealed cover, to conduct hearing in camera / in chamber being confidential documents and to constitute confidentiality club in accordance with Delhi High Court Intellectual Property Rights Divisions Rules, 2021.

10. Issue notice to the Defendants through all permissible modes, returnable before Court on 03.12.2026.

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11. Let plaint be registered as a suit.

12. Issue summons to the Defendants through all permissible modes, returnable before the learned Joint Registrar on 07.09.2026.

13. Summons shall state that the written statements shall be filed by the Defendants within 30 days from the date of receipt of summons along with affidavit of admission/denial of the documents filed by the Plaintiff.

14. It will be open to the Plaintiff to file replications within 30 days from receipt of the written statements along with affidavit of admission/denial of

documents filed by the Defendants.

15. If any of the parties wish to seek inspection of any documents, the same be sought and given within the timeline prescribed in Delhi High Court (Original Side) Rules, 2018.

16. Learned Joint Registrar shall carry out admission/denial of documents and marking of exhibits.

I.A. 20331/2026 *(u/O XXXIX Rules 1 and 2 r/w Section 151 CPC)*

17. This application is filed on behalf of the Plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of CPC for grant of *ex parte* ad interim injunction.

18. Issue notice to the Defendants through all permissible modes, returnable before Court on 03.12.2026.

19. Case of the Plaintiff as set out in the plaint is that Plaintiff is a member of the GSK group of companies, of which GSK plc ('GSK') is the parent company. GSK is a science-led global healthcare company based in United Kingdom, which researches, develops and manufactures a broad range of innovative products in the primary areas of pharmaceuticals and vaccines, having a worldwide turnover in the years 2023, 2024 and 2025 of £30.3 billion, £31.4 billion and £32.7 billion, respectively. GSK was formed in 2000 following a merger of Glaxo Wellcome plc and SmithKline Beecham plc and has legacy companies from its predecessors dating back to the year 1715.

20. It is stated that GSK researches, develops, and manufactures a broad range of pharmaceuticals and vaccines globally as well as in India, across therapeutic areas such as anti-infectives, dermatology, immune inflammation, oncology and respiratory diseases. It is also the market leader

in many of the therapeutic categories in which it operates and offers a range of vaccines for prevention of pneumococcal disease, meningitis, hepatitis, rotavirus, whooping cough and influenza amongst other diseases. GSK has a significant global presence with a network of manufacturing sites in countries worldwide including in India as also large research and development centres in the UK, USA, Belgium, Italy and Spain. As on 31.12.2025, GSK plc had a market capitalization of £74.4 billion and was the 8th largest company by market capitalization on the FTSE index.

21. It is stated that GSK has presence in India dating back over 100 years with the Plaintiff (its Indian subsidiary) being incorporated in 1924 and was listed on Indian National Stock Exchange in 1969. Plaintiff is headquartered in Mumbai and has a large manufacturing unit in Nashik, Maharashtra, inaugurated in 1983 and situated on 47 acres of land and operating through a warehousing and distribution network, comprising 19 Contract Manufacturing Organisations and over 5,600 stockists, covering over 1400 towns and cities. Plaintiff is one of the market leaders in the pharmaceutical and vaccines sector in India with a turnover of approximately Rs.3,790 crores in the financial year 2025-26 and employs over 3,100 people in India. GSK provides numerous pharmaceutical products in India including AUGMENTIN, CALPOL, CEFTUM, FLUTIVATE, NEOSPORIN, BETNOVATE, T-BACT, TENOVATE and PHYSIOGEL apart from vaccine products such as SHINGRIX, INFANRIX, SYNFLORIX, BOOSTRIX, HAVRIX, MENVEO, FLUARIX TETRA and VARILRIX. Plaintiff is ranked 1st in the private vaccine market as also in the dermatology segment; 2nd amongst MNCs in the pharmaceutical industry by value; and 4th in the industry in acute therapy areas, by volume. Over the

years, Plaintiff has received several awards and accolades, details of which are provided in paragraph 15 of the plaint. The consolidated details of advertisement and promotional expenditure incurred annually by Plaintiff, including expenses incurred on advertising and promoting the trademarks that are subject matter of the present suit, are as follows:-

S. No.	Year	Expense Incurred (in INR)
1.	2017-18	81,71,34,000
2.	2018-19	1,20,36,40,000
3.	2019-20	1,08,25,07,000
4.	2020-21	67,37,17,000
5.	2021-22	1,27,68,80,000
6.	2022-23	1,09,12,34,000
7.	2023-24	1,09,36,32,000
8.	2024-25	1,20,15,90,000
9.	2025-26	1,27,94,33,000

22. It is stated that Plaintiff is the owner and proprietor of the trademark CEFTUM, having the active ingredient *Cefuroxime Axetil,* used on and in relation to antibiotic tablets for treating variety of infections including those of respiratory tract, urinary tract, skin and soft tissue infections, gonorrhoea etc. Products under the CEFTUM trademark are available in several variants with appropriate suffixes designating its ingredients and mg descriptions, such as CEFTUM 500, CEFTUM 250 and CEFTUM 125. Trademark CEFTUM is registered in India in the name of Plaintiff under No.455064 in Class 05 since 05.06.1986 and has been used since early 1991. The earlier registration was in the name of Glaxo India Limited in 1996, however, Glaxo India underwent a name change to the present name of the Plaintiff.

Details of Plaintiff's trademark registration are as follows:-

Mark	Registration No.	Class	Application Date	Status
CEFTUM	455064	5	05.06.1986	Registered

23. It is stated that Plaintiff has extensively advertised and promoted its products under the trademark CEFTUM, having run several popular advertisement campaigns and print advertisements. Additionally, CEFTUM products have been discussed and referred to many third party articles. Details of the advertisement and promotional expenses incurred by the Plaintiff are as follows:-

Year	Advertisement & Promotional Expenses approx. Lakhs (in INR)
2017	246
2018	143
2019	351
2020	340
2021	375
2022	474
2023	566
2024	678

24. It is stated that CEFTUM ranks among the top 100 brands on IPM and owing to superior quality and efficacy of the products and continuous and excessive use of the mark, Plaintiff has acquired immense reputation in the mark. Plaintiff ensures that its products under CEFTUM undergo rigorous testing and adhere to strict quality standards, providing consumers with

confidence in their safety and effectiveness and has held several medical workshops and seminars in India, attended by experts in the field of medicine from across the country. Products under the trademark CEFTUM have been awarded a Certificate of Marketing Excellence in Premium Brand Category by C-Marc-IPHMR in December, 2011.

25. It is further stated that Plaintiff is also the registered proprietor of the trademark NEOSPORIN which is a coined mark in relation to medicinal products and comprises of API ingredient *Neomycin, Polymyxin B Sulphates and Bacitracin Zinc* and is used for treating wide range of bacterial infections of skin and eye as also accidental cuts, scratches, abrasions, infected ulcers, superficial skin infections following surgical procedures and minor burns, impetigo and secondary infected skin conditions as also treatment of otitis externa due to or complicated by bacterial infection. Trademark NEOSPORIN has been in use in India since 1969 and the products under the mark are offered in three variants i.e., ointment, dusting powder and ear drops.

26. It is stated that the earliest registration in favour of Plaintiff for the mark NEOSPORIN dates back to 1965. The registration was earlier in the name of The Wellcome Foundation Limited, a British Company and was eventually transferred to the Plaintiff on a request form TM-24 dated 04.12.2012. Details of trademark registration are as follows:-

Trade Mark	Registration No.	Class	Application Date	Status
NEOSPORIN	226985	5	02.02.1965	Registered

27. It is stated that in addition to the statutory rights over the trademark NEOSPORIN, Plaintiff also claims proprietorship over the distinctive blue

and white packaging adopted for ointment and dusting powder variant of the product under the trademark NEOSPORIN. In the years 2006, 2007, 2011 and 2014, the products under NEOSPORIN maintained their leading position in the topical antibiotic market and in 2012, the said products, along with other topical antibiotic products had a market share of 54% in its segment. In 2016-2017, the products were reported as having been prescribed 1 million times. Plaintiff has extensively advertised and promoted its products under the trademark NEOSPORIN in India through many popular advertisement campaigns and the expenses incurred are as follows:-

Year	Advertisement & Promotional Expenses approx. Lakhs (in INR)
2017	278
2018	296
2019	381
2020	335
2021	221
2022	90
2023	240
2024	386

28. It is stated that Defendant No.1 is a company incorporated under the Companies Act, 1956 and is engaged in marketing, advertising and selling medicinal products under the impugned marks NEXPORIN and ZETUM. Defendant No.2 is also a company and both Defendants are connected in the course of trade and operate as affiliated entities, as evident from the website of Defendant No.1. For the sake of completeness, Defendant No. 1 had

applied for the registration of the mark NEXPORIN in Class 05 claiming user from 27.08.2008 but the application was abandoned. In 2010, Defendant No. 1 gave an undertaking on its behalf as also binding Defendant No. 2 that they shall not manufacture or sell in any manner whatsoever any product under the mark ZEFTUM and BETANOVE-N or any mark similar to Plaintiff's mark CEFTUM and BETNOVATE. However, in February, 2026, Plaintiff came across Defendant No.1's trademark application for NEXPORIN filed on 15.10.2025 as also listings of medicinal products under the said mark on its website and third party online platforms and e-pharmacies. Further investigations revealed that the tablets, capsules and oral suspension formulation contain API *Cefalexin.* Plaintiff also came across Defendant No. 1's listings selling ointment under NEXPORIN containing APIs *Bacitracin, Neomycin and Polymyxin B.* Similarly, Plaintiff also came across listings for another pharmaceutical product sold by Defendant No. 1 under the impugned mark ZETUM containing API *Cefuroxime Axetil,* despite an undertaking not to deal in pharmaceutical products under the mark ZEFTUM. Aggrieved, Plaintiff sent a cease-and-desist notice dated 11.02.2026 but there was no response and later Plaintiff discovered that Defendant No. 1 has filed an application for registration of the mark ZETUM in Class 05 on 29.04.2026.

29. Learned counsel for the Plaintiff submits that the impugned mark NEXPORIN is deceptively similar to Plaintiff's registered mark NEOSPORIN and both contain APIs *Bacitracin, Neomycin and Polymyxin B*. NEXPORIN product is sold as an ointment and Plaintiff also sells its products under NEOSPORIN in the form of ointments, dusting powder and ear drops. The impugned mark ZETUM is deceptively similar to Plaintiff's

registered mark CEFTUM and both contain identical API *Cefuroxime Axetil* and rival products are sold in the form of tablets. The consumer base and trade channels being common, owing to deceptive similarity of the rival marks and identity of APIs as also the mode of selling the products, there is every likelihood of confusion amongst members of public. The impugned marks therefore infringe Plaintiff's registered marks under Section 29 of the Trade Marks Act, 1999.

30. It is further urged that Defendants are in the pharmaceutical industry and cannot plausibly claim to be unaware of Plaintiff's longstanding and well known trademarks NEOSPORIN and CEFTUM. The adoption of the impugned marks NEXPORIN and ZETUM is thus completely dishonest and not coincidental and in the teeth of the undertaking given by Defendant No. 1 on 05.05.2010. Adoption and use of the impugned marks NEXPORIN and ZETUM for identical pharmaceutical products is only with the objective of encashing on the formidable reputation and goodwill of the Plaintiff. Defendants are misrepresenting to the public that their goods have an association with the Plaintiff and this is causing confusion and causing irreparable damage to the goodwill and reputation of the Plaintiff and amounts to passing off. It is urged that confusion cannot be accepted in pharma products as this impacts public interest also and in this case the additional concern is that Defendants are marketing NEXPORIN Oral Suspension for paediatric use.

31. Having heard learned counsel for Plaintiff, I am of the view that Plaintiff has made out a *prima facie* case for grant of *ex parte* ad interim injunction against the Defendants. 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.

32. Plaintiff is the registered proprietor of the trademarks NEOSPORIN and CEFTUM, registered in Class 05. Plaintiff has been continuously, uninterruptedly and extensively using the marks in India in relation to medicinal and pharmaceutical products for over five decades and three decades, respectively. The sales turnover, expenditure incurred on promotion of the products under the said marks, social media presence etc. is *prima facie* indicative of the immense reputation and goodwill of the Plaintiff. Defendants have adopted deceptively similar marks NEXPORIN and ZETUM for similar products in the pharmaceutical segment. The impugned mark NEXPORIN retains the structure, cadence and dominant element of Plaintiff's mark NEOSPORIN i.e., PORIN and addition of NEX is not sufficient to distinguish the rival marks. Similarly, the impugned mark ZETUM is *prima facie* structurally, visually and phonetically deceptively similar to Plaintiff's registered trademark CEFTUM and the difference of the alphabets 'C' and 'F' is not enough to remove confusion amongst consumers with average intelligence and imperfect recollection. The APIs in the rival products are also identical. NEOSPORIN is an over-the-counter drug and CEFTUM is a prescription drug. In both cases, confusion cannot be ruled out inasmuch as for OTC drugs, normally the consumer takes an informed decision on his own and even for prescription drug the Supreme Court has held in ***Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd., (2001) SCC OnLine SC 578,*** that the mere fact that a drug is a prescription drug is by itself not sufficient protection against confusion as even Physicians and Pharmacists are not infallible and the slightest confusion or mistake in purchase of a drug can prove to be fatal. Defendants appear to have adopted

deceptively similar marks for similar products with a view to misrepresent to the public that their products have an association with the Plaintiff, which is resulting in irreparable harm to Plaintiff's reputation and goodwill. *Prima facie,* Defendants are infringing the registered marks NEOSPORIN and CEFTUM as also passing off their goods.

33. Accordingly, till the next date of hearing, Defendants and all others acting on their behalf are restrained from manufacturing, selling, offering for sale, advertising, marketing and/or directly or indirectly dealing in any pharmaceutical or medicinal products under the impugned marks NEXPORIN and ZETUM and/or any other mark which is identical with or deceptively similar to Plaintiff's trademarks NEOSPORIN and CEFTUM, amounting to infringement of Plaintiff's registered marks and/or passing off.

34. Defendants are directed to take down all listings on any platform whatsoever containing reference to the impugned marks in respect of the impugned products within a period of two weeks from the date of receipt of copy of this order.

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

JYOTI SINGH, J

AUGUST 5, 2026/YA