$~29

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

\# **CNR No. DLHC010457862026**

\+ **CS(COMM) 1054/2026**

INCYTE HOLDINGS CORPORATION & ORS. .....Plaintiffs

Through: Mr. Hemant Singh, Mr. Abhay Tandon, Ms. Kriti Chulet, Mr. Ritik Gawali, Mr. Viraj Thakur and Ms. Jahanvi Miglani, Advs.

versus

MELODY HEALTHCARE PRIVATE LIMITED.....Defendant

Through:

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

O R D E R

% 24.09.2026

I.A. 26492/2026 & I.A. 26495/2026 *(exemption)*

1. Allowed, subject to just exceptions.

2. The applications are disposed of.

I.A. 26491/2026 *(by plaintiffs under Section 12A of Commercial Courts Act, 2015 read with Section 151 CPC)*

3. This is an application filed by the plaintiffs under Section 12A of the Commercial Courts Act, 2015 seeking exemption from instituting pre-litigation mediation.

4. Since an urgent relief has been contemplated in the present matter, the present application is allowed.

5. The application is disposed of.

I.A. 26493/2026 ***(by plaintiffs under Order XI Rules 2 & 5 read with Rule 17 of Intellectual Property Rights Division Rules, 2022 and Section 151 CPC)***

6. This is an application filed by the plaintiffs seeking discovery by interrogatories and production of documents.

7. Issue notice. Notice be served upon the defendant by all permissible modes.

8. The defendant may file a reply to the application within a period of four weeks.

9. Rejoinder thereto, if any, be filed before the next date of hearing.

10. Re-notify on 20.01.2027.

I.A. 26494/2026 ***(by plaintiffs under Order XI Rule 1(4) read with Section 151 CPC)***

11. The present application has been filed on behalf of the plaintiffs for filing additional documents.

12. Let additional documents, if any, be filed within four weeks.

13. The application is disposed of.

CS(COMM) 1054/2026

14. The plaint be registered as a suit.

15. On filing of process fee, summons be issued to the defendant by all permissible modes.

16. The summons shall indicate that written statement must be filed within thirty days from the date of receipt of summons. The defendant shall also file an affidavit of admission/denial of the documents filed by the plaintiffs, failing which the written statement shall not be taken on record.

17. The plaintiffs are at liberty to file replication thereto within thirty days

after filing of the written statement. The replication shall be accompanied by an affidavit of admission/denial in respect of the documents filed by the defendant, failing which the replication shall not be taken on record.

18. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

19. If any of the parties wish to seek inspection of the documents, the same shall be sought and given within the timelines.

20. List before the learned Joint Registrar for completion of service, pleadings, admission/denial of documents and marking of exhibits on 17.11.2026.

21. List before Court for framing of issues on 20.01.2027.

I.A. 26490/2026 ***(by plaintiffs under Order XXXIX Rules 1 & 2 read with Section 151 CPC)***

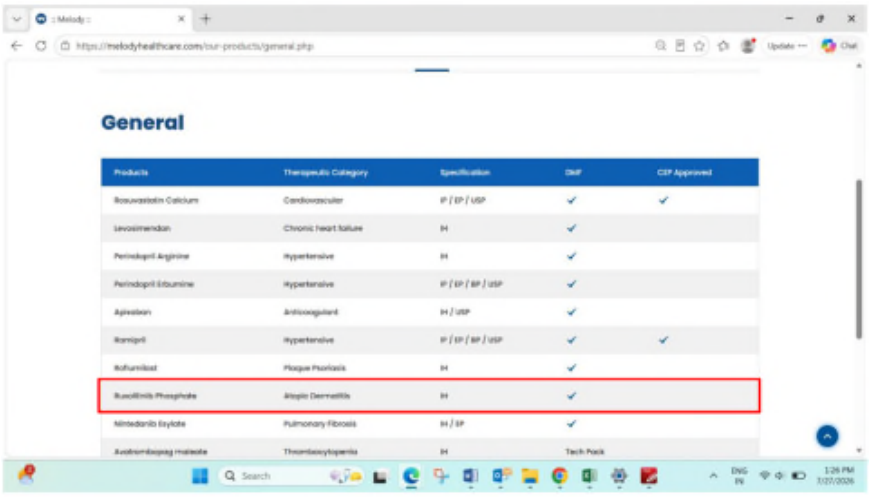
22. Issue notice. Notice be served upon the defendant by all permissible modes.

23. The case set out in the plaint is that the plaintiff no.1 has registered patent no.269841 (hereinafter, "suit patent IN'841") which protects the novel and inventive compound Ruxolitinib, used in treatment of myelofibrosis, i.e., a cancer of the bone marrow in which the bone marrow is replaced by scar tissue and causes decreased blood cell production. The suit patent IN'841 is valid and subsisting and will expire on 12.12.2026.

24. Mr. Hemant Singh, learned counsel appearing on behalf of the plaintiffs invites attention of the Court to the certificate of grant and complete specification of the suit patent IN'841 which has been filed along with the plaint.

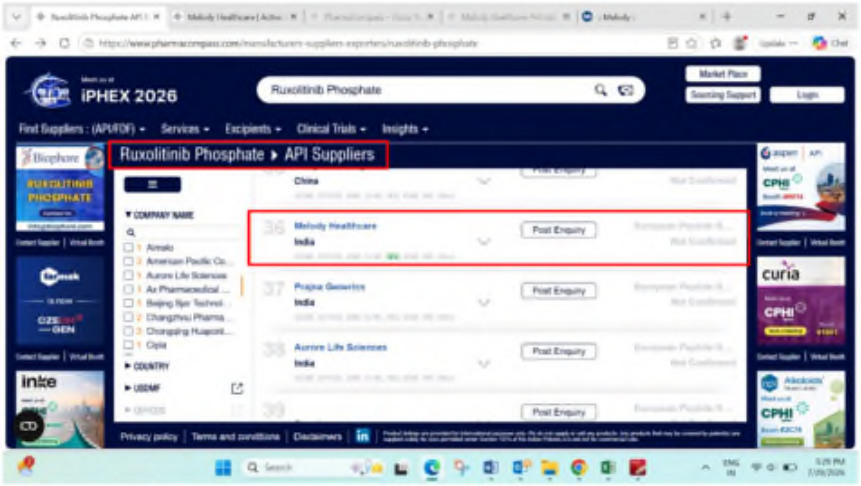
25. It is stated that the defendant is presently infringing the suit patent IN'841 by advertising, listing, and offering for sale or supply Ruxolitinib/Ruxolitinib Phosphate Active Pharmaceutical Ingredient (API) on a third-party interactive commercial platform and accepting business enquiries for the same, which constitutes an "*offer for sale*" within the meaning of Section 48 of the Patents Act, 1970.

26. It is stated that in order to verify that no company other than the plaintiffs is commercially manufacturing pharmaceutical drug products containing the patented compound Ruxolitinib as an API, the plaintiffs' team periodically conducts due diligence. During one such online search in the first week of July, 2026, the plaintiffs found that the defendant has listed "*Ruxolitinib Phosphate*" as one of its products under the therapeutic category of "*Atopic Dermatitis*" in its commercial API Product List. The screenshots of the same have been set out hereinbelow:

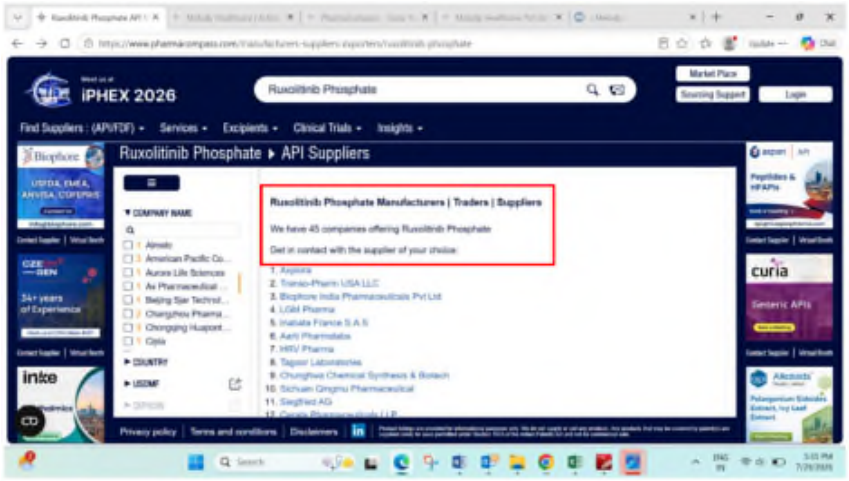


Source https://melodyhealthcare.com/our-products/general.php (last accessed on 17.09.2026)

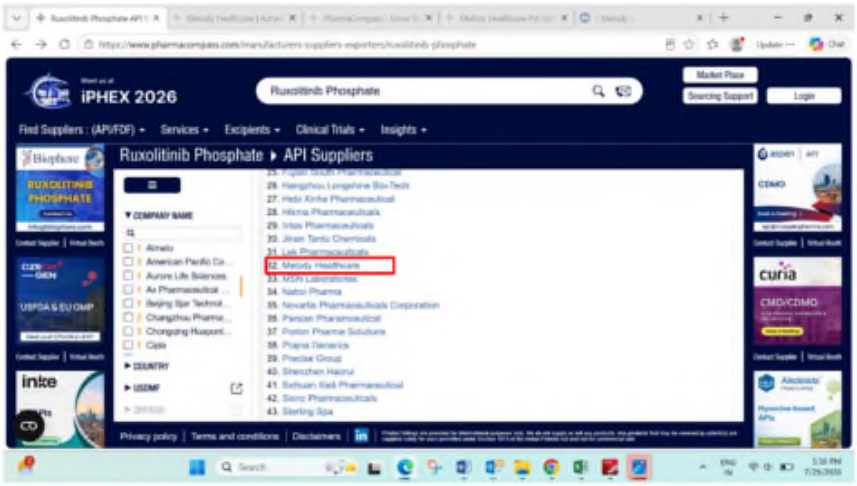
27. The plaintiffs conducted further online due diligence and search to ascertain the extent of the defendant's activities in relation to the patented compound. During such search, the plaintiffs found that the defendant has also been listed as a supplier for Ruxolitinib/ Ruxolitinib Phosphate API on a third-party interactive commercial platform, namely, 'Pharmacompass' (https://www.pharmacompass.com/), screenshots whereof are given below:



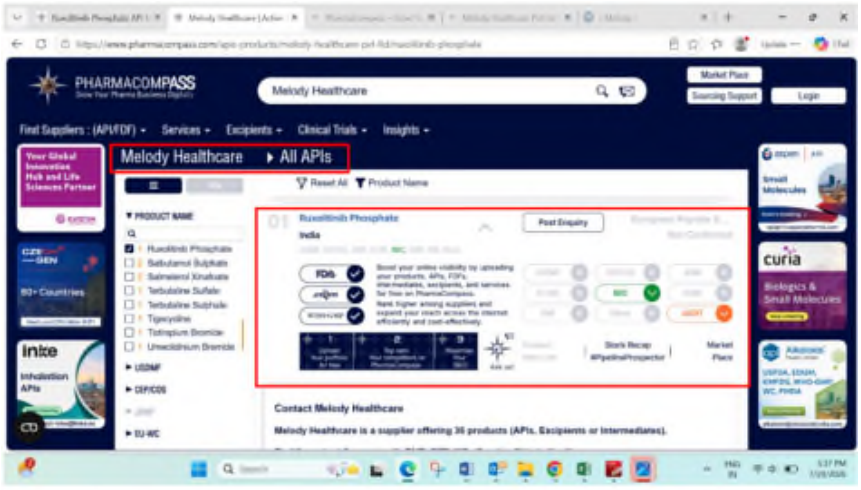
Source: https://www.pharmacompass.com/manufacturers-suppliers-exporters/ruxolitinib-phosphate (last accessed on 17.09.2026)



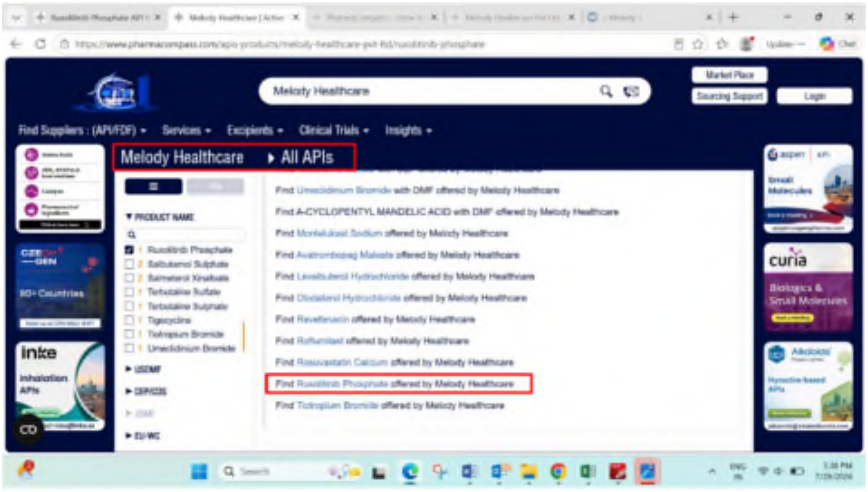
Source: https://www.pharmacompass.com/manufacturers-suppliers-exporters/ruxolitinib-phosphate (last accessed on 17.09.2026)



Source: https://www.pharmacompass.com/manufacturers-suppliers-exporters/ruxolitinib-phosphate (last accessed on 17.09.2026)



Source: https://www.pharmacompass.com/apis-products/melody-healthcare-pvt-ltd/ruxolitinib-phosphate (last accessed on 17.09.2026)



Source: https://www.pharmacompass.com/apis-products/melody-healthcare-pvt-ltd/ruxolitinib-phosphate (last accessed on 17.09.2026)

28. It is further the case of the plaintiffs that till date, no pharmaceutical drug products containing the patented compound Ruxolitinib have been manufactured/launched by the defendant.

29. The investigation report dated 09.09.2026 received by the plaintiff no.2 confirms that the defendant company has obtained a manufacturing licence for Ruxolitinib/Ruxolitinib Phosphate API from the Food Drug Control Administration, Maharashtra.

30. The report further confirms that the defendant has developed a generic version of Ruxolitinib/Ruxolitinib Phosphate API in-house and intends to commence commercial manufacturing/stockpiling. The bibliographic details of the suit patent IN'841, which have been given in para 24 of the plaint are set out hereinbelow:

Indian Patent No.	269841
Indian Patent Application No.	2365/KOLNP/2008
Priority details dates	US60/749905 (13.12.2005), US60/810231 (02.06.2006), US60/850625 (10.10.2006), US60/856872 (03.11.2006), US60/859404 (16.11.2006)
PCT Application no.	PCT/US2006/047369
International Filing date	12.12.2006
International Publication No.	WO/2007/070514
Filing date of National phase Application	12.06.2008
Publication under Section 11A	23.01.2009
Request for examination	03.12.2009
Pre-grant representation filed under Section 25(1) r/w Rule 55(1)	12.11.2012
First Examination Report (FER)	23.12.2013
Notice of opposition under Rule 55(3)	03.01.2014
Reply Statement and evidence filed by the Applicant under Rule 55(4)	04.04.2014
Reply to FER	30.06.2014

Hearing before the Controller of Patents	29.09.2015
Controller's decision on the pre-grant opposition	30.10.2015
Date of grant	10.11.2015
Post grant publication	13.11.2015
Date of expiry of suit patent	12.12.2026

31. It is further the case of the plaintiffs that the plaintiff no.1 launched Ruxolitinib in the United States in the year 2011 under its trademark "JAKAFI" and the plaintiff no.3 launched Ruxolitinib in India in the year 2013 under the trademark "JAKAVI". The sales figures within India and global sales figures have been set out in para 40, which are also reproduced hereinbelow for the ease of reference:

SALES FIGURES IN INDIA SINCE 2015

YEAR	JAKAVI® (in INR Crores)
2015	40.9
2016	58.1
2017	77.7
2018	97.7
2019	111.4
2020	133.9
2021	159.5
2022	156.1
2023	74.15
2024	91.05
2025	106.46

GLOBAL SALES FIGURES SINCE 2015 (EXCEPT US)

YEAR	JAKAVI® (M USD)
2015	409
2016	581
2017	777
2018	977
2019	1,114
2020	1,339

YEAR	JAKAVI® (M USD)
2021	1,595
2022	1,561
2023	1,719
2024	1,935
2025	2,110

US ANNUAL SALES FIGURES SINCE 2015

YEAR	JAKAFI® (in USD million)
2015	0.6
2016	8.53
2017	1,133
2018	1,387
2019	1,685
2020	1,938
2021	2,135
2022	2,409
2023	2,594
2024	2,792
2025	3,092

32. It has also been stated that the plaintiffs have filed suits for infringement of the suit patent IN'841 against various pharmaceutical companies, the details of which have been set out in para 53 of the plaint.

33. In the light of the submissions made by Mr. Singh and after perusing the documents on record, I am of the view that the plaintiffs have made out a *prima facie* case for grant of *ex parte ad interim* injunction.

34. The balance of convenience is also in favour of an *ex parte ad interim* injunction being passed since they have a valid and subsisting patent, the term of which has not yet expired whereas the defendants are yet to commercially launch their product.

35. I am satisfied that the plaintiffs will suffer an irreparable loss and injury if interim relief is not granted till the next date of hearing.

36. Accordingly, till the next date of hearing, the defendant, by itself or through its directors, group companies or sister concerns, associates, divisions, assigns in business, licensees, franchisees, agents, distributors and dealers are restrained from using, manufacturing, stockpiling (either through itself or through third parties), importing, selling, offering for sale/supply, exporting, directly or indirectly dealing in pharmaceutical drug products with formulation containing Ruxolitinib alone or Ruxolitinib in combination with any other compound or in any other form either by export or to the domestic market, in a manner that amounts to infringement of Indian Patent No. 269841.

37. Provisions of Order XXXIX Rule 3 CPC be complied with *qua* the defendants within a period of two weeks from today and affidavit of compliance be filed within a period of three days thereafter.

38. The defendant may file a reply to the application within a period of four weeks. Rejoinder thereto, if any, be filed within a period of two weeks thereafter.

39. List before the learned Joint Registrar for completion of service and pleadings on 17.11.2026.

40. List before Court on 20.01.2027.

VIKAS MAHAJAN, J

SEPTEMBER 24, 2026
aj