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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS (COMM) 229/2019 & I.As. 6384/2019, 6385/2019, 9175/2019**  
NOVARTIS AG & ANR. .... Plaintiffs

Through: Mr. Hemant Singh, Ms. Mamta Jha,  
Mr. Ankit Arvind, Mr. Rohan  
Krishnan & Dr. Shilpa Arora,  
Advocates (M-9873603089)

versus

NATCO PHARMA LIMITED .... Defendant  
Through: Mr. Anand Grover, Sr. Advocate with  
Ms. Rajeshwari H., Mr. Swapnil  
Gaur, Mr. Tahir AJ & Mr.  
Vikramjeet, Advocates (M-  
9717935918)

**CORAM:**  
**JUSTICE PRATHIBA M. SINGH**

**ORDER**

% **11.07.2019**

1. Both counsels have submitted that the order in the post grant opposition has not been passed by the Controller General of Patents, Designs and Trade Marks (*hereinafter, 'Controller General'*). When asked as to what had transpired before the Controller General, it appears that both parties, after order was reserved before the Controller on 10<sup>th</sup> April, 2019 have filed written submissions and further set of documents. The Defendant had, prior to the hearing in the matter filed an affidavit on 30<sup>th</sup> April 2019. The written submissions have been filed by the Defendant by electronic copy on 15<sup>th</sup> April, 2019 and hard copy on 7<sup>th</sup> May, 2019. However, the

Plaintiffs have filed a counter affidavit to the affidavit filed by the Defendant on 30<sup>th</sup> April, 2019. It is very clear that both parties are holding up the proceedings before the Controller General. The Controller General was expected to follow strict timelines once judgment was reserved. Neither party ought to have been permitted to file anything further. However, the same has been breached as the Controller General did not give any clarity as to whether affidavit dated 30<sup>th</sup> April, 2019 was taken on record or not and whether any submissions were to be filed by the parties after the hearing was concluded.

2. In future, the Patent office shall ensure that when the hearing is concluded, it is clarified whether any time is being given for filing written submissions or not and specific communication shall be addressed to all the parties giving the time within which written submissions have to be filed. Once arguments are heard and order is reserved, not more than 15 days are needed to be given to parties to file any submissions which they wish to file. Further, the Controller General shall also ensure that once orders are reserved, a time period is prescribed for passing of the order.

3. Though arguments were heard on 10<sup>th</sup> April, 2019 by the Controller General in the post-grant opposition, even on 11<sup>th</sup> July, 2019, there are no orders passed by the Controller General. This is detrimental to the timely adjudication of opposition matters which is not permissible. Accordingly, the Controller General shall now go ahead and proceed to pass orders in the post-grant opposition within a period of one month from today. No further filing shall be done by either party.

4. In the main suit, the Defendant has filed a counter claim seeking declaration of non-infringement and invalidity. The written statement has

also been filed. Despite specific timelines being fixed, the Plaintiff has failed to follow the same and replication/rejoinder has not been filed. It is now directed that, as a last opportunity, the Plaintiff shall file its written statement to the counter claim and the replication on or before 25<sup>th</sup> July, 2019. The Defendant may file its replication in the counter claim by 8<sup>th</sup> August, 2019.

5. List on 22<sup>nd</sup> August, 2019. Interim orders to continue till the next date.

**PRATHIBA M. SINGH, J.**

**JULY 11, 2019**

*Rahul*