

**BITTER PILL I** Innova Cap Tab was accused of copying a trademark

## Court restrains pharma firm for using other's trademark

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The Bombay High Court has restrained Innova Cap Tab and its sister companies from manufacturing and marketing any medicinal preparation or product by using the mark 'MONTINAL', which is identical to a registered trademark of Aristo Pharmaceuticals Pvt Ltd.

The order was passed by Justice S J Kathawala recently after Aristo approached the court accusing Innova Cap Tab and others for infringing its trademark.

The court observed that Aristo has made out a prima facie case in their favour. The balance of convenience is also in their favour. "In view thereof, pending the hearing and final disposal of the Suit, the defendants (Innova Cap Tab) are restrained from infringing the trademark of Aristo Pharmaceu-

### The fight over mark MONTINA

In December 2002, Aristo got the trademark 'MONTINA' registered in its name. In June 2013, it started manufacturing of the preparation in the form of syrups and tablets and has been selling it since August 2013. Innova claimed it had got MONTINAL registered in 2008, saying the prefix 'MONT' was taken from the principal drug 'Montelukast' and 'INA' from the name of the company ANIKEM.

tics Pvt Ltd," said justice Kathawala.

In December 2002, Aristo got the trademark 'MONTINA' registered in its name. In June 2013, it started manufacturing of the preparation in the form of syrups and tablets and has been selling it since August 2013.

However, in September

2013, it came across an identical preparation MONTINAL, which was being sold by Innova. This prompted Aristo to move the HC.

Innova claimed it had got MONTINAL registered in 2008, saying the prefix 'MONT' was taken from the principal drug 'Montelukast' and 'INA' from the name of the company ANIKEM. It also claimed that at the time, Aristo's products were not available in the market.

The court accepted Aristo's contention that Innova had merely stated as to how it had coined MONTINAL and not raised a specific plea to prove that the mark was generic.

Once a mark is registered, it is not open to any person so long as it remains on the Register. To contend that the same has been derived from its generic drug is invalid, Justice Kathawala added.

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