

# Nokia Technologies Oy vs Guangdong Oppo Mobile ... on 6 October, 2023

**Author: Prathiba M. Singh**

**Bench: Prathiba M. Singh**

\$~14 to 17

\*

+

IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(COMM) 303/2021 and I.A.

NOKIA TECHNOLOGIES OY

Through: Mr. Pravin Anand  
Mittal, Mr. Sidd  
Rohin koolwal an  
Bhatnagar,  
9871736336).

versus

GUANGDONG OPPO MOBILE TELECOMMUNICATIONS  
LTD & ORS.

Through: Mr. Saikrishna R  
George, Mr. Anir  
Avijit Kumar & M  
(M: 8943728551).

15

+

WITH

CS(COMM) 304/2021 and I.A. 14208/202

NOKIA TECHNOLOGIES OY

Through: Mr. Pravin Anand  
Mittal, Mr. Sidd  
Rohin koolwal an  
Bhatnagar,  
9871736336).

versus

GUANGDONG OPPO MOBILE TELECOMMUNICATIONS  
CORP., LTD. & ORS.

Through: Mr. Saikrishna R  
George, Mr. Anir  
Avijit Kumar & M  
(M: 8943728551).

16

+

WITH

CS(COMM) 162/2022 and I.A. 14211/202

NOKIA TECHNOLOGIES OY

Through: Mr. Pravin Anand  
Mittal, Mr. Sidd

CS(COMM) 303/2021 & connected matters

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s

The Order is downloaded from the DHC Server on 09/10/2023 at 22:04:04

versus  
VIVO MOBILE COMMUNICATION CO., LTD &  
ORS.  
Through: Mr. Saikrishna R  
George, Mr. Anir  
Avijit Kumar & M  
(M: 8943728551).  
AND  
CS(COMM) 171/2022 and I.A. 1421  
NOKIA TECHNOLOGIES OY  
Through: Mr. Pravin Anand  
Mittal, Mr. Sidd  
Rohin koolwal an  
Bhatnagar,  
9871736336).  
versus  
VIVO MOBILE COMMUNICATION CO LTD &  
ORS.  
Through: Mr. Saikrishna R  
George, Mr. Anir  
Avijit Kumar & M  
(M: 8943728551).  
CORAM:  
JUSTICE PRATHIBA M. SINGH  
ORDER

17  
+

% 06.10.2023

1. This hearing has been done through hybrid mode.

2. On the last date of hearing i.e., on 6th September, 2023, this Court had directed the parties to seek instructions for the manner in which the four suits could proceed further, in the context of the judgment dated 3rd July, 2023 passed by the Id. Division Bench in Nokia Technologies OY v.

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 09/10/2023 at 22:04:04 Guangdong Oppo 2023:DHC:4465-DB. The relevant portion of the said order is set out below:-

"14. In view of the fact that the hearings and the submissions even at the interim injunction stage have been extremely detailed as also technical in nature and since there is some security now in terms of the Id. Division Bench's order for the Plaintiff as well the deposits made, the Court has put to the Id. Counsels as to whether the following course of action would be acceptable to the parties:

i) The suits shall now proceed to trial with issues being framed in the matter. In the trial, both the parties shall restrict their evidence to two witnesses each (one technical and one non-technical/FRAND) on all aspects that arise in these suits.

ii) The evidence would be recorded before the Court by adopting live transcription which would result in speedier recording of cross-examination.

iii) The matter shall be kept as part-heard before this Court.

15. Id. counsel for both the parties submit that they would wish to seek instructions from their respective clients. Let them do so."

3. Today, at the outset Mr. Saikrishna Rajagopal, Id. Counsel appearing for the Defendants has obtained instructions, in respect of the above directions, and submits as under: -

i) That his client Oppo is willing to proceed to an expedited trial with issues being framed in the matter. However, he prays that instead of two witnesses, Oppo would seek for some more witnesses owing to the technicalities involved.

ii) That his client Oppo is agreeable for the trial and cross examination to be conducted by using live transcription.

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 09/10/2023 at 22:04:05

iii) Insofar as Vivo is concerned, a similar pro-tem arrangement which was directed by the Id. Division Bench in the case of Nokia Technologies OY v. Guangdong Oppo, 2023:DHC:4465-DB is acceptable even to Vivo pending the trial.

4. In response, Mr. Anand, Id. Counsel appearing for Nokia submits that his instructions are as under:-

i) The matter can proceed to trial only in respect of cases which involve Standard Essential Patents i.e., CS(COMM) 303/2021 and CS(COMM) 162/2022.

ii) Insofar as CS(COMM) 162/2022, since Vivo has made a statement in respect of pro-tem, the same is acceptable to the Plaintiff Nokia.

iii) Insofar as the cases concerning implementation patents i.e., CS(COMM) 304/2021 and CS(COMM) 171/2022, for the following reasons, Nokia would pray for the judgment to be pronounced on the interim injunction application. The said reasons are: -

a) The observations of the Id. Division Bench in paragraph 89 of the decision dated 3rd July, 2023.

b) The conduct of Oppo in the U.K., where Oppo refused to agree for a global FRAND determination by the U.K Court and was held to be an unwilling licensee.

c) The fact that Oppo is not willing to take a specific stand as to whether Oppo would be willing to abide by the FRAND This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 09/10/2023 at 22:04:05 rate fixed by this Court either on a global basis or even for India.

d) That there is no pro-tem security offered in the case of the implementation patents and in any event, even if an injunction is granted against Oppo, there would be no hardship because Oppo would be free to work around the said implementation patents and use alternative technologies.

e) That the trials in the implementation patent and the SEPs cases cannot be conducted together in view of the intricate differences in the technical issues that are involved in both the matters.

f) There cannot be any deemed license in view of the observations of the Id. Division Bench in Nokia (supra) in para

5. At the end of today's hearing, one issue that remains to be still considered by the Court, is the issue raised in I.A. 1938/2023, as to whether Oppo is willing for a FRAND rate determination by this Court. On this issue, Mr. Saikrishnan, Id. Counsel seeks some more time owing to the holiday in China for a full week.

6. It is accordingly directed that the Id. Counsel for the Defendant may take instructions in respect of said interrogatory which has been served upon them.

7. Accordingly, insofar as FRAND determination is concerned, Id. Counsel for both parties shall seek instructions as to the following aspects:-

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 09/10/2023 at 22:04:05

i) Whether both parties are willing for this Court to fix a FRAND rate and in particular, a global FRAND rate or an India specific FRAND rate.

ii) Whether, if such a FRAND rate is fixed by this Court, both parties would agree to abide by the same.

8. On the above two aspects, ld. Counsel for the parties may seek instructions.

9. With regards to the Counter-Claims in CS(COMM)-162/2022 and CS(COMM)-171/2022 the replication is directed to be taken on record. Delay, if any, is condoned.

10. List on 31st October, 2023 in the supplementary list.

PRATHIBA M. SINGH, J OCTOBER 6, 2023 mr/am This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 09/10/2023 at 22:04:05