

Nokia Technologies Oy vs Guangdong Oppo Mobile ... on 9 August, 2021

Author: C. Hari Shankar

Bench: C. Hari Shankar

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
I.A.7706/2021, I.A.9810/2021 & I.A.9811/2021 in
+ CS(COMM) 304/2021
NOKIA TECHNOLOGIES OY Plaintiff
Through: Mr. C. Aryama Sundaram, Sr.
Adv. with Mr. Pravin Anand, Ms.Vaishali
Mittal, Mr. Rohin Koolwal, Ms. Pallavi
Bhatnagar, Ms.Shraddha Chauhan, Dr.Eric
Dias, Ms.Pallavi Bhatnagar, Mr.Rishi and
Ms.Rohini Musa, Advs.

versus

GUANGDONG OPPO MOBILE TELECOMMUNICATIONS
CORP., LTD. & ORS. Defendant
Through: Mr.Saikrishna Rajagopal
Mr.Sidharth Chopra, Ms.Julien George,
Ms.Garima Sawhney, Ms.Charu Miglani,
Ms.Anu Paarcha, Mr.Arjun Gadhoke, Mr.Vivek
Ayyagari, Mr.Avijit Kumar, Mr.Aniruddh
Bhatia, Ms.Prachi Sharma and Mr.Skanda
Shekhar, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
ORDER

% 09.08.2021
(Video-Conferencing)

I.A.9811/2021 (exemption)

1. Allowed subject to all just exceptions.

2. The application is disposed of.

I.A.7706/2021 (under Order XXXIX Rules 1 & 2 of the CPC) & I.A.9810/2021 (extension of time)

1. Mr. Saikrishna Rajagopal, learned Counsel for the defendants seeks and is granted a final

opportunity of two weeks to file a reply to I.A.7706/2021 with advance copy to learned Counsel for the plaintiff who may file rejoinder thereto, if any, before the next date of hearing.

2. I.A.9810/2021 stands disposed of accordingly.

3. The direction for filing short notes of the respective submissions of both sides stands reiterated, at least 24 hours in advance of the next date of hearing after exchanging copies with each other.

4. I.A.7706/2021 additionally contains a prayer (iii), for directing disclosure of various details. The prayer clause in the IA reads as under:

"12. In light of the above, it is most respectfully prayed before this Hon'ble Court that it may be pleased to pass the following reliefs in favour of the Plaintiff:

(i) An order of temporary injunction restraining the Defendants, their associate and group companies, their directors, employees, officers, servants, agents and all others acting for and on their behalf from using, making, selling, distributing, advertising, exporting, importing and offering for sale, or in any other manner, directly or indirectly, dealing in devices including but not limited to those bearing models Oppo Reno 5 Pro, Oppo Reno 4 Pro, Realme X3, Realme 8 Pro and OnePlus 8T, or any product that is liable to infringe the subject matter of Indian patent nos. 259932, 264783 and 266531, or any of them, or any other patent that the Plaintiff may additionally add to these proceedings which is found to be infringed, upon seeking leave of this Hon'ble Court;

(ii) An order of ex parte ad interim injunction in terms of the prayer as sought in paragraph 11 (i) above;

(iii) An order for disclosure by the Defendants of particulars of all their assets, including disclosure of

(a) quantities of sales in India and of exports from India of;

(b) revenues from sales in India and of exports from India of; and

(c) net selling prices of

individual devices including but not limited to Oppo Reno 5 Pro, Oppo Reno 4 Pro, Realme X3, Realme 8 Pro and OnePlus 8T on a quarterly basis, since the year of commencement of operations of the Defendants in India, which implement the Plaintiff's suit patents, along with a sworn affidavit verifying the authenticity of such disclosure;

Any other order(s) as this Hon'ble Court may deem fit in the facts and circumstances of the present proceedings."

5. Mr. Aryama Sundaram, learned Senior Counsel for the plaintiff has invited my attention to orders passed by this Court where similar directions have been issued. He has also invited my attention to an order dated 12th July, 2019 in CS (COMM) 1222/2018 (Communication Components Antenna Inc. v. ACE Technologies Corp.) in which, on finding, prima facie, that the suit patents had been infringed, the Court directed securing of a certain amount by the defendant, keeping in view the sales figures of the defendants' products and, in the alternative, injuncted the defendants from using the suit patent of the plaintiff. It is in these circumstances, submits Mr. Aryama Sundaram, that the prayer for a direction to the defendants to submit disclosures as prayed above, has been made.

6. I am of the opinion that, in the interests of justice, the defendants should be directed to furnish the disclosures sought in prayer (iii) in I.A.7706/2021 in a sealed cover, to be filed with the Registry of this Court. The Registry is directed to keep the sealed cover in safe custody and to produce it as and when requested by the Court.

7. Re-notify on 3rd September, 2021.

C. HARI SHANKAR, J AUGUST 9, 2021/kr