

))

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

CS(OS) 1622/2009

MICROSOFT CORPORATION & ANR ..... Plaintiffs  
Through Ms. Safia Said, Advocate.

versus

BABU DANIEL & ORS. .... Defendants  
Through Ms. Maldeep Sidhu, Advocate.

**CORAM:**  
**HON'BLE DR. JUSTICE S. MURALIDHAR**

**ORDER**  
**25.09.2009**

**I.A. 12684 of 2009 in CS (OS) No. 1622 of 2009**

1. This is an application under Order XXIII Rule 3 CPC jointly filed by the Plaintiffs and the Defendants praying that in terms of the compromise arrived at between the parties, the terms and conditions of which have been set out in para 2 of the application, the suit be decreed. This application is duly supported by the affidavits of the Plaintiffs, and the authorised representative of Defendants No.2 and 3. Defendant No.1 is an employee of Defendant No.1

2. For the reasons mentioned therein, this application is allowed. The terms and conditions of the compromise are taken on record.

**CS (OS) No. 1622 of 2009 & IA 11244/2009**

3. The parties to the suit have entered into a compromise the terms and conditions of which have been set out in para 2 of I.A.No.12684 of 2009

Signature Not Verified and which read as under:

Digitally Signed By: AMULYA  
Certify that the digital file and  
physical file have been compared and  
the digital data is as per the physical  
file and no page is missing.

a. That the Defendants undertake and agree that they will not  
at any time in future, use unlicensed software of the

Plaintiffs or indulge in any act that would amount to infringement of the Plaintiff's copyright in its computer program.

- b. The Defendants have estimated and determined that in order to make their use of the Plaintiffs' software as licensed and legal, they would require Licenses the details of which are enumerated in **Schedule A** to the present application.
- c. The Defendants have furnished the details of the licenses in their possession as of date while negotiating for purchasing required software to the satisfaction of the Plaintiff's/counsels and representatives. The Defendants have placed the Purchase Order for the purchase of the software licenses as enumerated in **Schedule A** and further agrees to furnish and produce proof of purchase of the licenses in the nature of invoices and delivery challans to the satisfaction of the representatives/counsels of the Plaintiffs.
- d. The Defendants further undertakes to pay a sum of Rs.12,50,000/- (Rupees Twelve Lakhs and Fifty Thousand only) to the Plaintiffs vide demand draft, payable in the name of "Saikrishna & Associates", immediately upon the signing of the present application, towards full and final settlement of all their claims including reimbursement of legal cost and other allied expenses. The aforesaid payment will be received on behalf of the Plaintiffs by **Saikrishna & Associates**, the Counsel for the Plaintiffs.
- e. The Plaintiffs will have no objections if the computer systems sealed by the learned Local Commissioner during the execution of the order dated 1<sup>st</sup> September 2009 are released back to the Defendants upon the recordal of the

present compromise Application before the Hon'ble Court.

- f. The Defendants agree that the Plaintiffs for a period of 5 calendar years from the signing of the present Compromise Application would be entitled to conduct audits of the software of the Plaintiffs contained on the computer systems of the Defendants after following the due process of law.
- g. In the event of breach of any of the payment terms or any other terms of the present settlement, the Plaintiffs would be entitled to forthwith and without any notice, terminate the present settlement and pursue appropriate legal remedies available to it.
- h. The parties agree that the signatories to the present settlement are fully competent and authorized to enter into the present settlement Application.
- i. The parties agree that all the terms and conditions laid out in the present compromise Application are fair and reasonable and have been entered into after full appreciation of its various clauses and implications.
- j. The Defendants hereby agree before this Hon'ble Court that the present terms and compromise shall be binding on all their principle officers, directors, agents, servants, successors, and assigns in business interest and title and all other acting for and on their behalf, for all times to come. The Defendants further agree that the Plaintiffs would have the right to institute appropriate proceeding under law including but not limited to execution proceedings, in case the Defendants are found to be in breach of any of the terms and conditions as contained herein.
- k. The parties agree that all their disputes have been resolved by virtue of this Compromise Application and the Plaintiffs would not institute or press any further remedies available to them, for Infringement of Copyright in the

software programs of the Plaintiffs prior to the date of execution of the present Settlement, unless there is a breach of the terms of the present Settlement, including those to the purchase of software.”

4. The counsel for the parties state that the compromise has been arrived at voluntarily and that the parties will abide by the said terms and conditions of compromise. This court is satisfied that the compromise has been arrived at voluntarily. The said terms and conditions of compromise will be read as forming part of the decree. The suit stands decreed in terms of the compromise. Decree sheet be drawn up accordingly. Application also stands disposed of.

5. Copy of the order be given dasti to the counsel for the parties under the signature of the Court Master.



**S. MURALIDHAR, J.**

**SEPTEMBER 25, 2009**

ak