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

+ **CS(COMM) 317/2017 & I.A. 5366/2017**

SIEMENS PRODUCT LIFECYCLE

MANAGEMENT SOFTWARE INC. & ANR Plaintiffs

Through: Mr. Shantanu Sahay, Advocate with
Mr. Ravin Galgotia, Advocate.

versus

PAWAN MANTRI & ANR.

..... Defendants

Through: None.

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Date of Decision: 22nd December, 2017

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Though the defendants initially entered appearance, yet after 7th November, 2017, they stopped appearing and did not file any written statement. Accordingly, they were proceeded ex parte vide order dated 21st December, 2017.

2. Learned counsel for the plaintiffs states that in view of the judgment of this Court in *Satya Infrastructure Ltd. & Ors. Vs. Satya Infra & Estates Pvt. Ltd.*, 2013 SCC OnLine Del 508, the present suit should be decreed qua the relief of injunction. The relevant portion of the said judgment relied upon by learned counsel for the plaintiffs is reproduced hereinbelow:-

“I am of the opinion that no purpose will be served in such cases by directing the plaintiffs to lead ex parte evidence in the form of affidavit by way of examination-in-chief and which invariably is a repetition of the contents of the plaint. The plaint otherwise, as per the amended CPC, besides being verified, is also supported by affidavits of the plaintiffs. I fail to fathom any reason for according any additional sanctity to the affidavit by way of examination-in-chief than to the affidavit in support of the plaint or to any exhibit marks being put on the documents which have been filed by the plaintiffs and are already on record. I have therefore heard the counsel for the plaintiffs on merits qua the relief of injunction.”

3. Learned counsel for the plaintiffs further states that he has instructions not to press for any relief other than the relief of permanent injunction, as prayed for in prayer clause (a) of the plaint.

4. The relevant facts of the present case as pointed out by learned counsel for the plaintiffs are as under:-

A. The plaintiff No.1 is one of the largest software companies in the world with an extensive global presence and one of its flagship products, inter alia, include NX (formerly known as “Unigraphics”), a CAD/CAM/CAE commercial software suite. The plaintiff No.1 has been spending millions of dollars in research, development and promotional activities, to support the ever growing demand for new information technologies.

B. The plaintiff No.2 is a wholly owned subsidiary of plaintiff No.1 and provides marketing, promotion, anti-piracy campaigns and channel development support to plaintiff No.1 and/or its affiliates.

C. Plaintiff No. 1 is the owner of the copyright in its software

programmes, developed and/or marketed by it.

- D. The defendant No.2 is a company and the defendant No.1 is the Managing Director of defendant No.2. The Defendant No.2 operates a website www.bluestampings.com and a download obtained by the plaintiffs from the said website of defendant no.2 shows that the latter uses the software programme NX (formerly known as “Unigraphics”), developed and marketed by the plaintiffs, to carry out its business activities.
- E. Upon receipt of credible information received in this behalf, the plaintiffs employed an independent investigator to look into the business activities of the defendants, including, but not limited to, the number of computer systems in use and type of software programmes being used by the defendants at their various business premises.
- F. Though the Local Commissioner did not find any incriminating material, yet the findings of the investigator as well as the website operated by the defendant No.2 clearly shows that the defendants are using the subject software without having applied for licenses for the use of the same. Despite receipt of various notices sent by the plaintiffs, the defendants have denied their use of the NX software and are continuing their use of the plaintiffs’ software without obtaining necessary licenses.

5. In view of the averments made in the plaint, which remain uncontroverted, the suit is decreed in favour of the plaintiffs and against defendant in terms of prayer clause (a) of the plaint. Registry is directed to

prepare a decree sheet accordingly.

MANMOHAN, J

DECEMBER 22, 2017
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