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IN THE HIGH COURT OF DELHI AT NEW DELHI*Date of decision: 13th February, 2024*

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CS(COMM) 304/2021 and I.A. 3476/2024**NOKIA TECHNOLOGIES OY**

..... Plaintiff

Through: Mr. Pravin Anand, Ms. Vaishali R Mittal, Mr. Siddhant Chamola & Ms. Pallavi Bhatnagar, Advs. (M: 9871736336)

versus

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

..... Defendants

Through: Mr. Saikrishna Rajagopal, Ms. Julien George, Ms. Anu Paarcha, Mr. Arjun Gadhoke, Mr. Aniruddh Bhatia, Mr. Avijit Kumar, Ms. N. Parvati, Advs.

CORAM:**JUSTICE PRATHIBA M. SINGH****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. In the present patent infringement suit, the Plaintiff- Nokia Technologies OY (*hereinafter 'Nokia'*) has asserted that three of its patents in the field of mobile telecommunications are being infringed upon by the Defendants. The details of the suit patents asserted in the present suit are set out below:

S. No.	Patent No.	Grant Title
1	IN 259932	<i>Arranging Handover</i>
2	IN 264783	<i>Method for Controlling the Graphical Display of a</i>



		<i>Portable Electronic Device</i>
3	IN 266531	<i>Reduce Interference in a Terminal Device Based on Information Type</i>

3. According to Nokia, the above suit patents are being infringed by the Defendants in the mobile phones and cellular systems are that being manufactured, assembled or imported by the Defendants. In support of this claim, Nokia has placed on record test reports capturing the results of testing performed on the Defendants devices both in-house by the Plaintiff and by an independent third-party entity, Sasken, at its testing facility. Further, Nokia has provided claim charts based on teardown analyses of the Defendants' devices, mapping claim elements to technical features present in said devices

4. The present suit has been filed against five Defendants, the list of all the Defendants is set out below in a tabular form:

S. No.	Name of the Defendant	Defendant No. (As per Memo of Parties)
1	Guangdong Oppo Mobile Telecommunications Corp., Ltd	Defendant No. 1
2	Oppo Mobiles India Private Limited	Defendant No. 2
3	Realme Mobile Telecommunication (India) Private Limited	Defendant No. 3
4	Oneplus Technology (Shenzhen) Co. Ltd.	Defendant No. 4
5	Oneplus Technology India Pvt. Ltd.	Defendant No. 5

5. The present suit was first listed before this Court on 21st March, 2022



and an application, **I.A. 7708/2021** under Order II Rule 2 CPC filed by Nokia was taken up for hearing. In the said application, the Plaintiff *inter alia* sought leave to add further patents from their portfolio in respect of which infringement may occur in future, as well as permission to include new devices that may be found to be infringing the suit patents. The said application was disposed of in the following terms:

“7. Heard ld. counsels for the parties. In patent infringement suits, this Court notices that suits are filed on the basis of the claims/patents asserted in respect of devices which may be readily available on which testing is done to check infringement. During pendency of the suit, the Defendant may launch new models or the Plaintiff may realise that further patents or claims are also infringed. However, in every such case, filing of fresh suits or moving amendment applications under Order 6 Rule 17 CPC would delay and complicate the adjudication of the suit. There is therefore a need to give some flexibility in terms of addition of new devices/models which may be found infringing by the Plaintiff qua the suit patent in the existing suit itself. The said need is felt by the Court considering the nature of a patent infringement suit where the suit is filed based upon certain patents, which are asserted qua certain devices which may be found to be infringing in order to avoid the multiplicity of proceedings.

8. Accordingly, insofar as the assertion of additional claims or adding of further devices/models qua the suit patent are concerned, the Plaintiffs are given liberty to assert the same by means of a separate affidavit which may be filed by the Plaintiff with test reports, if any, prior to framing of issues. If the issues have already been framed in the suit, then the same may be asserted by means of affidavit in evidence, which may be filed



by the Plaintiff. In response to such an affidavit of the Plaintiff, the Defendant would be given liberty to rebut the same at the appropriate stage.

9. Insofar as addition of further patents is concerned, if the Plaintiff wishes to assert infringement of other patents, a fresh suit would have to be filed by the Plaintiff. However, the Plaintiff would be at liberty to pray for consolidation at the appropriate stage.

10. Accordingly, the present application is disposed of with the direction that the Plaintiff is at liberty to avail of its remedies in accordance with law in respect of any additional patents, which it may wish to assert against the Defendant. As far as addition of model/devices that are found to be infringing the suit patents is concerned, the Plaintiff is at liberty to file an affidavit in accordance with the directions issued above, adding the said models/devices or asserting additional claims qua the suit patent, in the present suit itself.

11. The application under Order II Rule 2 CPC being I.A. 7708/2021 is disposed of in the above terms.”

6. This Court commenced hearing submissions in respect of the injunction application **I.A. 7706/2021** along with similar applications seeking injunction in **CS (COMM) 303/2021**, **CS (COMM) 162/2022**, **CS (COMM) 171/2022**. Submissions from all parties on the injunction applications were heard at length, in camera. Considering that issues of infringement, invalidity, essentiality, FRAND compliance, etc. were all raised, the Court had heard submissions of the parties over the course of nine hearings from 19th July, 2022 to 11th November, 2022. Thereafter, further submissions were heard by this Court on 15th April, 2023 (Saturday) and 6th May, 2023 (Saturday) in the application seeking interim injunction in



all the connected suits. Following these hearings, oral arguments were concluded by the parties and on 6th May, 2023 and judgment was reserved in the interim injunction applications across all the four connected suits by this Court.

7. In the *interregnum*, vide judgement dated 3rd July, 2024, the Id. Division Bench in ***Nokia Technologies OY v. Guangdong Oppo 2023:DHC:4465-DB***, directed *pro-tem* deposit in respect of the connected suit ***CS (COMM) 303/2021***. The said judgement was challenged before the Supreme Court by means of a Special Leave Petition. However, the said SLP was dismissed vide order dated 4th August, 2023 in ***SLP(C) No. 15938/2023*** titled ***Guangdong Oppo Mobile Telecommunications v. Nokia Technologies OY*** by the Supreme Court.

8. After the decisions of the Id. Division Bench and the Supreme Court, vide order dated 6th September, 2023 detailed submissions were heard in respect of all the four connected suits. After hearing the parties, and considering the thorough and technical nature of the interim injunction hearings and submissions, as well as the *pro-tem* security provided for the Plaintiff in terms of the judgement of the Id. Division Bench, this Court queried Id. Counsels for parties, to seek instructions if they would agree to proceed to an expedited trial in all the four connected suits. The Court also clarified in the expedited trial proposed by the Court, the evidence would be recorded before the Court itself using live transcription technology, which would result in speedier recording of cross-examination. Accordingly, on the said date i.e., 6th September, 2023, the judgement in the interim injunction applications in all the four connected suits was de-reserved.



9. After the judgement in the injunction applications was de-reserved, the present suit as also all the connected suits were listed before this Court on 6th October, 2023, 31st October, 2023 and 28th November, 2023 to seek clarity with respect to the position of all parties for proceeding to an expedited trial. However, when the present suit and also all connected suits were taken up for hearing on 29th November, 2023, on the issue of ‘whether the trial would be for fixing a global FRAND rate or a FRAND rate only for India’ there was a dispute between both the parties and no consensus could be arrived at between the parties. Consequently, judgement in all the interim injunction applications was reserved and the Plaintiffs were directed to place on record an updated Form-3 in respect of all the suit patents.

10. After the judgement was reserved in the interim injunction applications, there was another development in the suit, which resulted in a piquant situation. Vide judgement dated 28th November, 2023 the Chongqing No. 1 Intermediate People’s Court, China delivered a judgement in a parallel proceeding and determined a Global FRAND rate. Consequently, an application bearing **I.A. 25355/2023** was moved by the Plaintiff seeking the issuance of directions for placing on record the fully unredacted version of the decision dated 28th November, 2023 passed by the Chongqing No. 1 Intermediate People’s Court, China. The said application was listed before this Court on 18th December, 2023 and directions were issued to both Nokia and Oppo to obtain unredacted copies of the decision dated 28th November, 2023 passed by the Chongqing No. 1 Intermediate People’s Court, China from their Chinese lawyers and place the same on record as the same would have a material bearing on the decision to be



rendered in the applications where judgement is reserved. Thereafter, vide order dated 21st December, 2023, this Court recorded that both parties had submitted the unredacted copy of the judgement of the Chinese Court, which had determined a Global FRAND rate.

11. Subsequently, on 24th January, 2024, the matter was mentioned before the Court by the Id. Counsels for both parties that a settlement has been arrived at between the parties in the present suit. After being informed of this development the Court listed the present matters for directions on 30th January, 2024. On the said date, the following order was passed:

7. Today, **both parties agree that the disputes in CS(COMM) 303/2021 & 304/2021 have been amicably resolved.** The terms of settlement have been exchanged between the parties, but the settlement agreement is yet to be executed between the parties. However, the parties wish to move an application in this regard.

8. Regarding CS(COMM) 162/2022 & 171/2022, the position is that no settlement has been reached as on date. On a specific query from the Court whether it should proceed to pass judgment, Mr. Pravin Anand, Id. Counsel for the Plaintiffs clarifies that as far as the Plaintiffs are concerned, the instructions are that since there is no settlement as on date, the judgment may be pronounced by the Court in CS(COMM) 162/2022 & 171/2022. On the other hand, Mr. Saikrishna requested that the matter may be deferred for a short period to allow him time to receive final instructions.

9. Id. Counsel for the Plaintiff submits that there is no objection to the matter being deferred by a couple of weeks.

10. Accordingly, list the matters on 26th February, 2024 for receiving settlement application in CS(COMM) 303/2021 & 304/2021 and for receiving



final instructions in CS(COMM) 162/2022 & 171/2022.

I.A. 3476/2024 (u/O XXIII Rule 1 and 3 CPC)

12. This is an application under Order XXIII Rule 1 and 3 CPC seeking to place on record the fact that the disputes between the parties have been resolved vide a Patent License Agreement and Litigation Settlement Agreement (*hereinafter 'settlement agreement'*) which is a global settlement of disputes between the Nokia and Oppo in respect of SEP as well as implementation patent disputes. The terms of the settlement are set out in paragraph 6 of the present application which is extracted herein below:

“6. The parties, without prejudice to their rights available under law, and further subject to what both parties have agreed, are filing the present application, seeking disposal of the following proceedings:

(i) The Plaintiff agrees to withdraw and give up all claims and applications, prayers made in the suit, including but not limited to infringement, preliminary injunction, deposit, permanent injunction, damages, rendition of accounts etc., as prayed for in the plaint, in light of the Litigation Settlement Agreement between the parties. Parties agree that the suit can be disposed of accordingly.

(ii) The Defendants agree to withdraw the counterclaim No. CC(Comm) 05/2022 that was filed in the present proceedings relating to IN 259932; IN 264783; IN 266531 and all claims made in the written statement filed in the suit with respect to the invalidity or non-essentiality of the Plaintiff's suit patents, in light of the Litigation Settlement Agreement.



Both parties agree that the counterclaim may be disposed of accordingly.

(iii) Parties agree that in view of the settlement arrived between them, the Plaintiff is withdrawing and giving up relief, as requested in the application under Order 39 Rule 1 and 2 read with section 151 of the Code of Civil Procedure, 1908 being IA 7706/2021, orders on which were reserved finally on 29th November 2023.

(iv) Both parties agree that the Patent Licensing Agreement and the Litigation Settlement Agreement entered into between the parties shall not be construed as an admission of any claims made by one party against the other party, which term includes the said parties' affiliates, subsidiaries, group companies etc.”

13. The present application is signed by the authorised signatories of the Plaintiff as also by the authorised signatories of Defendants. Ld. Counsel for the parties have also signed the present settlement application. The application is supported by affidavits of the respective parties.

14. In view of the settlement being arrived at between the parties, the suit as also the counterclaim is dismissed as withdrawn in terms of the Litigation Settlement Agreement. The parties shall be bound by the terms and conditions of the said Litigation Settlement Agreement.

15. Ld. Counsel for the Plaintiff has prayed for the refund of Court Fee, considering the present suit has been resolved. However, considering the number of hearings and the detailed nature of the hearings, the prayer for refund of Court Fee is not acceded to.



16. In these matters, a substantial number of confidential documents have been filed either in sealed covers or otherwise. The same may also have been scanned with the electronic record. Considering the fact that the suit is now being withdrawn, the parties are permitted to jointly approach the Dealing Assistant through Counsel for deletion of electronic record relating to confidential documents. Further, all the hard copies of the confidential documents be returned to the respective parties through Counsel and undertaking be recorded that the said documents have been returned to the parties.
17. Considering that the suit is being withdrawn, all the pending applications are also dismissed as infructuous.
18. Next date of hearing stands cancelled.

PRATHIBA M. SINGH
JUDGE

FEBRUARY 13, 2024

Rahul/Am

(corrected & released 21st February, 2024)