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

+ **CS(COMM) 417/2023, IA. 11304/2023 (Order 39 R 1 and 2), I.A. 17119/2025**

**BENTLEY SYSTEMS INC & ANR.**

.....Plaintiff

Through: Mr. Shantanu Sahay and Ms. Manvi Panwar, Advs.

versus

**ACCENCIES TECHNOLOGIES PRIVATE LIMITED & ANR.**

.....Defendants

Through: None.

**CORAM:**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**ORDER**

**31.10.2025**

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**I.A. 17119/2025**

1. This is an application under Order XIII-A Rules 3 and 6(1)(A) read with Order VIII Rule 10 and Section 151 of the Code of Civil Procedure, 1908 ['CPC'], filed by the Plaintiffs seeking summary judgment for a decree of permanent injunction restraining the Defendants, their agents, franchisees, servants, and others action for and on behalf of the Defendants, from directly or indirectly copying, reproducing, storing, installing and/or using pirated/unlicensed software program(s) of Plaintiff No. 1 including but not limited to 'MicroStation' and its various versions or any other software programs developed by the Plaintiffs in any manner that may amount to infringement of the Plaintiffs' copyright subsisting in its software programs and software related documentation as well as for damages along with legal



costs.

**Factual Matrix**

2. The facts, as stated in the plaint, which are relevant for adjudication of the present application, are as under: -

2.1. Bentley Systems Inc. [i.e., Plaintiff No. 1] is a Delaware based corporation with its principal office in Pennsylvania, USA and Bentley Systems India Private Limited [i.e., Plaintiff No. 2] is the wholly owned subsidiary of Plaintiff No.1 with its registered office at New Delhi. The Plaintiffs are leading providers of infrastructure software solutions to engineers, architects, geospatial professional, constructors, etc.

2.2. Plaintiff No. 1 is the owner of copyright in its 'MicroStation' software program developed by it and marketed in India by Plaintiff No. 2, the details of which are provided at paragraph nos. 11 to 13. The 'MicroStation' software is computer-aided software, which is used to generate 2D and 3D vector graphics objects and elements.

2.3. It is stated that due to the highly sought-after nature of Plaintiff No.1's software programs, software piracy has always been a concern and thus after incurring huge losses to business due to piracy, the Plaintiffs invested into the 'Phone Home Technology'—a security mechanism built into the Plaintiffs' software which verifies whether the Plaintiffs' software is being used in terms of the End User License Agreement ['EULA']. If not, then the technology logs the information as an incident report of an infringement known as an 'infringement hit'. Each 'infringement hit' accounts for the number of times the pirated/unauthorized software is used by an individual.

Every user of the Plaintiffs' software programs is required to understand and accept the terms and conditions of the EULA in order to be



able to use the Plaintiffs' software programs.

2.4. It is stated that Defendant No.1 [i.e., Accencies Technologies Private Limited] and its director [i.e., Defendant No. 2 - Narsimharao Damacharla] are infringing Plaintiff No. 1's copyright in its 'MicroStation' software program and its various version by using its pirated/unauthorised versions on at least eighteen [18] computer systems, despite having only two [2] valid licenses of the Plaintiffs 'MicroStation' software program.

2.5. The Plaintiffs came to know about the Defendants' infringing activities in November 2021 and with an intent to amicably resolve the dispute, the Plaintiffs issued a legal notice dated 16.11.2021. In response, the Defendants vide its email dated 23.11.2021, agreed to settle the matter and purchase four [4] 'MicroStation' licenses; however, the Defendants only procured two [2] licenses, thus violating the terms agreed between them.

2.6. Subsequently, the Plaintiffs filed a Pre-Suit Mediation [bearing Mediation Petition No. 457/2022] before the Delhi High Court Mediation and Conciliation Centre but the mediation ended as 'Not-Settled'.

2.7. Thereafter, to ascertain the Defendants' use of the Plaintiffs' software programs, the Plaintiffs engaged the services of a private investigator<sup>1</sup> in May 2023, who through telephonic investigations with Defendant No.1's employees, Mr. Lokendra Aditya and Ms. Sowmyasri Cheppala found that 30 out of 50 team members at Defendant No.1 company were using the Plaintiffs' 'MicroStation' software program without any licenses/authorisation, the details of which are provided at paragraph no. 37 of the plaint.

2.8. It is stated that as per the infringement report/Phone Home Report

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<sup>1</sup> Mr. Chandrabhan Singh



generated on 25.05.2023, the Plaintiffs' 'MicroStation' software has been used for 5137 times on eighteen [18] different computer systems used by the Defendants. The details of the said infringement activities are provided at paragraph no. 38 of the plaint and has also been reproduced hereinbelow: -

| Machine Sl. No. | MAC Addresses                                     | Hostname      | Domain Name   | Software Product             | Number of Infringement hits | Last instance of Infringement |
|-----------------|---------------------------------------------------|---------------|---------------|------------------------------|-----------------------------|-------------------------------|
| 1.              | 64006a8b7fe8                                      | accencies-102 | accencies.com | MicroStation Connect Edition | 705                         | 27-10-2022                    |
| 2.              | a4bb6dd279ae                                      | accencies-110 | accencies.com | MicroStation Connect Edition | 345                         | 09-01-2023                    |
| 3.              | 40b0343cb8f0                                      | accencies-311 | accencies.com | MicroStation Connect Edition | 487                         | 03-01-2023                    |
| 4.              | 1866da253ae5                                      | accencies-104 | accencies.com | MicroStation Connect Edition | 483                         | 09-12-2023                    |
| 5.              | 484d7ed77a2b                                      | accencies-311 | accencies.com | MicroStation Connect Edition | 467                         | 09-12-2022                    |
| 6.              | 1866da0d652d                                      | accencies-311 | accencies.com | MicroStation Connect Edition | 133                         | 29-11-2022                    |
| 7.              | 1866da3cbd12                                      | accencies-311 | accencies.com | MicroStation Connect Edition | 191                         | 17-11-2022                    |
| 8.              | 64006a8b80f7                                      | accencies-311 | accencies.com | MicroStation Connect Edition | 695                         | 21-10-2022                    |
| 9.              | e454e851ab56                                      | accencies-311 | accencies.com | MicroStation Connect Edition | 430                         | 11-12-2022                    |
| 10.             | 1866da2aa465;<br>1866da2aa465[d]                  | accencies-311 | accencies.com | MicroStation Connect Edition | 488                         | 13-10-2022                    |
| 11.             | 1866da05bbb2                                      | accencies-311 | accencies.com | MicroStation Connect Edition | 378                         | 13-10-2022                    |
| 12.             | e454e8575548;<br>a047d72f1cf7                     | accencies-311 | accencies.com | MicroStation Connect Edition | 39                          | 28-08-2022                    |
| 13.             | 48e7daaac623                                      | accencies-311 | accencies.com | MicroStation Connect Edition | 2                           | 25-06-2023                    |
| 14.             | 1866da05bbb2                                      | accencies-311 | accencies.com | MicroStation Connect Edition | 172                         | 12-05-2022                    |
| 15.             | 18473dba1d71                                      | accencies-311 | accencies.com | MicroStation Connect Edition | 9                           | 11-05-2022                    |
| 16.             | 484d7edb0345;<br>a047d72f1cf7;<br>484d7edb0345[d] | accencies-311 | accencies.com | MicroStation Connect Edition | 68                          | 11-05-2022                    |
| 17.             | 509a4c58b9dd                                      | accencies-311 | accencies.com | MicroStation Connect Edition | 45                          | 12-11-2021                    |
| 18.             | a047d72f1cf7;<br>e454e893abf7                     | accencies-311 | accencies.com | MicroStation Connect Edition | 1                           | 03-11-2021                    |

The timeline referred to in the last column is between 03.11.2021 and



09.12.2023.

2.9. Aggrieved by the aforesaid infringing activities of the Defendants, the Plaintiffs have filed the present suit for permanent injunction restraining infringement of copyright, delivery up, rendition of account of profits and damages. It is alleged that the Defendants have been using pirated versions of the Plaintiffs copyrighted software program 'MicroStation' and its various versions.

**Submissions on behalf of the Plaintiffs**

3. Mr. Shantanu Sahay, learned counsel for the Plaintiffs submits that the despite service of summons, the Defendants have chosen to neither appear before the Court and nor file any pleadings in their defence. He states that accordingly, the right of the Defendants to file written statement has already been closed by the Court.

3.1. He states that the failure of Defendants to enter appearance and file their written statement must be construed as an admission of the Plaintiffs' rights in 'MicroStation' software program 'MicroStation' and the assertions in the plaint with respect to infringement. He relies upon the judgment of this Court in **Inter Ikea Systems BV & Ors. v. Imtiaz Ahamed and Ors.**<sup>2</sup> to contend that a party who chooses not to participate in the court proceedings cannot enjoy an advantage and a premium for such conduct.

3.2. He states that the infringing activities of the Defendants are apparent in the face of technically generated infringement report and the independent investigation conducted by the Plaintiffs.

3.3. He states that it is evident that the Defendants are knowingly carrying out such infringement activities unauthorizedly in a fraudulent manner,

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<sup>2</sup> MANU/DE/3680/2016



which not only causes great harm to the Plaintiffs but also results in unjust enrichment of the Defendants from the work created out of the use of the unlicensed software programs.

3.4. He states that in view of the same, the present suit is liable to be decided against the Defendants by way of summary judgment in terms of prayer clause 54(a) of the plaint along with damages and legal costs.

### **Findings and Analysis**

4. This Court has heard the learned counsel for the Plaintiffs and perused the record.

5. It is a matter of record that the summons were duly served upon and upon Defendant No. 2 on 21.10.2023 and Defendant No. 1 on 14.02.2024 through speed post. In this regard, the affidavit(s) of service dated 21.11.2023 and 21.03.2024, respectively are filed on record. However, since the said Defendants despite being served with summons, failed to file their written statement(s); right of Defendant Nos. 2 and 1 to file the same was closed on 02.04.2024 and 10.07.2024, respectively. Furthermore, since the said Defendants did not appear before this Court, they were proceeded *ex-parte* vide order dated 13.08.2024.

6. The plaint has been duly verified and is supported by the affidavit(s) of the Plaintiffs as well the Statement of Truth. As noted above, no written statement has been filed by the Defendants; therefore, all the averments made in the plaint against the said Defendants remained unrebutted and are deemed to be admitted.

7. The Plaintiffs have filed with the plaint the Phone Home Report and the affidavit of its Investigator dated 30.05.2023 in support of the averments of infringement. No affidavit of admission/denial of the documents filed by



the Plaintiffs, has been filed by the said Defendants. Accordingly, the documents filed by the Plaintiffs are deemed to have been admitted by the Defendants as per Rule 4 of Chapter VII of the Delhi High Court (Original Side) Rules, 2018.

8. At this stage, it would be apposite to refer to Order VIII Rule 10 of CPC. The said rule reads as under: -

**“10. Procedure when party fails to present written statement called for by Court.—** Where any party from whom a written statement is required under rule 1 or rule 9 fails to present the same within the time permitted or fixed by the Court, as the case may be, the Court shall pronounce judgment against him, or make such order in relation to the suit as it thinks fit and on the pronouncement of such judgment a decree shall be drawn up.”

9. It would be relevant to refer to the dicta of **Satya Infrastructure Ltd. & Ors. v. Satya Infra & Estates Pvt. Ltd.**<sup>3</sup>, wherein the Co-ordinate Bench of this Court held as under: -

**“4.** The next question which arises is whether this Court should consider the application for interim relief and direct the plaintiffs to lead ex parte evidence. The counsel for the plaintiffs states that the plaintiffs are willing to give up the reliefs of delivery, of rendition of accounts and of recovery of damages, if the suit for the relief of injunction alone were to be heard today.

**5.** 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.”

[Emphasis Supplied]

10. In view of the aforesaid facts and circumstances of this case, this



Court is of the view that no purpose would be served if the Plaintiffs are directed to lead *ex-parte* evidence by way of filing an affidavit of examination-in-chief and the Plaintiffs are entitled to a summary judgment.

11. The averments made in the plaint and documents filed on record shows that the Plaintiffs have acquired copyright in its 'MicroStation' software program.

12. The Plaintiffs in order to substantiate its claim that the Defendants are infringing the Plaintiffs' 'MicroStation' software program by unauthorisedly using the said software in a fraudulent manner, has placed on record, several documents/reports and its email correspondences with the Defendants.

The Plaintiffs have also provided the details of the Defendants' infringing activities, specifically the details of the Defendants' computer systems on which the Plaintiffs' 'MicroStation' software program(s) are unauthorisedly used by the Defendants. The legal notice issued by the Plaintiffs to the Defendants, calling upon by the Defendants to refrain from unauthorisedly using the Plaintiffs' 'MicroStation' software program have also been placed on record.

The Plaintiffs have also placed on email correspondences between the Plaintiffs and the Defendants. A perusal of the same shows the admission by the Defendants that the Defendants were using the pirated versions of the Plaintiffs' 'MicroStation' software program. The parties had also agreed upon the terms of settlement for legalising the software through purchase; however, the Defendants failed to acquire the requisite licenses and have continued to use the pirated versions as is evident from the Phone Home Report.

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<sup>3</sup> 2013 SCC OnLine Del 508



13. In view of the aforesaid pleadings and documents, the Plaintiffs have been able to establish that the unauthorised use of the Plaintiffs' 'MicroStation' software program by the Defendants is in violation of the Plaintiffs' statutory rights granted under the Copyright Act, 1957.

14. The fact that the Defendants have elected not to contest the present suit makes it evident that the said Defendants have accepted the interim injunction order dated 02.06.2023 passed by this Court, wherein the said Defendants were restrained from using the Plaintiff's 'MicroStation' software program. This Court finds no ground to take a view different from the prima facie expressed in the injunction order dated 02.06.2023. Accordingly, the interim injunction order dated 02.06.2023 is liable to be made absolute and the Plaintiffs are entitled to grant of a permanent injunction.

15. In **Su-Kam Power Systems Ltd. v. Kunwer Sachdev**<sup>4</sup>, a Co-ordinate Bench of this Court in the context of commercial suits has observed that summary judgment ought to be passed in case, where the defendant lacks a real prospect of defending the claim. In this case, infact the Defendants have elected to not to defend their case and therefore this Court is satisfied that the Plaintiffs need not be put through the costs and rigours of trial. The relevant portion of the aforesaid judgment reads as under: -

“90. To reiterate, the intent behind incorporating the summary judgment procedure in the Commercial Court Act, 2015 is to ensure disposal of commercial disputes in a time-bound manner. In fact, the applicability of Order XIII A, CPC to commercial disputes, demonstrates that the trial is no longer the default procedure/norm.

91. Rule 3 of Order XIII A, CPC, as applicable to commercial disputes, empowers the Court to grant a summary judgement against the defendant

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<sup>4</sup> 2019 SCC OnLine Del 10764



where the Court considers that the defendant has no real prospects of successfully defending the claim and there is no other compelling reason why the claim should not be disposed of before recording of oral evidence. The expression “real” directs the Court to examine whether there is a “realistic” as opposed to “fanciful” prospects of success. This Court is of the view that the expression “no genuine issue requiring a trial” in Ontario Rules of Civil Procedure and “no other compelling reason.....for trial” in Commercial Courts Act can be read mutatis mutandis. Consequently, Order XIII A, CPC would be attracted if the Court, while hearing such an application, can make the necessary finding of fact, apply the law to the facts and the same is a proportionate, more expeditious and less expensive means of achieving a fair and just result.

92. Accordingly, unlike ordinary suits, Courts need not hold trial in commercial suits, even if there are disputed questions of fact as held by the Canadian Supreme Court in Robert Hryniak (supra), in the event, the Court comes to the conclusion that the defendant lacks a real prospect of successfully defending the claim.”

[Emphasis Supplied]

16. In view of the aforesaid facts and settled law, the present suit is a fit case, where a summary judgment in terms of Order VIII Rule 10 of CPC read with Order XIII-A of CPC can be passed in favour of the Plaintiffs and against the Defendants.

17. Thus, the Plaintiffs are held entitled to reliefs of permanent injunction as claimed in the plaint. Accordingly, a decree of permanent injunction is passed in favour of the Plaintiffs and against the Defendants in terms of prayer clause 54(a) of the plaint. The interim injunction dated 02.06.2023 [made absolute hereinabove] shall merge into the decree.

#### **Relief of Damages and Cost**

18. The Plaintiffs have also sought compensatory damages from the Defendants and in this regard, reliance is placed on the judgments passed by the Coordinated Benche(s) of this Court in **Dassault Systemes and Others**



**v, Advanced Engineering Solutions & Anr.<sup>5</sup> and Ebay Inc. v. Mohd. Waseem T/AS Shopibay and Others<sup>6</sup> as well as Order dated 28.02.2024 passed by this Court in **The Foundry Visionmongers Limited v. Yuva Animation Studios Private Limited and Another<sup>7</sup>.****

19. Learned counsel for the Plaintiffs submits that the Plaintiffs have also suffered substantial litigation costs contesting the present suit and despite issuance of summons and interim restraining directions passed against the Defendants; the said Defendants have been negligent and have not appeared before this Court. He prays that the Plaintiffs have incurred a cost of Rs.6.55 lakhs approx. [which includes the cost of investigations, court fees and professional fees of the advocates], in pursuing the present litigation. In this regard, he relies upon the ‘Statement of Costs’<sup>8</sup>, enlisting the costs suffered by the Plaintiffs.

20. Insofar as the reliefs of damages sought in prayer clauses 54(d) of the plaint are concerned, it would be apposite to refer to the judgment passed by the Co-ordinate Bench of this Court in **Hindustan Lever Ltd. v. Satish Kumar<sup>9</sup>**. The relevant paragraph of the said judgment is as under: -

“23. One of the reasons for granting relief of punitive damages is that despite of service of summons/notice, the defendant had chosen not to appear before the court. It shows that the defendant is aware of the illegal activities otherwise, he ought to have attended the proceedings and give justification for the said illegal acts. Since, the defendant has maintained silence, therefore, the guilt of the defendant speaks for itself and the court, under these circumstances, feels that in order to avoid future infringement, relief of punitive damages is to be granted in favour of the plaintiff.”

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<sup>5</sup> 2025:DHC:1104

<sup>6</sup> MANU/DE/5498/2022

<sup>7</sup> CS(COMM) 601/2021

<sup>8</sup> Filed under the cover of index dated 11.09.2025

<sup>9</sup> 2012 SCC OnLine Del 1378



21. So also, a Co-ordinate Bench of this Court in **Ebay Inc. v. Mohd. Waseem T/AS Shopibay and Others**, while relying on **Hindustan Lever Ltd. v. Satish Kumar** (supra) in case of trademark infringement had granted Rs. 2 lakhs towards damages in addition to the costs of the suit against the defendants who choose not to appear before the Court.
22. Having perused the averments in the plaint including the pleas of infringement, and the conduct of the Defendants, this Court is satisfied that the Defendants' actions of unauthorisedly using the Plaintiffs' 'MicroStation' software and not appearing before this Court despite being served, are not innocent and invites award of damages so as to deter the said defendants from indulging in from any further illegal activities. The Plaintiffs are accordingly, held entitled to damages of Rs. 2 lakhs from the defendants for the unauthorised use of the software of the Plaintiffs.
23. The Plaintiffs are also held entitled to legal costs amounting to Rs. 6.55 lakhs against the Defendants, being the actual costs incurred by them in prosecuting suit.
24. With the aforesaid directions, this suit along with pending applications (if any) is decreed vis-à-vis the relief of permanent injunction, damages of Rs. 2 lakhs and legal costs of Rs. 6.55 lakhs.
25. Let the decree sheet be drawn up in terms on this order.
26. Pending applications are disposed of.
27. All future dates stand cancelled.

**MANMEET PRITAM SINGH ARORA, J**

**OCTOBER 31, 2025/MG**