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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) 303/2021 and I.A. 3475/2024**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.** DefendantsThrough: 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 has asserted that three of its patents which are claimed to be Standard Essential Patents (*hereinafter* 'SEPs') 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 269929	<i>Method Providing Multiplexing for Data Non-Associated Control Channel</i>
2	IN 286352	<i>System and Method for Providing AMR-WB DTX Synchronization</i>



3	IN 300066	<i>Additional Modulation Information Signaling for High-Speed Downlink Packet Access</i>
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3. According to Nokia, the above suit patents are essential for implementing technology that ensures mobile phones and cellular systems are compliant with 2G, 3G, 4G, and 5G standards. Nokia further claims that the Defendants, in the mobile phones they manufacture, assemble, or import, utilize 2G, 3G, 4G, and 5G technology. Accordingly, Nokia claims that Oppo, is an unauthorised user of the suit patents and therefore infringing the suit patents. Additionally, Nokia contends that the Defendants are ex-licensees for their portfolio of SEPs and were delaying the renewal of the license agreement and have failed to present any reasonable counter-offers.

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. Initially, submissions were made by both parties in relation to an application, *I.A. 7700/2021* moved by Nokia seeking *pro-tem* deposits under Order XXXIX Rule 10 of the Code of Civil Procedure, 1908 (CPC), and judgement was reserved in the said application on the said application on 23rd December, 2021. Thereafter, this Court commenced the hearing on the



application *I.A. 7699/2021* seeking injunction under Order XXXIX Rules 1 and 2. Similar applications seeking injunction in *CS (COMM) 304/2021*, *CS (COMM) 162/2022*, *CS (COMM) 171/2022* were consolidated and 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 eleven hearings from 18th May, 2022 to 11th November, 2022.

6. Vide judgement dated 17th November, 2022, judgement in the application, *I.A. 7700/2021* seeking *pro-tem* deposit was delivered. In the said judgement, a Id. Single Judge of this Court held that Nokia had not established a sufficient basis for an order of deposits, considering the pleadings on record and submissions made before the Court. 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*, Nokia challenged the decision of the Id. Single Judge in *I.A. 7700/2021* seeking *pro-tem* deposit before the Id. Division Bench of this Court in *FAO(OS)(COMM) 321/2022* titled *Nokia Technologies OY v. Guangdong Oppo Mobile Telecommunications Corp. Ltd. & Ors.* Vide judgement dated 3rd July, 2023, the Id. Division Bench allowed the appeal preferred by Nokia. After considering the past license agreement which was entered into between the parties, the Id. Division



Bench directed OPPO to deposit 23% of the total license amount which was paid in the last license which was valid till June, 2021. The operative portion of the said judgment of the Id. Division Bench reads as under:

“103. Keeping in view the status of Oppo as an ex-licensee, its admission that its phones use Nokia's patents, its willingness to renew the 2018 Agreement and make interim payments as late as June 2021, the fact that it has approached a Court in China for determining a FRAND rate as well as the consistent practice of this Court and the financial condition of Oppo, this Court is of the view that the impugned judgment is contrary to the facts as well as settled principles of law. Accordingly, the present appeal is allowed and the impugned order is set aside. This Court also directs the respondent to deposit the 'last paid amount', attributable to India i.e. Twenty Three per cent (23%) of XXXXXXXXXXXXXXXXXXXXXXXXXX (the last paid amount) under the 2018 Agreement within four weeks. This Court clarifies that the observations made in the present order are only for deciding the present appeal and shall not prejudice either of the parties in any other proceedings or at the final hearing of the suit.”

8. The said judgement of the Id. Division Bench of this Court was challenged by Oppo before the Supreme Court by means of a Special Leave Petition. Vide order dated 4th August, 2023 in *SLP(C) No. 15938/2023* titled *Guangdong Oppo Mobile Telecommunications v. Nokia Technologies OY* the Supreme Court, dismissed the challenge and extended the time to the Defendants to file an undertaking of compliance. The said order of the Supreme Court read as under:

“1 There is no justification for this Court to interfere with the order of the Division Bench of the High Court.



Though the Division Bench reversed the order of the Single Judge, it is an interlocutory order.

2 On the request of counsel for the petitioners, time for compliance with the direction of the High Court is extended until 25 August 2023 conditional on the petitioner filing an undertaking before this Court within ten days that they shall comply with the order of the Division Bench.

3 The Special Leave Petition is dismissed, subject to paragraph 2 above.

4 Pending applications, if any, stand disposed of.”

9. After the above 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.

10. 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.

11. 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.

12. 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, ld. 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. Ld. 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. 3475/2024 (u/O XXIII Rule 1 and 3 CPC)

13. 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, declaration of compliance with FRAND obligations etc., as prayed for in paragraph 116 of the plaint in light of the Litigation Settlement Agreement between the parties. Parties agree that the suit may be disposed of accordingly.

(ii) The Defendants agree to withdraw the counterclaim No. CC(Comm) 12 / 2022 that was filed in the present proceedings for IN 286352; IN 269929; IN 300066 and all claims made 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) Both parties agree that the Patent License 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.

(iv) The Plaintiff shall have no objection to the Defendants' act of seeking return of the amount of pro-tem security, deposited by the Defendant No. 1 with this Hon'ble Court, the details of which are



as follows:

<i>Name of the Account Holder</i>	<i>Registrar General, High Court of Delhi</i>
<i>FDR Account Number</i>	<i>155303115770 03</i>
<i>Date of Deposit</i>	<i>24th August 2023</i>
<i>Scheme of Deposit</i>	<i>Kuber Yojana Deposit Scheme</i>
<i>Rate of Interest</i>	<i>7% per annum</i>
<i>Date of Maturity</i>	<i>24th August, 2024</i>

(v) *The said pro tem deposit is to be refunded into the following account along with the requisite remittance form MT103 FILED 70 (to be filed in with “Refund the PRO TEM DEPOSIT FOR TT33625230002465”):*

Account Name: *Guangdong OPPO Mobile Telecommunications Corp., Ltd.*

Account Number: *635364761810*

Address: *No.18 Haibin Road Wusha Village Changan Dongguan Guangdong China*

Swift Code: *Bkchcnbj44w*

(vi) *Parties agree that in view of the settlement arrived between them, the Plaintiff is withdrawing and giving up interim 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 7699/2021, orders on which were reserved finally on 29th November 2023.”*

14. 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.

15. As captured in paragraph 6(iv) of the settlement agreement, the amount of *pro tem* security deposited by the Defendants shall be refunded to the Defendants along with the interest which has accrued on the said amount. If TDS is to be deducted on the interest component as per procedure, the same shall be done and the certificate shall also be issued. The details of the bank are as follows:

Account Name	Guangdong OPPO Mobile Telecommunications Corp., Ltd.
Account Number	635364761810
Address	No.18 Haibin Road Wusha Village Changan Dongguan Guangdong China
Swift Code	Bkchcnbj44w

16. The amount be refunded to the Defendants within a period of two weeks.

17. 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.

18. 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.

19. 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.

20. Considering that the suit is being withdrawn, all the pending applications are also dismissed as infructuous.

21. Next date of hearing stands cancelled.

PRATHIBA M. SINGH
JUDGE

FEBRUARY 13, 2024

Rahul/am

(corrected & released 21st February, 2024)