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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 303/2021 & I.A. 25355/2023**

NOKIA TECHNOLOGIES OY Plaintiff

Through: Mr. Pravin Anand, Ms. Vaishali Mittal, Mr. Siddhant Chamola and Ms. Pallavi Bhatnagar, Advocates.

versus

GUANGDONG OPPO MOBILE TELECOMMUNICATIONS CORP LTD & ORS. Defendants

Through: Mr. Saikrishna Rajagopal, Ms. Julien George, Ms. Anu Paarcha, Mr. Aniruddh Bhatia, Mr. Arjun Gadhoke, Mr. Avijit Kumar, Ms. N. Parvati, Ms. Prachi Sharma, Mr. Nitesh, Advs. (M. 9953781225)

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **18.12.2023**

1. This hearing has been done through hybrid mode.

I.A. 25355/2023 in CS(COMM) 303/2021

2. The suit *CS(COMM) 303/2021* has been filed by the Plaintiff- Nokia Technologies OY seeking the enforcement of its portfolio of Standard Essential Patents (SEPs) as also implementation patents.

3. Vide order dated 29th November, 2023, this Court noted that the Defendants were not willing for a global FRAND rate to be determined by this Court in these proceedings, and reserved judgment in the injunction applications i.e., *I.A. 7699/2021 in CS (COMM) 303/2021*, *I.A. 7706/2021 in CS (COMM) 304/2021*, *I.A. 4158/2022 in CS (COMM) 162/2022*, and *I.A. 4267/2022 in CS (COMM) 171/2022*. The relevant extract of the said



order reads as follows:

“12. Today, ld. Counsel for the Defendants have made submissions, on instructions, to the following effect for each of its clients:

“OPPO

OPPO is willing to accept and abide by the Indian FRAND rate determined by the Indian Court i.e. for Nokia’s India Portfolio and for Defendant’s India Sales, subject to the Defendant’s right to appeal. OPPO assures that the Indian FRAND rate set by Indian court would prevail in India and will take precedence over any FRAND rates that may be set by any other foreign court.

VIVO

Vivo is willing to accept and abide by the Indian FRAND rate determined by the Indian Court i.e. for Nokia’s India Portfolio and for Defendant’s India Sales, subject to the Defendant’s right to appeal. Vivo assures that the Indian FRAND rate set by Indian court would prevail in India and will take precedence over any FRAND rates that may be set by any other foreign court.”

13. From the above, it is clear that the Defendants are not willing for a global FRAND rate to be determined by this Court in these proceedings for various reasons. Thus, the stand of the Plaintiff is that the judgement may be pronounced in the interim injunction applications. In view thereof, since there is no consensus between the parties on the manner in which the trial can be expedited in these suits.

14. Accordingly, the judgment in all the injunction applications i.e., I.A.7699/2021, I.A.7706/2021, I.A.4158/2022, and I.A.4267/2022 are reserved.”



4. Today, an application bearing *I.A. 25355/2023* has been moved by the Plaintiff claiming that the directions be issued 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 (hereinafter, '*Chinese Intermediate Court*').

5. This Court has heard the submissions of the parties on the application, and must confess that the situation at hand is quite piquant, to say the least.

6. The present case relates to Standard Essential Patents ('*SEPs*') being enforced by the Plaintiff against the Defendants. The submissions and arguments in *I.A. 7699/2021* in *CS (COMM) 303/2021* and the other connected matters have already been heard by the Court.

7. A perusal of the previous orders dated 29th November, 2023, 28th November, 2023, 31st October, 2023, and 6th October, 2023 shows that the Court has been considering several issues, including those related to the determination of global FRAND rates. The Plaintiff's case is that global FRAND rates could be fixed in these proceedings. However, the Defendants' case initially was that the proceedings for fixing of global FRAND rates were pending before the Chinese Intermediate Court.

8. The previous order dated 29th November, 2023, as extracted above, records various proposals which were considered. Finally, the Court reserved judgment on the said date. However, the Court was subsequently informed that the Chinese Intermediate Court rendered decision on 28th November, 2023, determining the global FRAND rate. The Registry was then directed to list this matter on 21st December, 2023, after consultations with the Id. Counsels, to enable them to place the said judgment on record.

9. Further, Id. Counsel for the Defendants have also placed on record an



email dated 15th December, 2023 which reads as follows:

*"Parvati N <n.parvati@saikrishnaassociates.com>
Fri, Dec 15, 2023 at 11:39 AM*

*To: Pravin Anand <Pravin@anandandanand.com>
Cc: Siddhant Chamola
<Siddhant@anandandanand.com>, Vaishali Mittal
<vaishalimittal@anandandanand.com>, "Nokia Vs.
Oppo" <skanokiaoppo@saikrishnaassociates.com>*

Dear Sir,

We write in respect of the Hon'ble Delhi High Court's enquiry with respect to the recent Chongqing decision passed in the OPPO vs Nokia matter.

Our client has brought to our attention that the Chongqing decision has been shared with both parties- with OPPO receiving a version wherein Nokia's sensitive information is redacted and vice versa. In light of this, we propose that each party can submit their respective versions of the Chongqing decision before the Hon'ble Delhi High Court on 21st December, 2023 (subject to it being filed in separate sealed covers so that there is no exchange of confidential information between the parties) in order to provide the court with a complete version of the Chongqing decision. Our client also has no objection to the unredacted decision being placed before the Hon'ble Delhi High Court, subject to the permission of the Chongqing Court.

Kindly inform us, if the above suggestion is acceptable to your client. If not, then we request you to please let us know in advance about your client's concerns. Looking forward to hearing from you."

10. The above email demonstrates that the parties were aware of the fact that the judgment had been released by the Intermediate Chinese Court and



that it was in the public domain. However, the Court was not informed of the same.

11. Today, however, the present application has been filed, and the Court has been informed that the fully un-redacted version of the judgment dated 28th November, 2023 passed by the Chinese Intermediate Court is not available with either of the parties. It has been informed that the un-redacted version has been given to only the respective Chinese Counsels, representing the litigants in China, with an obligation not to disclose the same even to the litigants/parties themselves.

12. Furthermore, it has been submitted that the Plaintiff received a redacted version of the said judgment, with certain information about the Defendants hidden/redacted and vice-a-versa *i.e.* similarly, the Defendants received a version, with certain information about the Plaintiff hidden/redacted.

13. Therefore, as of today, the situation is such that neither party has access to the fully un-redacted version of the said judgment, except for their respective Chinese Counsels - not even for the perusal of this Court. This situation persists despite the fact that repeatedly the Defendant's stand on merits has been that the global FRAND rates as fixed by the Chinese Court, should be applicable even for India.

14. The proceedings before this Court have been continuing in parallel with proceedings before other jurisdictions. The Court sought information as to which are the jurisdictions where inter se disputes are pending. However, even on this issue, there is no consensus. Each of the parties have provided their own list of jurisdictions where the disputes are stated to be pending. The lists are as follows:



<i>S.No</i>	<i>Plaintiff's list of jurisdictions</i>	<i>Defendants' list of jurisdictions</i>
1.	India	Germany
2.	UK	UK
3.	China (Chongqing and Beijing)	India
4.	Brazil	Indonesia
5.	Germany- Munich and Dusseldorf	China
6.	Netherlands	France
7.	Finland	Spain
8.	Sweden	Sweden
9.	Malaysia	Brazil
10.	Indonesia	Netherlands
11.	Philippines	Finland
12.	Unified Patents Court	

15. From time to time, judgments of various Courts from international jurisdictions have been relied upon by both the parties in support of their submissions. But now the Chinese Intermediate Court is stated to have pronounced a global FRAND rate, but neither the copy of the judgement nor the FRAND rate determined is available. The same would obviously have a bearing on the decision to be rendered in the applications where judgement is reserved.

16. In the opinion of this Court, considering the nature of the disputes and the submissions made by the parties, it is directed that both the Plaintiff and the Defendants shall obtain copies of the fully unredacted version 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 by the next date of hearing.

17. List on 21st December, 2023.

DECEMBER 18, 2023/Rahul/dn

PRAITHIBA M. SINGH, J.