

Delhi High Court - Orders

Koninklijke Philips N.V vs Xiaomi Inc & Ors on 27 November, 2020

\$~16

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CS(COMM) 502/2020, I.As. 10600/2020, 10713/2020, 10714/2020,
10716/2020, 10717/2020, 10718/2020, 10719/2020

KONINKLIJKE PHILIPS N.V. Plaintiff
Through: Mr.C.M. Lall, Sr. Adv. with
Mr.Ashutosh Kumar and
Mr.Devanshu Khanna, Advs.

versus

XIAOMI INC & ORS. Defendants
Through: Mr.Ravi Sharma, Mr.Amitavo Mitra,
Mr.Arjun Gadhoke, and Mr.Aniruddh
Bhatia, Advs.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
ORDER

% 27.11.2020 This matter is being heard through video-conferencing. I.A.10713/2020

1. This application has been filed by the plaintiff with the following prayers:

"a. Grant the Plaintiff extension of 8 weeks for filing original executed and notarized affidavits of Mr. Lincoln Sampaio Lobo (based out of the Netherlands) and Mr. Gildas Bossard (based out of Singapore) including annexures;

b. Exempt the Plaintiff to physically file original certified copies of the executed and notarized copies of the affidavits of Mr. Lincoln Sampaio Lobo (based out of Netherlands) and Mr. Gildas Bossard (based out of Singapore), including all annexures, till such time the physical filing of documents is resumed in the Delhi High Court;

c. Pass any other order/s that the Hon'ble Court may deem fit and appropriate in the interest of justice of equity."

2. The time to file the original executed/notarized affidavits of Mr.Lincoln Sampaio Lobo and Mr.Gildas Bossard including annexures is granted and the same be filed within two weeks. The Plaintiff is also exempted from physically filing original certified copies of the executed and notarized copies of the affidavits of Mr.Lincoln Sampaio Lobo and Mr.Gildas Bossard, including all annexures till the physical filing of documents is resumed.

3. The application is disposed of.

I.A.10714/2020

1. This is an application under Order XI Rule 1(4) of the Commercial Courts Act, 2015 read with Section 151 of CPC for filing additional documents.

2. The same be filed within 30 days. The application is disposed of. I.A.10716/2020

1. This application has been filed by plaintiff for seeking extension of time in filing defendants' infringing handset devices tested by the plaintiff along with certain other documents. The plaintiff is granted four weeks to file on record the defendants' infringing handset devices tested by the plaintiff along with documents.

2. The application is disposed of.

I.A.10719/2020

1. This application has been filed by the plaintiff seeking leave to file correspondence exchanged between the plaintiff and the defendants in a sealed cover.

2. The plaintiff is granted liberty to file correspondence exchanged between the plaintiff and the defendants in a sealed cover within four weeks.

3. The application is disposed of.

4. The Registry shall ensure that the documents continue to remain in the sealed cover.

I.A. 10600/2020

1. This application has been filed by the plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of CPC with the following prayers:

"68. In view of the submissions made hereinabove, it is most humbly prayed that:

i. An ex-parte, ad-interim injunction be passed in favour of the Plaintiff and against the Defendants, their affiliates, subsidiaries, officers, Directors, Agents, Distributors and Customers restraining them from manufacturing/assembling, importing, selling, offering for sale, advertising including through their and third party websites, mobile phones including the models mentioned in paragraph 35 of the present application and any future or other devices or models, that include UMTS enhancement (HSPA, HSPA+) and LTE technologies and result in infringement of any of the suit patents being IN 275419, IN 271469, IN and 228133;

ii. An ad-interim order of injunction be granted directing the Central Board of Excise and Customs to issue appropriate instructions to custom authorities at every port

including airports in India not to allow the import of mobile handsets, including the models specified in paragraph 35 of this 73 application, by the Defendants or their agents/affiliates/sister concerns/subsidiaries that include UMTS enhancement (HSPA, HSPA+) or LTE technologies and result in infringement of any of the suit patents being IN 275419, IN 271469, and IN 228133;

iii. Appropriate directions be passed against the Defendants for filing an affidavit of their director or other person, on behalf of the Defendants duly authorized by a specific resolution of its Board of Directors, disclosing the following information during the pendency of the suit:

a. Quantum of mobile phones and any other devices sold till date that are UMTS, HSPA, HSPA+ or LTE compliant thereby rendering them infringing in nature; b. Revenue earned from the sale of such devices for every quarter;

iv. In the alternative, pass an appropriate pro-tem order/interim arrangement during the pendency of the interim injunction application safeguarding the Plaintiff's rights and interest and secure recovery of amounts for past infringing activities of the Defendant;

v. Any further orders that this Hon'ble Court may deem fit in interest of justice and equity be passed in favor of Plaintiff and against the Defendant."

2. Notice. Mr.Ravi Sharma, Advocate, accepts notice for the defendants. I take on record the submission made by Mr.Sharma that till the next date of hearing the defendants shall maintain in their bank accounts operated in India an amount of Rs.1000 crores. The said statement is taken on record .It is made clear that the defendants are bound by the statement given by their counsel.

3. The defendants shall file the details of the bank accounts operated in India where the amount of Rs.1000 crores is being maintained, on or before December 02, 2020.

4. Reply be filed within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

5. List the matter for hearing on January 18, 2021. CS(COMM) 502/2020

1. Summons are issued to the defendants. Mr.Ravi Sharma, Advocate, receives summons for the defendants.

2. Summons shall state that the written statement shall be filed by the defendants within 30 days from the date of receipt of summons. The defendants shall file their affidavit of admission and denial of documents filed by the plaintiff. Replication shall be filed within 30 days of the receipt of the, written statement / documents. The replication shall be accompanied by the affidavit of admission denial of documents filed on behalf of the defendants.

3. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the time lines.

4. List before the Joint Register on March 01, 2021.

V. KAMESWAR RAO, J NOVEMBER 27, 2020/bh