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

+ CS(COMM) 65/2020

ESSJAY ERICSSON PRIVATE LIMITED ..... Plaintiff

Through: Mr. Samar Bansal and Mr. Saurav  
Gupta, Advocates.

versus

ELCOM INNOVATIONS PRIVATE LIMITED ..... Defendant

Through: Mr. Achuthan Sreekumar, Mr. Rohil  
Bansal and Mr. Swastik Bisarya,  
Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

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**15.05.2024**

**I.A. 2063/2020 (under Section 94 r/w Order XXXIX Rules 1 and 2 of CPC on behalf of Plaintiff)**

1. Plaintiff originally filed the present suit alleging infringement of their registered design bearing No. 208418 as well as passing off. During the pendency of the suit, the registration of the said design has lapsed. Nonetheless, there is an interim arrangement already operating in terms of the statement made by the counsel for Defendant, as noted in order dated 16<sup>th</sup> March, 2021, to the following effect:

“2. Mr. Saif Khan, learned counsel for the defendant submits that the defendant is neither manufacturing nor selling the telephone set ‘PTR1000’ or its alleged equivalent product ‘AFT1000’ in finished form or in any other form or manner.”

2. Counsel for parties are agreeable to disposing of the instant



application on the basis of the said undertaking, which shall continue to bind Defendant during the pendency of the present suit. It is ordered accordingly.

3. Disposed of.

**I.A. 7641/2022(seeking to place on record additional documents)**

4. Through this application, Plaintiff seeks to place certain additional documents on record.

5. Counsel for Defendant, without prejudice to his rights and contentions to object to the relevance and admissibility of the documents sought to be produced, states that the said documents can be taken on record subject to imposition of costs. He further requests that in case the Court were to allow production of such additional documents, Defendant should also be permitted to file documents in response thereto.

6. In light of the above, the application is allowed, subject to cost of INR 10,000/- to be paid to the Defendant. Documents No. 1 to 8, listed out in Paragraphs No. 6 to 23 of the above-captioned application, are taken on record. As requested, Defendant is permitted to file additional documents in response thereto within a period of two weeks from today.

7. Disposed of.

**I.A. 6555/2022(w/O XXXIX Rule 2A of CPC)**

8. List on 25<sup>th</sup> September, 2024.

**CS(COMM) 65/2020**

9. On 21<sup>st</sup> November, 2022, this Court directed the parties to keep the prototype of their products, without embedded technology therein (if possible), for inspection of the Court. Now that the interim application [I.A



2063/2020] has been disposed of, the inspection of products, if required, would be done at the stage of final adjudication. Parties are thus directed to keep the prototype for the Court's inspection, as and when directed.

10. The Defendant is directed to file affidavit of admission/ denial within two weeks from today, in respect of the additional documents produced by Plaintiff. If the Defendant were to produce additional documents in terms of the liberty granted, Plaintiff would also file their affidavit of admission/ denial within two weeks from the date of filing of such documents. Parties shall file joint schedule of documents within two weeks thereafter.

11. List before the Joint Registrar for marking of exhibits, in terms of affidavits of admission/ denial, on 01<sup>st</sup> August, 2024.

12. List before the Court for case management/ framing of issues on 25<sup>th</sup> September, 2024.

13. On the said date, counsel for parties shall carry their proposed list of issues and also exchange copies thereof with each other before the next date of hearing.

**SANJEEV NARULA, J**

**MAY 15, 2024**

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