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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 350/2024 & I.A. 9666/2024** (*for appointment of Local Commissioners*)

DOLBY INTERNATIONAL AB & ANR. Plaintiffs

Through: Mr. Sandeep Sethi and Mr. Chander M. Lall, Senior Advocates with Mr. Ashutosh Kumar, Mr. Vivek Ranjan, Mr. Deranshu Khanna, Mr. Swarnil Dey, Ms. Harshita Pothiraj, Mr. Abhinav Bhalla and Ms. Ria Kumar, Advocates.

versus

LAVA INTERNATIONAL LIMITED Defendant

Through: Mr. Abhay Raj Varma, Mr. Arjun Rekhi, Mr. Anshay Dhatwalia and Mr. Kush Srivastava, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **01.05.2024**

I.A. 9656/2024 (*seeking leave to file the correspondence exchanged between the parties in a sealed cover*) **and I.A. 9657/2024** (*seeking leave to file license agreements in a sealed cover*)

1. Exemption is granted. Subject to all just exceptions.
2. The applications are disposed of.

I.A. 9658/2024 (*seeking permission to file defendant's infringing handset devices tested by the plaintiffs' external expert Dr. Michael Sprenger along with certain other documents*), **I.A. 9659/2024** (*seeking exemption from pre-institution mediation*), **I.A. 9660/2024** (*seeking constitution of a confidentiality club*)

3. Issue notice. Mr. Abhay Raj Varma, counsel for the Defendant, accepts notice. Reply, if any, be filed within four weeks from today.



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

4. Re-notify on 20th May, 2024.

I.A. 9661/2024 (seeking leave to file the relevant documents in a single volume) and I.A. 9662/2024 (seeking exemption from filing the original signed and notarized affidavit of Dr. Michael Spreng)

5. Exemption is granted. Subject to all just exceptions.

6. The application is disposed of.

I.A. 9663/2024 (seeking leave to file dim documents, documents with insufficient margins, clearer copies, documents) and I.A. 9665/2024 (seeking exemption from filing original/ certified copies of documents and seeking leave to file copies/ scanned copies of certain documents)

7. Exemption is granted, subject to all just exceptions.

8. The Plaintiffs shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.

9. Accordingly, the application stands disposed of.

I.A. 9664/2024 (seeking leave to file additional documents)

10. This is an application seeking leave to file additional documents under the Commercial Courts Act, 2015.

11. Applicants, if they wish to file additional documents at a later stage, shall do so strictly as per the provisions of the said Act.

12. Accordingly, the application stands disposed of.

CS(COMM) 350/2024

13. Let the plaint be registered as a suit.

14. Issue summons. Summons are accepted by Mr. Abhay Raj Varma, counsel for Defendant. He confirms the receipt of the suit paper-book and



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waives their right of formal service of summons by the Registry. Written statement shall be filed by the Defendant within 30 days from today. Along with the written statement, the Defendant shall also file an affidavit of admission/denial of the documents of the Plaintiffs, without which the written statement shall not be taken on record.

15. Liberty is given to the Plaintiffs to file a replication within 15 days of the receipt of the written statement. Along with the replication, if any, filed by the Plaintiffs, an affidavit of admission/denial of documents of the Defendant, be filed by the Plaintiffs, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

16. List before the Joint Registrar for marking of exhibits on 31st July, 2024. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

17. List before Court for framing of issues thereafter.

I.A. 9655/2024 (u/Order XXXIX Rules 1 & 2 r/w Section 151 of the Code of Civil Procedure, 1908)

18. Issue notice. Mr. Abhay Raj Varma, counsel for the Defendant, accepts notice.

19. The present application seeks a temporary injunction in respect of three patents, being IN 315744, IN 331640 and IN 350055¹. Further, the Plaintiffs also seek a direction for the Defendant to furnish security in respect of the Plaintiffs' AAC² portfolio of Standard Essential Patents (SEPs), representatively being IN 315744, IN 331640, IN 350055,

¹ "Suit Patents"

² "Advanced Audio Coding"



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IN230121, IN 224775, IN 264129, IN 242206, and IN 286020. The Suit Patents, part of the AAC patents portfolio relating to audio coding technology, enhance the functionality of systems/ devices such as mobile phones and tablets etc.

20. Mr. Sandeep Sethi and Mr. Chander M. Lall, Senior Counsel for the Plaintiffs, argue that although the Defendant has been engaging in negotiations with the Plaintiffs for more than five years, however, till date, no counter offer has been forthcoming from them. The Defendants have thus avoided taking a license of Standard Essential Patents (SEP) by deliberately delaying the negotiations for one reason or the other. They further argue that the Defendant may not even have the means to make the payment that the Plaintiff has assessed as being due from them. Therefore, apart from an order of restraint, the Defendant must be directed to furnish security towards Plaintiff's claims, which, for the period prior to filing of the suit, are assessed as approximately INR 82 crores³.

21. On the other hand, Mr. Abhay Raj Varma, counsel for the Defendant, firstly states that they are inclined to conclude the negotiations and requests for the hearing to be adjourned. He points out that five of the aforementioned eight patents have already expired. As regards the three remaining Suit Patents, he argues that the Plaintiffs have never shared the details with the Defendant at any stage of the negotiations, and accordingly the same have not been subject of any deliberations *inter se* the parties thus far. These contentions are strongly denied by Mr. Sethi. Nonetheless, Mr. Sethi states that in case the Defendant were to resolve the matter, they must do within a short time frame.

22. In light of the above, the hearing is adjourned to enable the parties to



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interact and conclude their negotiations. It is understood that the Defendant would submit their counter offer to the Plaintiffs in case they are inclined to proceed towards a successful resolution.

23. Nonetheless, in the meantime, the Defendant must file a reply to the above-captioned application within a period of one week from today. Rejoinder thereto, if any, be filed within a period of three days thereafter.

24. Further, before the next date of hearing, the Defendant shall also furnish the details of the mobile phones and other devices sold by them, which are covered under subject matter of the present suit, in a sealed cover before this Court, as well as the sales reports and revenues earned from the sale of such devices.

25. It is also noted that Mr. Sethi has pointed out an inadvertent error in the documents filed by the Plaintiff along with the suit. He states that the affidavit of Mr. Swarnil Dey⁴ has inadvertently not been attested. Accordingly, the Plaintiffs are permitted to replace the same with the attested copy of the affidavit before the next date of hearing. It is clarified that the fresh affidavit shall be an exact replica of the affidavit already on record.

26. List before the Court on 20th May, 2024.

SANJEEV NARULA, J

MAY 1, 2024/as

³ Details of such estimation are mentioned in Paragraph No. 141 of the plaint

⁴ At Page 7518 of the Plaintiff's Documents filed along with the suit.