



\$~23

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

+ CS(COMM) 382/2019, CC(COMM) 27/2019, I.A. 10142/2019-Stay, I.A. 15349/2019-Seeking setting aside and discharge of order dt. 29.07.2019, I.A. 2077/2020-For inspection of doc. filed by LC in sealed cover, I.A. 4851/2023-O-39,R-2ACPC, I.A. 12810/2023-Dir

ENCONCORE N.V.

.....Plaintiff

Through: Mr. Hemant Singh, Ms. Manta Rani Jha, Mr. Siddhant Sharma, Mr. Abhay Tandon and Mr. Rishabh Paliwal, Advocates

Versus

ANJANI TECHNOPLAST LTD. & ANR.

.....Defendants

Through: Mr. Pankaj Pandey, Mr. Digvijay Prasad and Ms. Priya Pachouri, Advocates for D-1&2
Ms. Nidhi Raman, CGSC with Mr. Zubin Singh and Ms. Rashi Kapoor, Advocates for DRDO

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

%

05.09.2024

1. On the basis of the pleadings of the parties, the following issues are framed:-

A. Whether the defendants are guilty of infringing patent IN260709 of the plaintiff by using, manufacturing and selling honeycomb panels? **OPP**

B. Whether the defendants are guilty of using the process and technology infringing patent IN260709 of the plaintiff?

CS(COMM) 382/2019

Page 1 of 5



OPP

C. Whether the plaintiff is entitled to the relief of damages, if so, to what extent? **OPP**

D. Whether patent IN260709 of the plaintiff is hit on the ground(s) of invalidity? **OPD**

E. Whether the defendants are guilty of infringing copyrights of the plaintiff by using the image(s) of truck on the website of the defendant no.1? **OPP**

F. Relief(s), if any.

2. No other issue(s) arise(s) and/ or pressed by learned counsel for the parties.

3. Learned counsels for the parties submit that list of witnesses shall be filed within a period of two weeks. Learned counsels for the parties seek, and are granted six weeks for filing their respective affidavit(s) in evidence.

4. Learned counsel for DRDO seeks, and is granted further time of two weeks for filing appropriate affidavits in compliance of the earlier order dated 04.08.2023 and 07.08.2024.

5. Learned counsel for the plaintiff seeks some time for reverting on the issues qua security to be furnished as noted in para 29 of the order dated 04.08.2023.

6. Learned counsel for the defendants submits that affidavit in compliance of the order dated 04.08.2023 as well as order dated 07.08.2024 has already been filed.

7. At this stage, learned counsels for the parties urge for appointment of a Court Commissioner for recording of evidence, as the witnesses of the



plaintiff are based in Belgium and recording of evidence before the Joint Registrar of this Court will take time. They further urge to record evidence of the witnesses of the plaintiff through video-conferencing. The learned counsels for the parties agree to bear the costs/expenses/charges of the Court Commissioner as well as video-conferencing equally.

8. Accordingly, Mr. S.K. Tandon, Additional District Judge (Retd.) [Mob.+91-9811719888] is appointed as Court Commissioner for recording evidence of the parties. The Court Commissioner is requested to record evidence of the witnesses of the plaintiff based in Belgium through video-conferencing.

9. The Registrar (IT) is directed to nominate a Co-ordinator at Court Point with respect to technical aspects/assistance of video conferencing for the purposes of conducting evidence.

10. The Embassy of India in Belgium is requested to nominate an Officer/Official of the Embassy in Belgium as the Remote Point Co-ordinator for recording evidence of the witnesses of the plaintiff through video-conferencing and make necessary arrangements therefor.

11. The Embassy in Belgium may indicate the costs/ charges / remuneration for the services of the Remote Point Co-ordinator and infrastructure to be used for recording of evidence.

12. The facility available at Delhi High Court for video conferencing, shall be treated as Court Point under Rule 2(5) of the Delhi High Court Rules for Video Conferencing for Courts, 2021 (DHCVC Rules).

13. The Co-ordinators shall be physically present at their respective Points during recording of evidence and render all assistance in recording the evidence under the DHCVC Rules.



14. The witness(es) of the plaintiff will be examined/cross-examined on the date and time as may be fixed by the learned Court Commissioner in co-ordination with the Co-ordinators at Court Point and Remote Point.
15. The encrypted master copy (with hash value) of the recording of the video conferencing shall be retained with the Court Commissioner, who in turn file the same, after conclusion of the evidence.
16. The Court Commissioner is requested to make all possible endeavours to complete recording of evidence of the parties within a span of *six months* from the commencement of first listing/ hearing before him. He is at liberty to list the matter before Court, if any of the party(ies) unjustifiably delays recording of evidence.
17. The fees of the Court Commissioner is fixed at Rs.20,000/- per hour, to be shared equally by both the plaintiff and the defendants as agreed by the learned counsels for the parties. Additionally, both the plaintiff and the defendants shall also bear all other/ actual charges including expenses or like equally.
18. Both the parties shall also equally bear all the charges for video-conferencing as per the prevalent rates and also the additional charges, if as and when the facilities of video-conferencing are used beyond office hours.
19. The parties to, with prior appointment, appear before the Court Commissioner on 25.11.2024 for commencing recording of evidence.
20. The Registry is directed to forward a copy of this order to the Embassy of India in Belgium along with list/details of the witnesses of the plaintiff based in Belgium as also a copy of the DHCVC Rules to take necessary steps for compliance of this order.



21. Needless to say, all concerned will strictly adhered/ follow the DHCVC Rules as applicable.
22. The parties are at liberty to move an appropriate application before the Court if, as and when required to seek extension of time as already scheduled.
23. List before the Court after completion of pleadings.

SAURABH BANERJEE, J

SEPTEMBER 5, 2024/akr