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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(COMM) 1222/2018 & I.A. 15222/2018

COMMUNICATION COMPONENTS ANTENNA
INC.

..... Plaintiff

Through: Mr. Rajeev Virmani, Senior Counsel
with Mr. Sidhant Goel, Mr. Mohit
Goel, Mr. Samik Mukherjee, Mr.
Deepanker Mishra, Mr. Aditya Goel
& Mr. Risabh Bhargava, Advocates
(M-9811014738).

versus

ACE TECHNOLOGIES CORP. AND ORS. Defendants

Through: Mr. Arun Kathpalia, Senior Advocate
with Mr. Shantanu Tyagi, Ms.
Apoorva Murali, Ms. Bani Brai & Mr.
Samaksh, Advocates for D-1 to 4 (M-
9871792740).

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
20.11.2018

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1. Mr. Shantanu Tyagi, Advocate accepts notice on behalf of all the Defendants. It is submitted by Mr. Kathpalia that there has been non-disclosure by the Plaintiff in the present case that a Coordinate Bench had passed judgment dated 4th November, 2011 in ***Ten XC Wireless Inc. & Anr. v. Mobi Antenna Technologies (Shenzhen) Co Ltd.*** in ***CS(OS) No.1989/2010*** and ***Ten XC Wireless Inc & Anr. v. Andrew Comm Scope Inc.*** in ***CS(OS) 1993/2010***. It is pointed out that the Single Judge had vide the said judgment passed under Order XXXIX Rule 1 and 2 come to the conclusion that the Defendants in the said cases had raised a credible



challenge to the validity of the patent. It is the submission of the Ld. Senior Counsel that this fact has not been noticed in the *ex-parte* order passed by this Court on 2nd November, 2018 which is a fact that ought to have been fairly highlighted to the Court.

2. It is further submitted by Mr. Kathpalia that the Defendants would require two weeks' time to place on record the import details of the models mentioned in para 10 of the last order.

3. Insofar as model at (ii) is concerned, it is submitted that import of the said model has already been stopped. The Defendants, at present, do not intend to import this model into India in the near future.

4. Insofar as model no. at item (i) is concerned, the Defendants have placed orders for import and are planning to import some models of this Antenna. They will disclose the details of the same by way of an affidavit within two weeks.

5. There are pending orders for imports qua model at item no.(i). The details of the same be place on record in a sealed cover within a period of two weeks.

6. Insofar as the order in respect of offering for sale of any Antenna to the cellular operators in India is concerned, the Defendants have no objection if this order continues for the next two weeks.

7. Mr. Virmani rebuts the allegation of non-disclosure by submitting that the judgment of the Court has in fact been placed on record and it has also been mentioned in the list of dates that the predecessor of the Plaintiff is Ten XC Wireless Inc.

8. There is no doubt that on 2nd November, 2018, the fact that a Learned Single Judge had taken a view in respect of the same patent was not placed before this Court, but what was told and submitted before this Court was the



fact that in one of the suits pending before this Court, the Defendant had withdrawn the challenge to the patent and had taken a license from the Plaintiff. The said fact is noticed in para 12 of the said order.

9. The Ld. Senior Counsel for the Plaintiff submits that repeated notices were given by the Plaintiff to the Defendants which were never responded to and in fact in those notices, all the patents which were granted to the Plaintiff, were also attached. On a query as to why the Defendants did not choose to respond to these letters, it is submitted that the stand of the Defendants would be contained in the affidavit which would be filed within two weeks.

10. For the time being, the interim order as per para 15 shall be continued till the next date, as Defendants have no objection for continuation of the same for this period. The Defendants shall place on record in a sealed cover the import data of models in item (i) in para 10 of the last order. The Defendants shall also file reply and other pleadings which they intend to do within a period of two weeks in order for this Court to be able to consider the stand of the Defendants which would be supported by an affidavit of the Defendants.

11. The Defendants in their affidavit/application would also comply with the directions given in para 16 of the last order.

12. The effect of the alleged non-disclosure of the order in the **TenXC case** shall be considered on the next date of hearing.

13. List on 11th December, 2018.

PRATHIBA M. SINGH, J.

NOVEMBER 20, 2018

Rahul