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

\+ CS(COMM) 488/2024, I.A. 31087/2024, I.A. 31088/2024, I.A. 31089/2024 & I.A. 31090/2024

BENTLEY SYSTEMS INCORPORATED & ANR. ..... Plaintiffs

Through: Ms. Aarshia Behl, Ms. Shruti Baid and Mr. Anmol Kasana, Advs.

versus

ASHOK KUMAR(S) & ANR. ..... Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

O R D E R

% 30.05.2024

I.A. 31089/2024 *(Exemption from filing clearer copies)*

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

2. Applicant shall file legible, clear, and original copies of the documents on which the applicant may seek to place reliance before the next date of hearing.

3. Accordingly, the present application is disposed of.

I.A. 31090/2024 *(Seeking leave to file additional documents)*

1. The present application has been filed on behalf of the plaintiff under Order 11 Rule 1(4) of the Code of Civil Procedure, 1908 as applicable to commercial suits under the Commercial Courts Act, 2015 seeking to place on record additional documents.

2. The plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act, 2015

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and the DHC (Original Side) Rules, 2018.

2. Accordingly, the present application is disposed of.

CS(COMM) 488/2024

1. Let the plaint be registered as a suit.

2. Upon filing of process fee, issue summons to the defendants by all permissible modes. Summons shall state that the written statement(s) be filed by the defendants within 30 days from the date of receipt of summons. Along with the written statement(s), the defendants shall also file affidavit(s) of admission/denial of the documents of the plaintiffs, without which the written statement shall not be taken on record. Liberty is given to the plaintiffs to file a replication within 30 days of the receipt of the written statement(s). Along with the replication, if any, filed by the plaintiffs, affidavit(s) of admission/denial of documents filed by the defendants, be filed by the plaintiffs, without which the replication(s) 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.

3. List before the Joint Registrar (Judicial) for marking of exhibits on 02nd September, 2024.

4. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

I.A. 31087/2024 & I.A. 31088/2024*(Applications under Order XXXIX Rules 1 and 2 CPC)*

1. This application has been filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 ("**CPC**") as part of the accompanying suit

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seeking decree of permanent injunction against defendant No.1 [*Ashok Kumar(s)*] and all those acting for and on their behalf from directly or indirectly reproducing, storing, installing, using pirated/unlicensed software of the plaintiffs, including *SACS Connect, WaterGems, Plaxis 3d, Staad Foundation Advanced Connect, Staad.Pro, MicroStation, Staad.Pro, Staad RCDC, Staad Foundation Advanced* etc. amongst others, thereby infringing copyright in plaintiffs' computer programs/software titles, and a decree against defendant No.2 (*Bharti Airtel Limited*) and all those acting for and on their behalf for disclosing details of the various unknown persons which are masked by the Internet Protocol ("**IP**") addresses, from which the said infringement has taken place.

2. Plaintiff No.1 is a company organized under the laws of United States of America and claims to be one of world's leading software companies. It supplies software to engineers, architects, constructors, professionals for design, construction and infrastructure. Plaintiff No.1 claims ownership of copyright in the software products developed by it within the meaning of the Copyright Act.

3. Plaintiff No.2 is an Indian subsidiary of plaintiff No.1 and distributes the software products of plaintiff No.1 in India. Plaintiff's software product line includes *inter alia SACS Connect, WaterGems, Plaxis 3d, Staad RCDC, Staad Foundation Advanced Connect, Staad.Pro, MicroStation Staad.Pro, Staad RCDC, Staad Foundation Advanced* etc. Plaintiff's system has a mandatory licence for its products and for the entity who is a licensed user, data can be found on its database. The licences granted by plaintiff No.1 are non-transferable. Plaintiffs have an embedded security mechanism in their software, which is able to capture information in relation to infringing use,

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by tracking and identifying the IP addresses and, therefore, connecting it to the Internet Service Provider ("**ISP**") through which the IP addresses have been accessed.

4. In this case, plaintiff has identified the following IP addresses where infringing use of plaintiff's software has taken place:

S. No.	IP Address	Last event (time) (IST)	No. of Events	No of Machines	Applications
	[redacted]	2023-12-31 16:33:34	2	1	SACS
		2024-02-07 13:30:00	1	1	SACS
		2023-12-22 11:30:41	5	2	STAAD.PRO
		2024-03-02 12:24:13	7	2	STAAD.PRO
		2023-11-29 10:27:18	3	2	STAAD.PRO
		2024-03-04 09:37:23	2	2	STAAD.PRO
		2024-02-16 14:53:28	10	2	STAAD.PRO
		2023-12-16 14:34:11	5	2	STAAD.PRO
		2024-02-08 14:48:20	9	2	STAAD.PRO
		2024-02-07 16:54:15	13	3	STAAD.PRO
		2024-03-15 10:36:19	6	3	STAAD.PRO
		2024-02-20 14:11:51	9	3	STAAD.PRO
		2024-03-13 15:11:44	15	3	STAAD.PRO
		2024-03-11 16:40:47	13	2	STAAD.PRO
		2024-03-14 19:08:14	8	3	STAAD.PRO
		2023-11-03 22:21:55	4	2	STAAD RCDC
		2024-01-08 10:06:11	1	1	SACS
		2024-03-13 23:18:47	10	1	SACS
		2024-02-21 11:18:54	1	1	SACS
		2024-03-14 11:44:05	2	1	SACS
		2023-11-16 22:06:58	2	1	SACS
		2023-10-23 09:47:07	1	1	SACS
		2024-03-21 11:17:39	9	4	STAAD.PRO

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024-01-09 15:41:00	18	1	SACS
024-01-12 19:43:42	12	1	SACS
024-02-29 17:33:25	25	1	SACS
024-04-29 18:01:59	28	2	SACS
024-03-01 16:52:30	13	5	PLAXIS 3D
023-11-28 11:54:27	6	3	STAAD.PRO
024-02-05 17:05:40	8	3	STAAD.PRO
024-02-23 17:52:44	20	1	SACS
023-12-28 18:17:13	16	1	SACS
024-04-10 12:15:16	5	4	STAAD.PRO
023-12-19 20:32:10	14	1	PLAXIS 3D
024-01-31 16:13:18	10	3	STAAD.PRO
024-02-02 17:15:47	9	3	STAAD.PRO
024-02-01 18:41:53	12	3	STAAD.PRO
024-02-28 23:01:31	8	3	STAAD.PRO
024-03-26 17:42:42	4	3	STAAD.PRO
024-03-26 11:55:57	6	3	STAAD.PRO
024-01-20 17:11:29	10	3	STAAD.PRO
024-02-14 15:49:43	20	3	STAAD.PRO, STAAD RCDC
024-01-18 11:52:02	5	4	STAAD.PRO

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44.	117.97.198.181	2024-02-12 19:42:32	13	3	STAAD.PRO
45.	117.97.198.182	2024-02-15 10:23:08	19	3	STAAD.PRO
46.	117.97.198.189	2024-01-30 11:17:51	10	3	STAAD.PRO
47.	125.18.158.66	2024-03-18 10:26:44	124	3	STAAD.PRO
48.	125.18.230.78	2024-05-20 13:52:56	1526	16	MicroStation
49.	125.21.33.138	2024-04-04 10:02:46	73	2	SACS, MicroStation
50.	171.79.50.228	2024-02-27 16:42:49	16	1	SACS
51.	171.79.55.97	2024-03-01 13:41:52	9	4	PLAXIS 3D
52.	171.79.59.97	2024-03-01 12:18:15	4	3	PLAXIS 3D
53.	182.73.218.195	2024-04-16 16:15:55	26	5	STAAD RCDC, WaterGEMS
54.	182.73.74.26	2024-05-17 14:38:04	146	5	WaterGEMS, STAAD.PRO
55.	27.61.146.10	2023-11-02 13:52:59	11	3	STAAD.PRO
56.	27.62.121.19	2023-10-19 17:13:30	32	4	STAAD.PRO, STAAD RCDC
57.	27.62.132.45	2024-01-23 15:15:47	44	3	STAAD.PRO, STAAD RCDC, STAAD Foundation Advanced
58.	27.62.137.23	2024-01-29 12:25:17	26	3	STAAD.PRO, STAAD RCDC
59.	27.62.140.70	2023-10-31 09:48:42	3	3	STAAD.PRO
60.	27.62.19.113	2024-02-15 15:43:13	37	3	STAAD.PRO, STAAD RCDC
61.	27.62.41.135	2023-11-10 11:34:12	10	3	STAAD.PRO, STAAD RCDC
62.	27.62.48.177	2023-10-05 08:34:41	58	3	STAAD.PRO, STAAD RCDC

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5. These infringements were discovered by plaintiffs since November 2023 till date and were multiple instances of unauthorised installations of its software products, by the aforesaid IP addresses.

6. In this view of the matter, in the opinion of this Court, plaintiffs have made out a *prima facie* case for grant of an *ex-parte ad interim* injunction till the next date of hearing. Balance of convenience lies in favour of plaintiffs, and plaintiffs are likely to suffer irreparable harm in case the injunction, as prayed for, is not granted.

7. Accordingly, till the next date of hearing, *ex-parte ad interim* injunction is passed in favour of the plaintiffs and against the defendants in the following terms:

c) Defenant No.1 [*Ashok Kumar(s)*] and all those acting for and on their behalf are restrained from directly or indirectly reproducing, storing, installing, using pirated/unlicensed software of the plaintiffs, including *SACS Connect, WaterGems, Plaxis 3d, Staad Foundation Advanced Connect, Staad.Pro, MicroStation, Staad.Pro, Staad RCDC, Staad Foundation Advanced* etc. amongst others thereby infringing copyright in plaintiffs' computer programs/software titles;

d) Defendant No.2 (*Bharti Airtel Limited*) and all those acting for and on their behalf are directed to disclose details, including but not limited to name, address, contact number, email address of the various persons [*Ashok Kumar(s) – Defendant No.1*] of the IP addresses which are extracted above, or any other IP addresses, which plaintiffs may subsequently notify to be infringing of its exclusive rights. The said disclosure will be made on an affidavit

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within four weeks from today with copies to the opposing side.

8. On steps being taken by plaintiffs, issue notice to defendants through all permissible modes including speed post, courier, and email**.** Affidavit of service along with proof thereof, be placed on record before the next date of hearing.

9. Reply, if any, be filed within eight weeks with advance copy to counsel for plaintiffs, who may file rejoinder thereto, if so desired, before the next date of hearing.

10. Compliance with Order XXXIX Rule 3 of CPC be effected within a week from today.

11. List on 26th September, 2024.

12. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MAY 30, 2024/MK/na

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