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

\+ CS(COMM) 102/2023

SIEMENS INDUSTRY SOFTWARE INC & ANR. ..... Plaintiffs

Through: Ms.Aashia Behl and Ms.Shruti Baid, Advocates.

versus

ASHOK KUMARS & ANR. ..... Defendants

Through: None.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

O R D E R

% 07.03.2023

I.A. 3581/2023 (for exemption)

1. Subject to the plaintiffs filing documents with proper margins and the original, clear and legible copies of the documents on which the plaintiffs may seek to place reliance, within four weeks from today, exemption is granted for the present.

2. The application is disposed of.

I.A. 3582/2023 (O-XI R-1(4) of CPC)

3. The present application has been filed on behalf of the plaintiffs seeking leave to file additional documents under the Commercial Courts Act, 2015.

4. The plaintiffs are granted thirty days' time to file additional documents.

5. Accordingly, the application is disposed of.

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6. Let the plaint be registered as a suit.

7. Issue summons.

8. Summons be issued to the defendants through all modes. The summons shall state that the written statement(s) shall be filed by the defendants within thirty days from the date of the receipt of summons. Along with the written statement(s), the defendants shall also file affidavit of admission/denial of the documents of the plaintiffs, without which the written statement(s) shall not be taken on record.

9. Liberty is given to the plaintiffs to file replication(s), if any, within thirty days from the receipt of the written statement(s). Along with the replication(s) filed by the plaintiffs, affidavit of admission/denial of the documents of the defendants be filed by the plaintiffs.

10. The parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document, which is not in their power and possession, its detail and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

11. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

12. List before the Joint Registrar on 28th April, 2023 for completion of service and pleadings.

13. List before the Court on 23rd May, 2023.

I.A. 3580/2023 (O-XXXIX R-1 & 2 of CPC) and I.A. 4597/2023 (O-XXXIX R-1 & 2 of CPC)

14. The present suit has been filed seeking relief of permanent injunction restraining defendants from infringing the copyrights of the plaintiffs along

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with other ancillary reliefs.

15. The plaintiff no.1, a US incorporated company, is a leading global provider of product lifecycle management (PLM) software, which allows companies to manage the entire lifecycle of a product efficiently and cost-effectively. The plaintiff no.1 is the owner of the copyrights in the aforesaid software programs developed and marketed by it. The plaintiff no.2 markets the said software products of the plaintiff no.1 in India.

16. It is averred in the plaint that the plaintiff no.1 has a system of mandatory licensing for all its software products. The details pertaining to the licensed users are stored in a database maintained by the plaintiff no.1. The licenses granted by the plaintiff no.1 are non-transferable and hence, cannot be assigned without the consent of the plaintiff no.1.

17. The plaintiffs were notified through their built-in security mechanism in the aforesaid software products that 22 IP Addresses are making use of their software products unauthorisedly. Details of the said 22 IP Addresses are given in paragraph 24 of the plaint. The defendant no.1 is a *John doe* defendant as the plaintiff has not been able to determine the details of the entities hiding behind the aforesaid 22 IP addresses. The defendant no.2, M/s Bharti Airtel Ltd., is the Internet Service Provider (ISP) of all the aforesaid 22 IP addresses.

18. Counsel for the plaintiffs submits that between the period from August, 2022 to January, 2023, based on the internal investigations, the plaintiffs have discovered multiple instances of unauthorised installations and use of its software products by the aforesaid IP addresses, without having the requisite licenses/authorisation from the plaintiff no.1.

19. Issue notice.

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20. Notice be issued to the defendants through all modes.

21. Reply(ies) be filed within four weeks.

22. Rejoinder(s) thereto, if any, be filed within two weeks thereafter.

23. Based on the averments in the plaint and submissions made on behalf of the plaintiffs, a *prima facie* case has been made out on behalf of the plaintiffs. Balance of convenience is in favour of the plaintiffs and against the defendants. Irreparable injury would be caused not only to the plaintiffs but also to the public if an *ex parte* ad interim injunction as prayed is not granted in favour of the plaintiffs.

24. Consequently, till the next date of hearing, an *ex parte* ad interim injunction order is passed in the following terms:

I. The defendant no. 1 and its principal officers, directors, agents, franchisees, servants and all others acting for and on behalf of the defendants, are restrained from directly or indirectly reproducing/storing/installing and/or using pirated/unlicensed softwares of the plaintiffs, including NX (Unigraphics) amongst others;

II. The defendant no.2 and their directors, partners, proprietors, officers, affiliates, servants, employees, and all others in capacity of principal or agent acting for and on their behalf, or anyone claiming through, by or under it, are directed to disclose details (including but not limited to Name, Address, contact number, email address etc.) of the Ashok Kumar(s) (Defendant no.1) basis the 22 IP addresses provided and identified in the present application and suit or such other IP addresses that may subsequently be notified by the plaintiffs (on Affidavits) to be infringing of its exclusive rights, within three weeks

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from today.

25. Compliance under Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 (CPC) be done within ten days.

26. List before the Joint Registrar on 28th April, 2023 for completion of service and pleadings.

27. List before the Court on 23rd May, 2023.

AMIT BANSAL, J

MARCH 7, 2023/sr

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