



\$~3

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 575/2023, I.A. 18699/2023**

ATLAS GLOBAL TECHNOLOGIES LLC Plaintiff
Through: Mr. Pravin Anand, Ms. Vaishali
Mittal, Mr. Siddhant Chamola, Ms.
Pallavi Bhatnagar & Ms. Gitanjali
Sharma, Advocates. (M:
9145544111)

versus

TP LINK TECHNOLOGIES CO LTD & ORS. Defendants
Through: Mr. Sanjeev Kumar Tiwari, Mr.
Shatadal Ghosh, Ms. Sarah Haque,
Mr. Abhishek Jan & Mr. Pramod
Kumar, Advs. (M:7042079908)

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **13.10.2023**

1. This hearing has been done through hybrid mode.

I.A. 18699/2023 (for modification) in CS(COMM)-575/2023

2. The present suit has been filed by the Plaintiff - Atlas Global Technologies LLC claiming rights in the following two patents:

- i. **IN419323** titled '*System and Method for Synchronization of OFDMA transmission*'.
- ii. **IN427595** titled '*Apparatus and Methods for TXOP duration Field in PHY Header*'.

3. The case of the Plaintiff is that it has acquired rights in the above patents which are Standard Essential Patents (hereinafter 'SEPs'). The Defendants in the suit are TP-Link Technologies Co. Ltd. and Group



Companies. Defendant Nos. 1 to 3 are Chinese entities, whereas Defendant No.4 is TP-Link India Pvt. Ltd. These Companies are engaged in the manufacture and sale of various modems and other Wi-Fi 6 compliant equipment.

4. Vide order dated 28th August 2023, the Defendant no.4 were directed to deposit a sum of USD 1 million with the Registrar General, failing which an order of injunction would operate against the Defendants. The said order reads:

*“41. In the above circumstances, the counter offer of the Defendants being to the tune of US \$ 5 million, which is 1/5th of the amount demanded by the Plaintiff, **the Court is of the considered opinion that an amount equivalent of one fifth of the said amount of USD 5 million i.e., USD 1 million, ought to be deposited in Rupees, with the Registrar General, of this Court within a period of eight weeks to secure the interests of the Plaintiff. The said amount shall be maintained in a Fixed Deposit on auto-renewal mode.***

42. If there is failure to deposit the said amount within the stipulated time, the Defendants shall stand restrained from selling, manufacturing, exporting, and importing any Wi-Fi 6 compliant products in India, without obtaining a licence from the Plaintiff.

43. In the opinion of the Court, if the above relief is not granted to the Defendants at this stage, irreparable harm would be caused to the Plaintiff. Moreover, balance of convenience lies in favour of the Plaintiff. Further, the Court is of the firm opinion that no prejudice will be caused to the Defendant if deposit in Court is directed, in as much as the Defendants can subject to the said deposit, continue to manufacture and sell their devices in India. The said deposit shall be however subject to further orders of this Court. Moreover, the deposit directed by the Court above



shall be without prejudice to the rights of the parties to negotiate a license in respect of the suit patents and other patents in the portfolio of the Plaintiff.”

5. An application for modification was thereafter moved by the Defendant no.4. In the said application, on 25th September 2023, this Court directed the parties to appear before the Id. Mediator. The said order reads:

“6. The present application has been moved by Defendant No.4 for modification of the terms of deposit as set by the Court vide order dated 28th August, 2023.

7. Mr. Tiwari, Id. Counsel for Defendant No.4 submits that even by calculating the maximum amount which the Plaintiff has demanded, the amount of deposit ordered by the Court ought to be much lower.

8. Mr. Tiwari, Id. Counsel has handed over a calculation sheet to the Court along with the affidavit of one Mr. Craig Yudell outlining the correspondence between the suit parties.

9. The Court has perused the calculation sheet handed over and the affidavit of Mr. Craig Yudell. In the opinion of this Court, the parties ought to sit down and negotiate as to what should be the amount to be deposited by the Defendants as per their offers and counter offers based on the quantum of devices sold by the Defendants and verification thereof.

10. Accordingly, Mr. Sudhanshu Batra, Advocate is appointed as the Mediator in this matter to have meetings with the parties to resolve the issues.

11. For the said purpose, one week's time is granted to the parties. Both parties shall have their respective senior officials who are familiar with the dispute to appear before the Id. Mediator along with their counsels.



12. The fee of the ld. Mediator is fixed at Rs. 2 lakhs to be borne equally by both the parties.”

6. The mediation proceedings have failed. The Defendant No. 4 has now moved an application seeking modification of the amount to be deposited vide order dated 28th August 2023, on the basis of a certificate filed by a Chartered Accountant. The Defendants place reliance on the said certificate to argue that only 1,94,977 devices which were WiFi 6 standard compliant have been sold by the Defendants.

7. Mr. Tiwari, ld. Counsel submits that he now represents even the Chinese entities viz., Defendant Nos. 1-3. He further submits that he would be willing to file an affidavit to the effect that only Defendant No. 4 *i.e.* the Indian Company alone imports/manufactures and sells WiFi 6 compliant devices in India and the Chinese companies do not export to India or sell directly in India through any other entities.

8. The court has perused the Chartered Accountant certificate as also the affidavit on behalf of the Plaintiff where the various offers and counter-offers are specified. Accordingly the following directions are issued at this stage purely as an interim arrangement:

- An affidavit duly supported by Board Resolutions shall be filed by all the Defendants that only Defendant No. 4 *i.e.* the Indian Company alone imports/manufactures and sells WiFi 6 compliant devices in India and the Chinese companies do not export to India or sell directly in India through any other entities;
- Subject to the said affidavit being filed, the amount to be deposited before this Court by the Defendants is being modified to a lump sum of Rs. 50,00,000/- with the worthy Registrar General by 1st



November, 2023,

- Failure to deposit the amount or filing of affidavits, shall result in the injunction order as directed in paragraph 42 of the dated 28th August, 2023 to come into operation.

The above is merely an interim arrangement subject to further orders that may be passed after pleadings are completed. Application **I.A. 18699/2023** is disposed of. Contentions of all parties are left open. The above deposit shall be without prejudice to the rights and contentions of the parties.

CS(COMM)-575/2023

9. List on the date fixed.

PRAITHIBA M. SINGH, J.

OCTOBER 13, 2023

dj/am