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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **CS(COMM) 653/2019 and CC(COMM) 22/2022, I.A. 16988/2019,  
7640/2022, 14592/2022, 15284/2023**

COMMUNICATION COMPONENTS ANTENA INC. .... Plaintiff

Through: Mr. Gaurav Pachnanda, Sr. Advocate,  
with Mr. Sidhant Goel, Mr. Mohit  
Goel, Mr. Aditya Goel, Mr.  
Deepankar Mishra, and Ms. Avni  
Sharma, Advocates along with Mr.  
Dennis Nathan & Mr. Mark  
Cosgrove, Witnesses in person

versus

ROSENBERGER HOCHFREQUENZTECHNIK GMBH & CO. KG  
& ORS. .... Defendants

Through: Mr. Sandeep Sethi, Senior Adv. with  
Mr. Varun Sharma, Mr. Manish  
Aryan, Ms. Manisha Singh, Mr.  
Abhai Pandey, Ms. Swati Mittal, Mr.  
Gautam Kumar, Ms. Shreya Sethi,  
Ms. Priyanka Anand, Ms. Ria Kumar,  
Ms. Priyanka Anand, Ms. Shivani  
Singh & Mr. Dhruv Tandan, Advs.  
(M: 9811161518)

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**ORDER**

% **20.09.2023**

1. This hearing has been done through hybrid mode.
2. The present suit is a patent infringement action in respect of patent no. IN240893, titled '*Asymmetrical Beams for Spectrum Efficiency*' (*hereinafter 'suit patent'*) which is granted in favour of the Plaintiff. The suit patent is stated to be relating to a method and apparatus enabling the increase in subscriber capacity and enhancing performance of a base station.



3. Vide order dated 5<sup>th</sup> July, 2023, in terms of Rule 16 of the High Court of Delhi Rules Governing Patent Suits, 2022 (*hereinafter 'Patent Rules'*), with the consent of both parties, it was decided to proceed with summary adjudication of this suit and issues were framed in this matter. It was directed that the evidence shall be recorded before the Court through the use of live transcription. The transcription agency was to be engaged by the Plaintiff and the costs for the same would be shared equally by the parties.

4. Ld. Counsel for the Plaintiff has informed the Court that the transcription agency which has been engaged is Opus 2 Singapore PTE Ltd. The two transcribers who are present in Court are:

- i) Ms. Karen Joan Richardson, a citizen of Australia; and
- ii) Ms. Kelly Ann Jones, a citizen of the United States of America.

5. The two transcribers have assured the Court that they would record the transcription and the evidence today in a completely fair and unbiased manner and shall be subject to the directions of the Court.

6. Today, the matter is listed for the recording of cross-examination of the Plaintiff's witnesses –

S. No.	Witness	Designation
1	Mr. Dennis Nathan	President, Communication Components Inc.
2	Mr. Mark Cosgrove	Managing Director, M.S.C. Wireless Ltd.

Their examination-in-chief of the two witnesses was recorded by the Id. Joint Registrar on 12<sup>th</sup> September, 2023. The said two witnesses had joined for the examination-in-Chief virtually and they are today present before the Court in person.

7. Both witnesses have confirmed their respective examinations-in-chief



and have handed over a signed copy of the examination-in-chief which is now taken on record.

8. The original board resolution and power of attorney being PW2/69 and PW2/70, respectively, have been inspected by the Id. Counsel for the Defendants and have also been perused by the Court. The same are returned. The said documents shall now be exhibited.

9. Mr. Sethi, Id. Senior Counsel objects to the power of attorney on the ground that the same is not stamped and apostilled. This objection shall be considered at the time of final hearing.

10. The cross-examination is being recorded with the consent of the parties in open Court.

11. The Plaintiff's witnesses - Mr. Dennis Nathan and Mr. Mark Cosgrove have been cross-examined by the Id. Counsels for the Defendants. The cross-examination has concluded.

12. The transcription agency shall e-mail the final version of the transcription as also the audio recording for the cross examination to the Court Master. The edited transcription for today, incorporating any corrections directed by the Court shall be read through by the two witnesses on 21<sup>st</sup> September, 2023. The witnesses may read the transcribed statements and sign the same on 21<sup>st</sup> September, 2023. The witnesses shall be accompanied by at least one Counsel. The Counsel for the parties shall also sign the transcribed documents.

13. Insofar as the schedule for 22<sup>nd</sup> September, 2023 is concerned, the cross-examination shall commence at 11:00 a.m. and shall go on till 1:30 p.m.

14. The witnesses of the Defendants shall remain present on the next date



by 11:00 a.m. After the cross examination is over on the said date, the edited transcription for the said date shall be emailed to the Court Master of this Court. Thereafter, after the incorporation of any corrections directed by the Court, the witnesses of the Defendants as also the Counsels conducting the cross examination, shall sign the transcribed statement on the same date.

15. List on 22<sup>nd</sup> September, 2023 for cross examination of the witnesses of the Defendants at 11:00 am.

**PRATHIBA M. SINGH, J**

**SEPTEMBER 20, 2023**

*Rahul/am*



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+ **CS(COMM) 653/2019 & CC(COMM) 22/2022, I.A. 16988/2019,**  
**7640/2022, 14592/2022, 15284/2023**  
**COMMUNICATION COMPONENTS ANTENA**  
**INC. .... Plaintiff**

Through: Mr. Gaurav Pachnanda, Sr. Advocate,  
with Mr. Sidhant Goel, Mr. Mohit  
Goel, Mr. Aditya Goel, Mr.  
Deepankar Mishra, and Ms. Avni  
Sharma, Advocates

versus

**ROSENBERGER HOCHFREQUENZTECHNIK GMBH & CO. KG**  
**& ORS. .... Defendants**

Through: Mr. Varun Sharma, Mr. Manish  
Aryan, Ms. Manisha Singh, Mr.  
Abhai Pandey, Ms. Swati Mittal, Mr.  
Gautam Kumar, Ms. Priyanka Anand,  
Ms. Shivani Singh and Mr. Dhruv  
Tandan along with Mr. Mahesh  
Aatmaram Birari & Mr. Satyajee  
Mukherjee, witnesses in person.

**CORAM:**  
**JUSTICE PRATHIBA M. SINGH**

**ORDER**  
% **22.09.2023**

1. This hearing has been done through hybrid mode.
2. The present suit is a patent infringement action in respect of patent no. IN240893, titled '*Asymmetrical Beams for Spectrum Efficiency*' (*hereinafter 'suit patent'*) which is granted in favour of the Plaintiff. Vide order dated 5<sup>th</sup> July, 2023, in terms of Rule 16 of the High Court of Delhi Rules Governing Patent Suits, 2022 (*hereinafter 'Patent Rules'*), with the consent of both parties, it was decided to proceed with summary adjudication of this suit and issues were framed in this matter. As recorded in order dated 20<sup>th</sup>



September, 2023 the evidence is being recorded before the Court with the aid of live transcription. The transcription agency has been engaged by the Plaintiff and the costs for the same would be shared equally by the parties.

3. Ld. Counsel for the Plaintiff has informed the Court that the transcription agency which has been engaged is Opus 2 Singapore PTE Ltd. The two transcribers who are present in Court are:

- i) Ms. Karen Joan Richardson, a citizen of Australia; and
- ii) Ms. Kelly Ann Jones, a citizen of the United States of America.

4. The two transcribers have assured the Court that they would record the transcription and the evidence today in a completely fair and unbiased manner and shall be subject to the directions of the Court.

5. Today, the matter is listed for the recording of cross-examination of the witnesses of the Defendants—

S. No.	Witness	Designation
1	Mr. Satyajeet Mukherjee – DW1	Legal Manager, Prose Technologies
2	Mr. Mahesh A. Birari – DW2	RF R&D Manager, Prose Technologies

6. The examination-in-chief of the two witnesses was recorded by the Id. Joint Registrar on 13<sup>th</sup> September, 2023. The said two witnesses had joined for the examination-in-Chief virtually and they are today present before the Court in person.

7. Both witnesses have confirmed their respective examinations-in-chief and have handed over the signed examinations-in-chief which is now taken on record.



8. Before the start of cross examination of DW-2 Mr. Mahesh A. Birari, Mr. Pachnanda, Id. Senior Counsel for the Plaintiff submits that paragraphs 18 and 20 of the affidavit of Mr. Mahesh A. Birari is beyond pleadings. The said objection has been recorded and shall be considered at the stage of final hearing.

9. A document i.e., US Patent bearing publication number, US 7,038,621 B2 with the date of patent 2<sup>nd</sup> May, 2006 which was confronted to the witness is taken on record and is exhibited as DW2/P1.

10. The Rosenberger Antennas and Accessories Brochure which has been confronted to the Defendant is taken on record and marked as Ex. DW2/P2. The said brochure is taken on record along with the certificate of Mr. Dennis Nathan who is PW2 under Section 65B of the Evidence Act.

11. Cross examination of the witness, Mr. Mahesh A. Birari is concluded.

12. Before the start of cross examination of DW-1 Mr. Satyajeet Mukherjee, Mr. Gaurav Pachnanda, Id. Senior Counsel for the Plaintiff objects to the verification portion in the two affidavits of DW-1 Mr. Satyajeet Mukherjee on the ground that the verification is not in terms of Order XIX Rule 4 CPC.

13. The said objection shall be decided at the time of commencement of final arguments.

14. Cross examination of the witness, Mr. Satyajeet Mukherjee is concluded.

### **Conclusion and Directions**

15. Cross examination of DW2 has been undertaken from 11:20 am to 1:17 pm and thereafter of DW1 from 2:10 pm to 2:57 pm.



16. The cross examination of both the Defendants' witnesses have been concluded today. The Court records appreciation of both the counsels as also respective witnesses for broadly adhering to the schedule fixed by the Court. Over a period of two days i.e., on 20<sup>th</sup> September 2023 and 22<sup>nd</sup> September 2023, the Plaintiff's and the Defendant's evidence is concluded, after recording the cross examination of four witnesses – two technical witnesses and two fact/in-house witnesses, from each side.

17. The transcription agency shall e-mail the final version of the transcription as also the audio recording for the cross examination to the Court Master as also ld. Counsels for the parties. The edited transcription for today, incorporating any corrections mutually agreed by the parties as also those directed by the Court shall be read through by the two witnesses today itself, i.e., 22<sup>nd</sup> September, 2023. The witnesses shall be accompanied by at least one Counsel. After incorporating all the required changes, the final transcribed statements shall be printed and signed by the witnesses before they leave the Court premises.

18. Both the witnesses are discharged and the evidence is closed. Signed copies of the transcribed depositions as also the audio recording of all the cross examination shall be retained on record in the evidence folder of the Court record. In accordance with Rule 14 of the High Court Of Delhi Rules Governing Patent Suits, 2022 the audio recording shall be preserved in the electronic record of the Court in a manner that is not editable or tampered with in any manner.

19. The copies of the transcripts and audio recording shall be made available to the counsels for the parties as well. The trial bundles, which





were circulated to the Court and between the parties, shall be used for the purpose of final arguments.

20. Let the parties file their written submissions by 15<sup>th</sup> December, 2023 along with any judgments, they wish to rely upon. The electronic record of the Court may be made available to the parties on request.

21. List for commencement of final arguments on 8<sup>th</sup> January, 2024 and 9<sup>th</sup> January, 2024.

22. This shall be treated as a part heard matter.

**PRATHIBA M. SINGH, J**

**SEPTEMBER 22, 2023**

*Dk/Rahul/am*