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DELHI HIGH COURT ON FOREIGN ANTI-SUIT INJUNCTION

A. Introduction

In the first order of its kind, the Delhi High Court (“Delhi HC”) in *InterDigital Technology vs Xiaomi Corp*¹ has granted *ad interim* relief to plaintiff InterDigital Technology Corporation (“**InterDigital**”), a mobile and video R&D company, in a patent infringement matter against defendant Xiaomi Corp (“**Xiaomi**”), holding that a foreign court cannot injunct a party and restrain the enforcement of its cause before an Indian court, when Indian jurisdiction is the only forum competent to hear said claim.

B. Brief Facts

1. Xiaomi manufactures 3G & 4G cellular handsets, which is the technology contained in the Standard Essential Patents (“**SEPs**”) held by InterDigital. It is alleged by InterDigital that the use of such technology without prior authorisation amounts to patent infringement. In July 2020, InterDigital filed a suit in the Delhi HC alleging infringement of six select Indian patents.
2. Contextually, the licenses required to use the SEPs are to be granted by InterDigital and are availed by the licensees at rates which are fair, reasonable, and non-discriminatory (“**FRAND**”).
3. InterDigital sought remedy against Xiaomi due to its unwillingness to obtain licenses for the use of SEPs at the FRAND rates.
4. In June 2020, Xiaomi filed a complaint in the Intermediate People’s Court of Wuhan (the “**Wuhan Court**”) seeking that it set FRAND terms for a *global* licence for InterDigital’s SEPs.
5. Chronology of events:
 - In *August 2020*, Xiaomi filed an application before the Wuhan Court seeking, inter alia, an anti-injunction against the *July 2020* complaint pursued in India.
 - In *September 2020*, this injunction was granted, directing InterDigital to withdraw its proceedings in India. The Wuhan Court further ordered that failure to comply with its injunction order would result in a daily penalty of RMB 1 million (~USD 155K) (the “**Wuhan Court Order**”).
6. This novel conundrum invited InterDigital to file an anti-anti-suit injunction seeking to restrain Xiaomi from enforcing this order passed by the Wuhan Court.
7. The matter was decided by a Single Judge Bench of Delhi HC.

C. Order & Analysis:

1. Delhi HC held that it was not viable for any court to pass an order that prohibits a sovereign court to exercise jurisdiction lawfully vested in it.

¹ IMANU/DE/0839/2021 (03.05.2021 - DELHC); Judgment accessible at: https://images.assettype.com/barandbench/2021-05/332ffb5f-779a-415c-9c48-b8fa1dfefeb7/InterDigital_Technology_vs_Xiaomi_Corp.pdf

2. Any decision, passed by any forum such as the Wuhan Court, that deliberately results in considerable infringement of rights of an Indian citizen, whereby a defendant seeks to restrain the plaintiff to pursue a legitimate complaint, is cause for the courts to intervene and “protect such an incursion”² of its jurisdiction.
3. Acknowledging the existence of overlapping issues, the Delhi HC held that a mere overlap cannot legitimise the passing of such an order. If the proceedings in India were “oppressive or vexatious,” then the Wuhan Court’s anti-injunction order could perhaps be justified.³
4. Also, InterDigital did not receive a notice of Xiaomi’s anti-suit injunction and were therefore not presented with opportunity to seek avenues for redressal against the order.
5. Importantly, patent rights by nature are territorial. Therefore, a suit seeking injunction against the infringement of Indian patents can only be filed in Indian courts. The Wuhan Court cannot restrain the Delhi HC from pursuing the relevant matter as it was the only forum fit to rule on it. Based on the reasoning stated above, the Delhi HC granted the plaintiffs InterDigital an anti-enforcement injunction against the Wuhan Court Order.
6. Finally, the Delhi HC held that if the Wuhan Court is to enforce action against InterDigital regarding the deposit of the fine of RMB 1 million per day, Xiaomi is directed to deposit the same amount with the Delhi HC, which InterDigital is entitled to withdraw.

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² Supra n. 1, para. 90

³ Supra n. 1, para. 102