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

+ **CS(OS) 802/2013**

MICROSOFT CORPORATION& ORS

..... Plaintiff

Through Ms. Cauveri Birbal and Mr. Udayan
Yadav, Advocates.

versus

VINAY NAIR & ORS

..... Defendant

Through Mr. Devashish Bharuka and
Ms. Jasneet Chandiok, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **28.06.2013**

IA No. 10022/2013 (U/O 23 R. 3 CPC) in CS(OS) 802/2013

This is an application under Order 23 Rule 3 CPC wherein a joint prayer has been made by the plaintiffs and the defendants to accept the undertaking given by the parties and pass a decree in terms of the compromise arrived at. In terms of the application, the defendants have undertaken as under:-

- a) The Defendants undertake that they shall not use/load/deploy/install/distribute any of the software programs of the Plaintiffs in any manner whatsoever thereby amounting to infringement of the copyrights of the Plaintiffs as subsisting in their software programs and the Defendants further undertake that should they wish to use the software programs of the Plaintiffs in future, it would only use licensed software programs of the Plaintiffs, and will strictly abide by the terms of the End User License Agreements (EULAs) and pertinent product use rights (PURs) accompanying such software programs.
- b) The Defendants have agreed to purchase the software programs

(including payment of all Government taxes as applicable on the date of purchase of the software licenses) under the eligible licensing options from India as indentified and agreed by both the parties and Defendants have already issued purchase orders to the respective vendors for the entire inventory. The failure on the part of the Defendants to fulfil their legalization obligations within the abovementioned time frame will constitute a breach of the undertakings as given by the Defendants herein and will entitle the Plaintiffs to institute appropriate legal proceedings in accordance with law.” 6

In addition, the defendants have also undertaken to pay a sum of Rs.22 lakhs to Business Software Alliance, USA which is stated to be a non-profit organization. It is agreed that the said amount shall be paid by way of demand draft in the name of Luthra & Luthra Law Offices, New Delhi who are the legal counsels of the plaintiffs. The said payment would be remitted by them to Software Alliance USA after obtaining all necessary permission from appropriate authorities. In view of the undertaking given by the defendants, the plaintiffs have agreed for the Computer Systems inventoried by the Local Commissioner to be released to the defendants.

The compromise entered into is taken on record and the suit is decreed in terms of the compromise. The plaintiffs have agreed to forego their claims and the prayers made in the suit. Let a decree be passed in terms of the compromise as stated above.



(VIBHU BAKHRU)
VACATION JUDGE

JUNE 28, 2013

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