

Patent | Case Law Update

Delhi High Court upholds validity of split-sector antenna patent and grants permanent injunction and damages against Rosenberger Group for patent infringement

By MS Devi

In the case of *Communication Components Antenna Inc. v. Rosenberger Hochfrequenztechnik GmbH & Co. KG & Ors.*, the Delhi High Court upheld the validity of Indian Patent No. IN 240893, titled "Asymmetrical Beams for Spectrum Efficiency," and found that the Rosenberger Group (Defendants) infringed the suit patent. Accordingly, the Court granted a decree of permanent injunction in favour of Communication Components Antenna Inc. (CCA), along with damages of approximately ₹152crores (US\$15.8 million).

Factual Background

CCA is a Canadian company engaged in developing cellular base station products, including split-sector antennas. Indian Patent No. 240893 was originally filed by f (CCA's) predecessor-in-interest, M/s. TenXc Wireless Inc., on 5th August, 2008, as a PCT national phase application claiming priority from a Canadian application dated 17th March, 2006. The suit patent was granted on 9th June, 2010, and is valid until 19th March, 2027. CCA acquired all assets of M/s. TenXc, including the suit patent, by way of an Asset Purchase Agreement dated 23rd December, 2011, and was recorded as the proprietor of the suit patent by the Indian Patent Office on 18th November, 2019.

The suit patent relates to a split-sector antenna that replaces a conventional sector antenna in sectorised cellular networks and produces asymmetrical beam patterns, while maintaining substantially the same

critical coverage area as the replaced antenna. The key independent claims of the suit patent are Claim 1 (method for increasing subscriber capacity using a split-sector antenna) and Claim 10 (apparatus: a sub-sector antenna constructed for replacing a sector antenna, with asymmetrical sub-sector coverage areas maintaining substantially equivalent critical coverage).

Defendant No. 1, Rosenberger is a German company. Defendants No. 2-4 are its Indian, Chinese, and other Asian group entities. CCA became aware in December 2016 that the Defendants were offering multi-beam antennas emitting asymmetrical beams, which it alleged infringed the suit patent. After unsuccessful licensing negotiations between December 2016 and 2019, CCA filed the present suit in December 2019. Eleven antenna models of the Defendants were alleged to be infringing.

Key Issues Before the Court

- Whether the suit patent IN 240893 is liable to be revoked on any of the grounds raised in the Defendants counter-claim.
- Whether the Defendants infringed the suit patent.
- Whether CCA is entitled to a permanent injunction and damages or rendition of accounts, and if so, the quantum thereof.

Court's Rulings and Observations

Issue I: Validity of the Suit Patent

The Defendants filed a counter-claim seeking revocation under Section 104 of the Patents Act, 1970, raising multiple grounds. The Court rejected all grounds:

- **Lack of Novelty/Inventive Step:** The Court held that the Defendants failed to discharge the onus of proving prior art that anticipated or rendered obvious the suit patent's claims. The Court found that while asymmetrical beam-producing antennas may have been known, the specific technical solution of replacing a sector antenna with a split-sector antenna with asymmetrical beams while maintaining substantially equivalent critical coverage was novel and inventive.

The Court held that the nine prior art documents cited by the Defendants could not be read in combination (i.e., "mosaic") to establish obviousness, as there was no common thread linking them, whether by field of technology or by the technical problem sought to be solved. The Court observed that the Defendants had engaged in impermissible hindsight reasoning by cherry-picking isolated references from unrelated technological domains (such as lens-based antenna systems and adaptive overlay-underlay networks), none of which, individually or collectively, would motivate a person skilled in the art to arrive at the suit patent's invention.

- **Insufficiency:** The Defendants argued that the suit patent did not disclose element spacing, frequency, or single-element beam patterns, rendering it insufficient. The Defendants also specifically argued that the key terms "critical coverage area" and "asymmetry" were not defined anywhere in the complete specification, with the Defendants witnesses conceding that "critical coverage area" is a term coined by CCA and does not appear in any prior technical literature.

The Court rejected the ground of insufficiency, holding that the power and phase weightings in the specification are illustrative embodiments.

While the Court acknowledged that "critical coverage area" and "asymmetry" were not explicitly defined in the specification, it held that both terms were readily understandable to a person skilled in the art from a reading of the complete specification taken as a whole, and that the patent discloses the best method known to the patentee.

- **Decisions of the EPO and Chinese Patent Authorities:** The Court noted that while the corresponding European application was abandoned and the corresponding Chinese patent was revoked, both decisions were based on the priority document (not the granted Indian specification) and on requirements of foreign patent law that differ from Section 10 of the Indian Patents Act. The Court held that foreign decisions on corresponding patents do not bind Indian courts, and claim construction must be done under Indian law based on the complete specification as granted.
- **Non-patentability and other grounds:** The Court rejected the remaining grounds for revocation, namely that the claims failed to sufficiently define the invention, that the patent was obtained through false representation regarding the achievability of the disclosed radiation patterns, and that the invention constituted a mere scheme or mental act, holding them to be unsubstantiated, internally inconsistent, or contrary to a plain reading of the specification.
- **Certificate of Validity:** The Court upheld the suit patent as valid, and directed the Registry to issue a Certificate of Validity in respect of IN 240893 under Section 113 of the Act.

Issue II: Infringement

CCA's technical expert conducted a detailed analysis and demonstrated that the main beams and design values were identical, and that the Defendants' antennas produced asymmetrical coverage areas that maintain substantially the same critical coverage area as a replaced sector antenna, thus satisfying the key claims of the suit patent. Moreover, the Court

found that an admitted document, a comparative brochure prepared by the Defendants themselves, showed that their antenna's beam patterns were nearly identical to CCA's antenna and the suit patent's beam patterns. The Defendants had, in fact, positioned their products as a competing alternative to CCA's patented technology.

The Court made significant observations on the Defendants' evidence: Defence Witness-1 was found to lack the technical expertise required to depose on the invalidity grounds, having confirmed throughout cross-examination that he had no relevant technical qualifications. Defence Witness-2 admitted in cross-examination that he had not conducted any simulation, neither on MATLAB nor on any other simulation software, to dispute the CCA expert's finding that the beam patterns of the Defendants' antennas were similar to those of the suit patent.

The Court further found that the conduct of the Defendants was far from *bona fide*, noting that beam pattern data which had initially been publicly available had been withdrawn by the time trial concluded, suggesting a deliberate attempt to suppress evidence, including by not producing their antennas for testing, not undertaking any independent comparison of beam patterns, and not filing complete sales figures.

Accordingly, the Court concluded that the Defendants' eleven alleged infringing antenna models infringe Claims 1, 10, 12, and 13 of the suit patent.

Issue III: Relief

The Court granted a decree of permanent injunction restraining the Defendants, their manufacturers, dealers, retailers, subsidiaries, and associate companies from selling, offering for sale, or promoting any antenna infringing the suit patent, including the eleven identified infringing models, as well as any other model that infringes IN 240893.

The Court rejected CCA's claim of damages based on loss of profits from lost sales and instead applied the royalty method as the appropriate measure of damages, a position accepted by both parties. The Court noted that the Defendants ought not to be placed in the same position as a *bona fide* licensee who negotiated in good faith, and accordingly applied the higher end of the range. Thus, applying the 20% royalty rate, the Court awarded total damages amounting to approximately ₹152.32 crores (~US\$15.8 million). The Court further held that CCA is entitled to full actual costs of the litigation, to be determined by the Taxation Officer.

Significance

The suit patent has been the subject of multiple enforcement proceedings in India. In *TenXC Wireless Inc. & Anr. vs. Mobi Antenna Technology (Shenzhen) Co.*, the Single Judge had held the suit patent infringed, awarded damages of US\$ 2,60,45,250, and granted a permanent injunction. In *TenXC Wireless Inc. & Anr. vs. Andrew LLC* (Andrew LLC is now CommScope), the suit was dismissed as withdrawn after CommScope obtained a global licence from the Plaintiff in 2018. The suit patent was also upheld during summary adjudication in the present proceedings (conducted under Rule 16 of the Delhi High Court Rules Governing Patent Suits, 2022), given that the suit patent had less than five years of term remaining.

The judgment reinforces robust patent enforcement in India, albeit with a shift towards grant of substantial monetary relief alongside injunctive remedies. It endorses a structured approach to damages assessment, including the use of a hypothetical negotiation framework grounded in comparable licensing arrangements. At the same time, the Court curtails overly broad assertions of patent scope by emphasizing rigorous product to claim comparisons for establishing infringement. The decision signals judicial support for technological innovation in complex sectors such as urban telecommunications.