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## CCI free to probe Ericsson in patent case, rules Delhi HC

### Synopsis

The HC has allowed the CCI to look into complaints from Micromax & Intex that Ericsson had abused its dominant position to demand for royalties on the total handset cost.



SECTIONS CCI free to probe Ericsson in patent case, rules Delhi HC



NEW DELHI: The Delhi High Court has allowed the Competition Commission of India to look into complaints from **Micromax** and **Intex** that **Ericsson** had abused its dominant position to demand for **royalties** on the total handset cost, which the companies say were excessive.

In an order passed by Justice Anil K. Bakhru on Wednesday, the Court dismissed petition filed by Micromax and Intex in early 2014, disputing CCI's jurisdiction in the matter. ET

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"The writ petitions are dismissed," Justice Bakhru said.

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“It is also necessary to clarify that nothing stated herein should be construed as an expression of opinion - prima facie or otherwise - on the merits of the allegations made by Micromax and Intex; all observations made or views expressed herein are in the context of the jurisdiction of CCI to pass the impugned orders,” the order added.

The order now paves way for CCI to begin investigation, which lawyers aware of the case said, had been stalled due to Ericsson’s petitions in the Delhi High Court. Ericsson though can appeal the order by moving a Division Bench.

An Ericsson spokesperson said that the company will be reviewing the court order and declined further comments.

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Intex did not comment on the matter as of press time on Wednesday, while Micromax said, “The court held that the competition Commission of India has got to investigate in this matter. We are reviewing the orders further.”

Micromax and Intex had filed complaints with CCI alleging that the Swedish telecom equipment maker, which has a large portfolio of Standard Essential Patents (SEPs) in respect of technologies that are used in mobile handsets and network stations, had abused its position of dominance as it was demanding excessive royalties on mobile phones.

CCI then passed orders on November 12, 2013 in case of Micromax, and on January 16, 2014 i recting the Director General CCI to probe into whether pro Nifty CLOSED 18338.55 176.80 petition Act were violated. The CCI also said that if the D as contravened, it would also investigate the roles of people in-charge and responsible, so as to fix the responsibility.

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However, Ericsson filed petitions in the Delhi High Court in early part of 2014, said CCI had no jurisdiction to pass the orders of investigation into claims of royalty by a proprietor of a patent.

Ericsson contended that any issue regarding a claim for royalty would fall within the scope of Patents Act and cannot be examined under the Competition Act.

Pratibha Singh, lawyer for Ericsson said that the judgment appears to accept that Patent Act is special Act but has held that here's no conflict with the Competition Act, though lawyers are yet to review the order fully.

At the heart of the matter lies an ongoing dispute between Ericsson and the Indian handset makers relating to the former's demand for royalty on SEPs - used in mobile handsets and network stations – which the company alleged were infringed upon by Micromax and Intex.

Litigation on the royalty demands is still going on in the Delhi High Court, however, local players including Micromax, Intex and **iBall** have had to pay royalties to the patent holders on an interim basis, at 1% of the selling price of its devices.

iBall has settled the matter with Ericsson by signing a global patent agreement, though details of the settlement are not public.

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By Himanshi Lohchab, ET Bureau Last Updated: Nov 09, 2020, 12:04 AM IST

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Smartphone imports surged by about a fifth in September, indicating that local output is yet to catch up with peak festive season demand, even as Indian retailers replenished store shelves in anticipation of the festive season. After sales through the Navratras and Diwali.



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New Delhi: Smartphone imports surged by about a fifth in September, indicating that local output is yet to catch up with peak festive season demand, even as Indian retailers replenished store shelves in anticipation of **blockbuster sales** through the **Navratras** and **Diwali**. Ministry of commerce data showed that companies imported Rs 1,238.2 crore worth of smartphones in September, 20% higher than August's Rs 1,050.1 crore. This is also 13% higher than previous year's imports of Rs 1,098.6 crore in September.

"The demand for electronics, particularly smartphones, is high globally and the supply issues continue to hamper domestic production. Due to shortage of components from China and increase in customs duty on display products, it is possible that brands are importing certain volumes," said a market expert, who asked not to be named.

ET had reported that several top brands including **Xiaomi**, Oppo and **Realme** have undertaken fresh imports in the just ended online sales festival to keep up the supply and are rushing customs clearances to stock up for the Diwali sale. As per industry estimates, close to 5-6 million handsets have been imported by various brands and the Diwali sale is expected to be even higher than Navratri, analysts say.

As per various estimates by research firms, the September ended quarter has seen record high smartphone shipments between 50 million and 54.3 million. If the second half of this year touches 100 million shipments, as is forecast, this would be the best performing period for India's smartphone market.

Separately, exports increased month-on-month to Rs 1,585.3 crore from Rs 1,780 crore in August. In the first half of the year, exports have fallen 17%.

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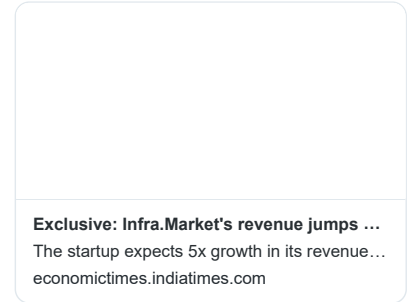
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