



2025:DHC:1104



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

% *Judgment Reserved on: 4th February 2025*

Judgment Delivered on: 21st February, 2025

+ CS(COMM) 378/2020 with I.A. 8127/2020

DASSAULT SYSTEMES & ORS.Plaintiffs

Through: Mr. Pravin Anand, Mr. Shantanu Sahay, Ms. Shreya Shukla and Ms. Vareesha Irfan, Advocates.

versus

ADVANCED ENGINEERING SOLUTIONS & ANR.Defendants

Through:

**CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL**

JUDGMENT

AMIT BANSAL, J.

1. The present suit has been filed seeking relief of permanent injunction restraining the defendants from infringing the copyright of the plaintiffs, along with other ancillary reliefs.

CASE SET UP BY THE PLAINTIFFS

2. The plaintiffs in the present suit are, Dassault Systèmes (plaintiff no. 1), a French corporation; Dassault Systèmes SolidWorks Corporation (plaintiff no. 2), a U.S.-based company; and plaintiff no. 3, Dassault Systemes India Private Limited, wholly-owned subsidiary of the plaintiff no. 1 and sister concern of the plaintiff no. 2. The plaintiff no. 3 was set up to carry out business activities and



anti-piracy campaigns in India. (hereinafter, collectively referred to as ‘the plaintiffs’).

3. The software programs created by the plaintiffs are widely known for developing 3D simulation Computer-Aided Design (CAD), Computer-Aided Manufacturing (CAM), and Computer-Aided Engineering (CAE). These software programs bring the entire process of designing, innovating, and manufacturing a product onto a computer system. They are used across various industries such as aviation, defence, mining, automotive, and consumer products etc.

4. Plaintiff no. 2 was created to manage all business and legal matters related to its ‘SOLIDWORKS’ software, including managing the software's Intellectual Property Rights. ‘SOLIDWORKS’ is a computer-aided design software used for modelling and simulating three-dimensional solid products. The plaintiff no.2 is the owner of the said software program.

5. In addition to the aforementioned software, the plaintiffs have developed two other software programs ‘CATIA’ and ‘SIMULIA’, which are also the subject matter of the present suit. ‘CATIA’ is a 3D modelling and design software that allows the user to model the products in a manner which would simulate its use in the real world. ‘SIMULIA’ is a Multiphysics modelling software that simulates the reliability, performance and safety of the products. The plaintiff no.1 is the owner of the aforesaid software programs. The copyright registration certificates of the plaintiffs in respect of the software programs ‘CATIA’ and ‘SOLIDWORKS’ have been exhibited as **Ex - PW 1/6**.

6. The plaintiffs operate on a licensing system, where customers acquire the right to use the software and not ownership. Software is licensed through internet delivery, with customers agreeing to an End-User License Agreement (“EULA”)



or Customer License and Online Services Agreement (“CLOSA”) before installation. After the terms are accepted, the plaintiffs send a license key to the customer's registered email for installation. Any entity using the software must be able to provide evidence of legitimate payment and the correct number of licenses for the software installed or in use. The plaintiffs maintain a regularly updated database of all valid licensees, and any use of the software beyond the terms of the EULA/CLOSA constitutes a breach of contractual and intellectual property rights.

7. The plaintiffs after suffering losses due to piracy, implemented "phone home" technology in their software to detect misuse and ensure compliance with the EULA and CLOSA. This system captures usage data from the user's computer and sends it to the plaintiffs' servers for verification. If the software is used with an unauthorized license, it logs an "infringement hit" tracking unauthorized use. The plaintiffs can identify infringing users by cross-referencing this data and take steps to stop further unauthorized use. All users must accept the EULA or CLOSA, which includes details about the security mechanisms. Infringement hits are monitored through the Exalead portal, which consolidates infringement reports for various plaintiffs' software programs, including ‘SOLIDWORKS’.

8. The defendant no.1, Advanced Engineering Solutions, was incorporated in 2007 and is an engineering design and analysis firm consisting of systems, mechanical, electrical, software, and controls engineering experts. The defendant no.2 is the director of the defendant no.1.

9. In the month of April 2018, the plaintiffs received credible information from market sources that the defendants are using large volumes of pirated/unauthorized versions of plaintiffs' ‘SOLIDWORKS’ software program



on their computer systems at their business premises. To verify market information, the plaintiffs checked their infringement database and confirmed that the defendants were using unauthorized versions of 'SOLIDWORKS' software program on at least six (6) computer systems.

10. Thereafter, the plaintiffs sent a legal notice dated 10th April, 2018 to the defendants, informing them about the plaintiffs' rights in the 'SOLIDWORKS' software and the defendants' copyright infringement. The notice asked the defendants to stop using pirated copies, pay the license fee, and cease and desist from further unauthorized use of the software. Printout of the plaintiffs' legal notice dated 10th April, 2018 has been exhibited as **Ex - PW 1/14**.

11. On 11th April, 2018, representatives from eCluewise Services, the plaintiffs' license compliance consultants, emailed the defendants, referencing the aforesaid legal notice and requesting a meeting to resolve the issue. On 13th April, 2018, eCluewise Services sent another email, asking the defendant no. 2 for a discussion on license compliance. In response, on 14th April, 2018, the defendant no. 2 claimed that he had a licensed copy of the software program 'SOLIDWORKS' and shared an invoice as proof.

12. On 16th April, 2018, eCluewise Services informed the defendant no. 2 that the defendants lacked a global license to use software purchased in another jurisdiction and clarified that their unauthorized use was tracked in India. They also pointed out that the shared invoice did not match the pirated software version.

13. After repeated follow-ups by eCluewise Services, the defendant no. 1 requested a discussion with the plaintiffs' representative. Despite receiving the contact details of the said representative of the plaintiffs on 8th May, 2018, the



defendants never contacted the plaintiffs. Printouts of the complete correspondence including the plaintiffs, defendants and eCluewise Services have been exhibited as **Ex- PW 1/18**.

14. Since direct contact could not be established with the defendant no. 2, the plaintiffs sent additional legal notices on 23rd May, 2018, 17th September, 2018, and 10th May, 2019, reiterating their demands to stop the piracy and pay the license fee. The plaintiffs did not receive any response to the aforesaid notices. Despite this, the plaintiffs continued to engage with the defendants *via* phone calls to resolve the issue amicably, but the defendants showed no interest in settling the matter. Printouts of plaintiffs' legal notices dated 23rd May, 2018, 17th September, 2018, and 10th May, 2019 have been exhibited as **Ex – PW 1/15, Ex – PW 1/16** and **Ex – PW 1/17** respectively.

15. It is averred that the defendants have not paid the license fee till date for their unauthorized use of the plaintiffs' software programs and continue to deny the evidence of infringement despite repeated notifications.

16. In the month of July 2020, the plaintiffs conducted a check on its internal infringement database to gauge the extent of the defendants' infringing activities in relation to the software program 'SOLIDWORKS'. A tabular representation of the infringement hits as provided in paragraph 36 of the plaint is reproduced below:

S.No.	MAC Address	Total Infringement	First Infringement	Last Infringement	Location	Pg. No.
1.	544249e3b7 4a	1	31.10.2014	31.10.2014	Chennai	107- 109



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2.	aeS8112c90 7cb	66	24.11.2016	18.04.2018	Chennai	110- 115
3.	40b0342a0b ad	33	25.09.2017	07.12.2017	Chennai	103- 106
4.	009c022244 66	5	22.03.2018	05.09.2019	Chennai	97-99
5.	1c1b0d57cc a2	14	14.03.2019	27.01.2020	Chennai	95-96
6.	28d244a2b4 6b	9	05.02.2018	19.05.2020	Chennai	100- 102
7.	00ff01d1ba dd	2	04.09.2019	13.09.2019	Chennai	117- 119
8.	00ff432ee87 f	38	06.01.2020	20.03.2020	Chennai	120- 123
9.	00ff937f6c4 1	61	05.09.2019	12.03.2020	Chennai	124- 128
10.	1c39472b12 a8	37	15.04.2020	14.08.2020	Chennai	129- 132
11.	e0d55e9f69 22	97	02.07.2019	20.03.2020	Chennai	133- 139
12.	e0d55eef7ef c	11	02.07.2019	18.08.2020	Chennai	140- 142
13.	e0d55eef7ef c	45	14.05.2019	22.01.2019	Chennai	143- 147



Extracts of the infringement report showing the defendants' infringing use of 'SOLIDWORKS' software program as tabulated above have been exhibited as **Ex – PW1/20 (Colly)**.

17. In the same month, the plaintiffs checked their internal database again in order to ascertain whether the defendants were still actively using the plaintiffs' software programs and discovered that the defendants were using plaintiffs' other software program 'SIMULIA'. A tabular representation of the same as provided in paragraph 38 of the plaint is reproduced below:

S.No.	MAC Address	Total Infringement	First Infringement	Last Infringement	Location	Pg. No.
1.	40a8f0ca0a37	32	21.11.2019	02.01.2020	Chennai	152-154
2.	f46d04ecf2ef	3	21.11.2019	22.11.2019	Chennai	155-156

Extracts of the infringement report showing the defendants' infringing use of 'SIMULIA' software program as tabulated above have been exhibited as **Ex – PW1/21 (Colly)**.

18. It is asserted that the plaintiffs' investigator apprised the plaintiffs about the unauthorized use of 'CATIA' software by the defendants. In a telephonic conversation, one Mr. Marimuthu S., who was working as a CFD Engineer at the defendant no.1's Chennai Office in July 2020, informed the investigator that 5 CFD Engineers were using 'CATIA V5' for 3D modelling in the company. Detailed affidavit of the independent investigator has been exhibited as **Ex - PW**



1/22.

19. The counsel for the plaintiffs submits that the defendants were knowingly using the pirated/unauthorised version of the plaintiffs' 'SOLIDWORKS', 'CATIA' and 'SIMULIA' software programs rather than procuring genuine licenses of the concerned software programs. He further submits that considering the frequency, quantum and pattern of the defendants' infringing use of the software programs, it is not out of place to speculate that the defendants continue to engage in use of pirated/unauthorised use of the plaintiffs' various software programs.

20. Accordingly, the present suit has been filed seeking relief of permanent injunction and also compensatory damages from the defendants.

PROCEEDINGS IN THE SUIT

21. This Court issued summons in the suit and notice in I.A. No. 8127/2020 (application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908) *vide* order dated 15th September 2020.

22. On 18th September 2020, the defendant no. 2 appeared in person and stated that neither he, in his personal capacity, nor as a director of the defendant no.1, would use the software programs without obtaining proper licenses from the plaintiffs. Defendant no.2 also claimed that neither he nor the defendant no.1 required the software programs 'CATIA' and 'SIMULIA'. He further submitted that 'SOLIDWORKS' was the only software program in which the defendants were interested and undertook to approach the plaintiffs for a license of the same. Based on this statement, this Court granted an injunction in favour of the plaintiffs, restraining the defendants from using the software programs 'CATIA',



‘SIMULIA’, and ‘SOLIDWORKS’ till the time the defendants obtain license(s) from the plaintiffs.

23. Despite service of summons, none appeared on behalf of the defendants on multiple dates after 18th September, 2020. Consequently, the defendants were proceeded against *ex-parte vide* order dated 17th March, 2021. In the same order, the Court also directed the plaintiffs to file evidence by way of an affidavit.

24. The plaintiffs filed the evidence of Mr. Col. J.K. Sharma (PW-1) affirming the facts of the plaint. *Vide* order dated 14th December, 2023, the examination in chief of PW-1 was concluded and the plaintiffs’ evidence was closed. On 30th January, 2024, the plaintiffs sought permission to lead additional evidence on the aspect of damages, which was allowed on the basis that the defendants were already *ex-parte*.

25. The plaintiffs requested time to file a fresh affidavit regarding the computation of damages on 25th November, 2024 and sought extension of time on 9th December, 2024.

26. *Vide* order dated 20th December, 2024, last opportunity was granted to the plaintiffs to file the said affidavit before the next date of hearing. Subsequently, the plaintiffs filed an affidavit for computation of damages on 30th January, 2025.

27. In these circumstances, the plaintiffs seek an *ex-parte* decree against the defendants.

ANALYSIS AND FINDINGS

28. I have heard the counsel for the plaintiffs and perused the material on record.

29. The plaint has been duly verified and is also supported by the affidavit of the plaintiffs. In view of the fact that no written statement has been filed on



behalf of the defendants, all the averments made in the plaint have to be taken to be admitted. Further, since no affidavit of admission/denial has been filed on behalf of the defendants in respect of the documents filed with the plaint, in terms of Rule 3 of the Delhi High Court (Original Side) Rules 2018, the same are deemed to have been admitted.

30. From the averments made in the plaint and the evidence on record, the plaintiffs have been able to prove that they are the copyright owners of the software programs 'CATIA', 'SIMULIA', and 'SOLIDWORKS'.

31. The plaintiffs have filed extensive documentation demonstrating copyright infringement of the software programs of the plaintiffs by the defendants, which includes details of the licenses owned by the defendant no. 1 as per the records maintained by the plaintiffs and proof that the defendants used the plaintiffs' software programs without a valid license. The plaintiffs have also provided extracts from their infringement database, which show the unauthorized or pirated use of their 'SOLIDWORKS' and 'SIMULIA' software programs on the defendants' computer systems. In addition to this, it emerges from the affidavit filed by the independent investigator hired by the plaintiffs that the defendants were using 'CATIA' software program in an unauthorized manner. The plaintiffs have also placed on record various legal notices that were sent to the defendants.

32. Based on the discussion above, a clear case of infringement of copyright is made out. The defendants have taken unfair advantage of the reputation and goodwill of the copyrighted software programs of the plaintiffs by using a pirated version of the plaintiffs' software.

33. At this stage, it is pertinent to note that the defendant no. 2 appeared before the Court only once, on 18th September 2020, and has not entered appearance



thereafter. Since the defendants have failed to take any requisite steps to contest the present suit, despite having suffered an interim injunction order, it is evident that they have no defence to put forth on merits.

34. The plaintiffs further claim compensatory damages from the defendants. In this regard, reference may be made to Rule 20 of the Delhi High Court Intellectual Property Rights Division Rules, 2022 as set out below:

“20. Damages/Account of profits

A party seeking damages/account of profits, shall give a reasonable estimate of the amounts claimed and the foundational facts/account statements in respect thereof along with any evidence, documentary and/or oral led by the parties to support such a claim. In addition, the Court shall consider the following factors while determining the quantum of damages:

- (i) Lost profits suffered by the injured party;*
- (ii) Profits earned by the infringing party;*
- (iii) **Quantum of income which the injured party may have earned through royalties/license fees, had the use of the subject IPR been duly authorized;***
- (iv) The duration of the infringement;*
- (v) Degree of intention/neglect underlying the infringement;*
- (vi) Conduct of the infringing party to mitigate the damages being incurred by the injured party;*

In the computation of damages, the Court may take the assistance of an expert as provided for under Rule 31 of these Rules. ”

(Emphasis supplied)

35. In the present case, the infringement hits recorded on the ‘phone home’ technology of the plaintiffs clearly show unauthorised use of the plaintiffs’ software programs on multiple computer systems of the defendants.

36. Further, the defendant no.2 appeared before this Court on 18th September, 2020 and stated that the defendant no.1 company does not require ‘CATIA’ and ‘SIMULIA’ software programs. However, it is evident from the affidavit filed by the independent investigator of the plaintiffs on 11th September, 2020 that the



defendant no.1's employees have admitted the unauthorised use of 'CATIA V5' for 3D modelling in the company, during a telephonic conversation. In addition to this, another employee of the defendant no.1 company has admitted that multiple teams in the company are using 'SOLIDWORKS 2019'. It is also clear from the infringement hits recorded by the plaintiffs that 'SIMULIA' and 'SOLIDWORKS' software programs are being used by the defendants in an unauthorised manner.

37. It may be relevant to note that the defendant no.2 has failed to file an affidavit in compliance of the order dated 18th September, 2020, wherein he had undertaken to receive a license from the plaintiffs before using the 'SOLIDWORKS' software program. Instead, the defendant no.2 has not appeared before this Court since that date. Therefore, it appears that the defendants have deliberately infringed the copyright of the plaintiffs.

38. In the initial affidavit dated 22nd February, 2024, the plaintiffs have claimed a total sum of Rs. 4,49,32,244/- as damages, based on the income which the plaintiffs would have earned in the form of license fees had the defendants chosen to purchase genuine versions of the plaintiffs' software programs. Thus, the defendants have deprived the plaintiffs of potential revenue and caused injury to their business interests. The table showing calculation of damages is set out below:

Calculation of Compensatory Damages = Value of Infringing Software

I. Value of software programs in 2020:

SI. No.	Software	Cost of one License (In INR)	Tax Amount (18% GST) (In INR)	Total Cost of one License (In INR)
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		(excluding taxes)		(including taxes)
1.	SOLIDWORKS 2019	7,84,376	$7,84,376 \times (18/100)$ = 1,41,187.68	$7,84,376 +$ $1,41,187.68$ = 9,25,563
2.	SIMULIA	60,00,000	$60,00,000 \times (18/100)$ = 10,80,000	$60,00,000 +$ $10,80,000$ = 70,80,000
3.	CATIA V5	33,45,750	$33,45,750 \times (18/100)$ = 6,02,235	$33,45,750 +$ $6,02,235$ = 39,47,985

II. Deployment of pirated software:

S. No.	Software	Number of Machines
1.	SOLIDWORKS 2019	13
2.	SIMULIA	2
3.	CATIA V5	5

III. Calculation of Infringing Software Value:

SI. No.	Software	Total Cost of one License (In INR) (including taxes)	Total Number of Licenses deployed	Total Cost of Licenses deployed (In INR) (including taxes)
A.	SOLIDWORKS 2019	9,25,563	13	$9,25,563 \times 13 =$ 1,20,32,319



B.	SIMULIA	70,80,000	2	70,80,000 x 2= 1,41,60,000
C.	CATIA V5	39,47,985	5	39,47,985 x 5= 1,97,39,925
TOTAL VALUE OF INFRINGEMENT (A+B+C)		1,20,32,319+1,41,60,000+1,97,39,925=4,49,32,244		

TOTAL VALUE OF INFRINGEMENT = **4,49,32,244 INR**

39. Subsequently, the plaintiffs filed a fresh affidavit dated 30th January, 2025 claiming a sum of Rs. 2,78,34,320/-. The aforesaid amount is calculated on the basis of commercials providing the infringing value in respect of the plaintiffs' software programs that are subject matter of the present suit.

40. The plaintiffs have also filed a bill of costs dated 2nd April, 2024 in respect of court fees, legal costs and miscellaneous expenses. As per the bill of costs, the total expenditure incurred by the plaintiffs amounts to Rs. 3,21,000/-, which appears to be reasonable.

41. On the basis of the discussion above, I am of the view that in the present facts and circumstances, the plaintiffs are entitled to a decree of permanent injunction as well as compensatory damages and costs from the defendants.

RELIEF

42. In view of the foregoing analysis, a decree of permanent injunction is passed in favour of the plaintiffs and against the defendants in terms of prayer clauses 55 (a) and 55 (b) of the plaint:

“a. A decree of permanent injunction restraining the Defendants, their directors, officers, agents, franchisees, servants and all others acting on their



behalf, from directly or indirectly copying, reproducing, storing, installing and/or using pirated/unlicensed software programs of Plaintiffs including SOLIDWORKS, SIMULIA and CATIA and their various versions or any other software programs developed by the Plaintiffs in any manner that may amount to infringement of the Plaintiff No. 1's copyright subsisting in its software programs and software related documentation.

b. An order for delivery-up to the Plaintiffs, of all the unlicensed copies of the Plaintiffs' software, and/or articles/ software, the duplicating equipment used in the copying of the Plaintiffs' software, including computers, compact disc writers, stampers, burners, "plates", hard disks, diskettes, packaging and advertising material, labels, stationery articles and all other infringing material under Section 58 of the Act."

43. A decree of damages of Rs. 2,78,34,320/- (Two crores seventy eight lakhs thirty four thousand three hundred and twenty only) is passed in favour of the plaintiffs and against the defendants in terms of prayer clauses 55 (d) of the plaint.

43.1. The plaintiffs shall pay the additional court fees on the differential amount awarded in favour of the plaintiffs within three (3) weeks.

44. Costs of Rs. 3,21,000/- (Three lakhs twenty one thousand only) are awarded in favour of the plaintiffs and against the defendants in terms of prayer clause 55 (e) of the plaint.

45. In view of the above, the plaintiffs do not press for relief of rendition of accounts as prayed for in clause 55 (c) of the plaint.

46. Let the decree sheet be drawn up.

47. All pending applications stand disposed of.

**AMIT BANSAL
(JUDGE)**

FEBRUARY 21, 2025

Vivek/-