

LAWSUIT # 0813303-40.2023.8.19.0001

PLAINTIFF: NOKIA TECHNOLOGIES OY

DEFENDANTS: OBR TECNOLOGIA LTDA, USINA DE VENDAS SOLUCOES COMERCIAIS EM DISTRIBUICAO LTDA

As is known, Article 300 of the Code of Civil Procedure provides that *“urgent protection shall be granted when there are elements that evidence the likelihood of the right and the risk of damage or the risk to the useful outcome of the process”*.

In the present case, there is likelihood of the claimed right, as the complaint presents evidence that it was the plaintiff who developed technologies incorporated in the AMR-WB standard and that there is infringement of patent PI 0109043-7 by the Defendant’s devices.

Similarly, there is risk of damage and risk to the useful outcome of the process, since, first, if the injunction is not granted, the competitors of the defendant which pay for the use of this technology will be deeply discourage to uphold their licenses; also, the patent has an expiration date, and it is certain that each day that passes without the plaintiff being able to exercise its right to exclude causes the perishing of that right; thirdly, the patent covers technology inserted in the field of telecommunications, which is constantly and rapidly evolving, and if it is not protected immediately, it is quite possible that the patent-in-suit will lose its value due to the possible obsolescence of the technology in question; and, fourth and last, the issue cannot be adequately resolved in compensation for damages at the end of many years of litigation, because for its economic activities to be sustained, the plaintiff depends on the exercise of the right to exclude third parties from the unauthorized use of patented technology effectively and immediately.

Thus, I grant the preliminary injunction to order the defendants, under penalty of daily fine in the amount of BRL 10,000.00 (ten thousand reais), to refrain from infringing patent PI 0109043-7 through the acts indicated in Article 42 of the IP Statute, being enjoined from implementing Nokia’s AMR-WB technology in any product commercialized in Brazil, including the “Reno7”, “A77” and “A57” devices, without prior authorization, as well as monthly presenting to this court official accounting documents that discriminate current information referring to all Oppo devices imported, sold and marketed in Brazil, both current and future models, which use the AMR-WB standard, as well as sales projection for the next six months, in order to allow for confirmation of compliance with the injunction, pursuant to Article 297 of the Code of Civil Procedure.

Summon the defendants.

Rio de Janeiro, February 8, 2023.

ALEXANDRE DE CARVALHO MESQUITA
Presiding Judge