CLARIFICATIONS

NOTE:

- The following set of clarifications based upon the 11th CCI-HNMCC Moot Problem form part and parcel of the moot problem and are to be read in association/consonance as such.

- The rules and regulations for the moot problem as applicable, are similarly applicable to the contents of this document.

- The following set of clarifications provided is based upon the requests for clarifications as received in the provided timeline.

- Questions on common themes have been grouped as such.

- No further queries and/or request for clarifications on the moot problem shall be entertained forthwith.

Q1. Under Issue 2, which 'market' is the CCW talking about?

Ans: The answer to this question will depend on how the participants define the relevant market.

Q2. What was the basis for the DG holding that Burgin & Burkes was dominant in the market for licensable OS for handheld devices? Was it based on market share only or other mitigating factors?

Ans: The DG held Burgin & Burkes to be dominant in the market for licensable OS for handheld devices based on the high market share of Burgin & Burkes and its global position.

Q3. Whether the 'suite' for apps offered by Burgin & Burkes includes other apps, given on additional cost, apart from the ones mentioned?

Ans: The BBMS comprises the most popular apps of Burgin & Burkes, i.e., Marauders Maps, VuTube and Accio!. Other proprietary apps of Burgin & Burkes are available for purchase separately by end-users as well as device manufacturers.

Q4. The last sentence of Para 14 is incomplete. Can the complete sentence be provided?

Q5. Paragraph Number 14 of the proposition seems to be left unfinished. Kindly elucidate.

Q6. Paragraph 14 of the moot proposition seems incomplete as it ends on the word "and". Is there anything else after that or paragraph 15 is in continuation to it?

<u>Ans:</u> "…resources to develop such a database and this database is integral to its search engine services as well as its proprietary algorithm."

Q7. What is the form of the database held by Burgin & Burkes? Is it a part of its software, does it have a specific HTML file, etc.?

<u>Ans:</u> The database held by Burgin & Burkes is a collection of user data, and therefore, in the form of a large data file, which is relied on by the proprietary algorithm developed by Burgin & Burkes.

Q8. What is the market share of yOS in the market for OSs for handheld devices?

Q9. Is yOS a threat to the market share of Phoenix or is the market largely stagnant in that regard?

Q10. Is yOS a licensable/forkable Operating System?

Q11. What is the market share of YOS?

<u>Ans:</u> yOS is the most popular OS used on high-end personal computers and premium handheld devices across the world. The source code for yOS is not available under a similar open source project as the POSP. While a wide range of handheld devices (across premium and economy categories) operate on the Phoenix OS/a 'forked' version thereof, devices operating on the yOS are mostly of the premium category.

Q12. Is Burgin & Burkes allowed to share customer information and preferences, which is a part of its database, under the privacy laws of Westeros?

<u>Ans:</u> The privacy related laws of Westeros are pari materia to that of India.

Q13. Is the content and method of the database collected by Accio! Similar to Google's database collection?

<u>Ans:</u> Accio! collects user data relating to user preferences, keywords used, search and browsing history and through cookies. The database is created by processing all such user data collected by Accio! since its launch, to identify aggregated search patterns, results and preferences.

Q14. Does the tying together of apps on its OS by Phoenix on its handheld devices remove the choice of customers, i.e., can the apps be deleted/ other apps performing similar functions not be downloaded?

Ans: The device manufacturers and/or end-users are free to download similar/competing apps along with the apps included in the BBMS.

Q15. Are the markets of Westeros pari-materia to the markets in India?

Ans: All relevant details relating to the evolution of the Westerosi economy is provided in the Moot Proposition.

Q16. Are the market shares of Phoenix and its allied proprietary apps pari-materia to the proprietary apps (as in GMS)?

Q17. What is the market share of Marauder Maps, VuTube, JMaps and Jetflix?

Ans: The details relating to the market share/position of the Phoenix OS and Accio! are provided in the Moot Proposition. Marauders Maps is the most popular web-mapping service in Westeros, with J-Maps being a close competitor with 10% less market share than Marauders Maps. VuTube is a close competitor to JetFlix, which is the market leader in audio-visual content streaming services.

Q18. As regards to the agreement, were there any conditions imposed on the device manufacturers with respect to the pre-installation of the proprietary apps?

Ans: No.

Q19. In regards to paragraph 10, did the device manufacturers have a say in not installing the bundle of proprietary apps (BBMS)?

Ans: The device manufacturers who chose to license the Phoenix OS, could also choose to pre-install the BBMS at no additional cost.

Q20. Is BBMS equivalent to GMS by Google?

Q21. Are the agreements in proposition pari-materia to agreements between such parties in Indian and Global context?

Ans: All relevant details relating to the BBMS is provided in the Moot Proposition. While participants are free to draw analogies to similar products/services in the course of their arguments, please note that the licensing of the Phoenix OS/installation of BBMS is not governed by the same terms and conditions as GMS.

Q22. Are proprietary apps available on any forked version of Phoenix?

Ans: Yes. The proprietary apps can be purchased by the device manufacturers (for pre-installation) and/or end users (after purchasing the devices). The update to these proprietary apps are released first on the Phoenix OS and one month later on 'forked' versions.

Q23. In regards to paragraph 14, what were the mutually agreeable terms (for instance, monetary considerations or otherwise) that formed the basis of the talks between both the parties?

Ans: While Stark Industries requested Burgin & Burkes to explore "mutually agreeable terms" for granting access to the database, Burgin & Burkes never agreed to any terms.

Q24. What kind of IP registration has been pending for database and algorithm of Accio!?

Q25. What kind of IP registration has B&B applied for?

Ans: The participants are free to take any justifiable arguments in this regard.

Q26. Was the POSP deliberately designed in such a way as to make sure that an app developed for the Phoenix OS would have to be customized and rewritten for such an app to run on devices operating on a forked version of the Phoenix OS?

Ans: In general, an app developed for one OS would typically require some modification to be able to run on any other OS. The extent of modification would depend on the extent of differences in the code for such OSes.

Q27. Are there any conditions imposed upon the device manufacturers in order to use POSP?

Ans: The POSP allows free public access of the source code and software development stack for Phoenix OS.

Q28. Where has Burgin & Burkes (B&B) applied for the IP registration?

Ans: Westeros.

Q29. Is there any data on how many forked version(s) of phoenix are there in the market and what is their market share?

Q30. Whether the 80% and 90% in the last sentence of Para 10 refer solely to the share of the original Phoenix OS or whether the figure includes the original Phoenix OS and its variants?

Ans: There are three forked versions of the Phoenix OS, post the exit of Jarvis. The figures in paragraph 9 refer to the handheld devices running on the Phoenix OS (licensed from Burgin & Burkes) and its variants developed under the POSP.

Q31. Does B&B manufacture handheld devices also?

Ans: No.

Q32. Do B&B rewrite their BBMS for other forked versions?

Ans: No. However, web-based versions of Marauders Map, VuTube and Accio! can be accessed using any web browser that operates on handheld devices.

Q33. How many search engines are there in the market, other than Accio! And Infinity?

Ans: There are three or four small players operating search engines around the world, cumulatively accounting for about 8-10% of the market.

Q34. Did Burgin and Burkes provide specifications and guidelines to make the forked versions of Phoenix compatible with the Phoenix OS?

Ans: No.

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