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

Date of decision: 4th September, 2023

+ **CS(COMM) 156/2020 and I.A. 8958/2023**

SAP SE

..... Plaintiff

Through: Mr. Ranjan Narula & Ms. Shivangi
Kohli & Ms. Aishani Singh, Advs.

versus

ERP TRAINING INDIA & ORS.

..... Defendants

Through: Mr. K.G. Gopalakrishnan & Ms.
Nisha Mohandas, Advs. for D-14. (M:
8800556341)

Mr. Deepak Gogia and Mr. Aadhar
Nautiyal, Advs for Proposed D-42.
(M: 9205109664)

Mr. Ravi Prakash (CGSC) Mr.
Farman Ali & Ms. Usha Jamnal, Adv.
for D-33& 34(M: 9015697073)

Mr. Mrinal Ojha, Mr. Debarshi Dutta,
Mr. Anand Raja & Ms. Tanya
Chaudhry Advs for D-41. (M:
9990952258)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUDGMENT

1. This hearing has been done through hybrid mode.

I.A. 8958/2023

2. This application has been filed by the Plaintiff under Order I Rule 10 CPC seeking impleadment of further defendants in the matter owing to misuse of the name SAP and offering SAP services. The four Defendants whom the Plaintiff wishes to implead are as:



- (i) ES Trainings/www.estrainings.com/ as Defendant No.40;
- (ii) GODADDY.COM, LLC as Defendant No.41;
- (iii) Twitter as Defendant No.42;
- (iv) Facebook as Defendant No.43.

3. The case of the Plaintiff in the application is that the registrant of the domain name www.estrainings.com is connected with Defendant no.39 and is using the name and mark 'SAP' and offering online training services, classroom training courses and other services which are all exclusive to the Plaintiff. The said Defendant is also stated to be using marks such as SAP FIORI, SAP FICO, SAP APO, SAP EWM, SAP GRC, etc. in a completely unauthorised and illegal manner.

4. Proposed Defendant No. 41 is M/s GODADDY.COM, LLC which is the Domain Name Registrar (DNR) of the said domain www.estrainings.com. Defendant No.42 is 'Twitter Inc. (now X corp.)' on whose platform Defendant No.39 with along with Defendant No.40 appears to be running/operating the handle @expertsoft3. Defendant No.43 is Facebook on whose platform ES Training is offering SAP online training and other SAP courses.

CS(COMM) 156/2020

5. The present suit by the Plaintiff- SAP SE, under sections 62(2) of the Copyright Act, 1957 and the Section 134 of the Trade Marks Act, 1999 was filed against various Defendants alleging misuse of the mark 'SAP' as also other names belonging to it and usage of copyrighted material in relation to its training courses *etc.* The Plaintiff is a German company which owns rights in the 'SAP' formative marks as also rights in the certification



courses. It also engages in sale of SAP solutions, implementation training and certification. The Plaintiff's case is that it is a global leader in providing collaborative enterprise, business solutions to all commercial establishments, industries, *etc.* It is also in the business of product analysis and providing technologies for various commercial establishments.

6. The Plaintiff claims to be employing more than 80,000 employees in the world and serving 3,55,000 customers in 180 countries. Some of the SAP products include:

- SAP ERP (Enterprise Resources Planning);
- SAP CRM (Customer Relationship Management);
- SAP PLM (Product Lifecycle Management);
- SAP SCM (Supply Chain Management); &
- SAP SRM (Supplier Relationship Management).

7. It is the case of the Plaintiff that SAP courses, training and educational modules are well known and these courses are extremely sought after and uniquely curated by the Plaintiff. The Plaintiff owns copyright in all the software, the certification and training material. The case of the Plaintiff is that these training material and software constitute original literary works under Section 2(o) of the Copyright Act, 1957. The said copyrighted works, having been created in Germany, owing to reciprocal protection to works created in WTO countries and Berne Convention countries, enjoy automatic copyright protection in India.

8. It further the case of the Plaintiff that the 'SAP' mark is also a registered trademark in India as also globally. The Plaintiff is stated to have been using 'SAP' marks since 1972. It is stated to be ranked among one of



the top technological brands in the world.

9. The case of the Plaintiff in the present case was that several of the Defendants had registered domain names consisting of the word/mark 'SAP' and were providing ERP training courses on their websites using the mark 'SAP' as also various variants thereof. They were also stated to be using copyrighted works of the Plaintiff.

10. The Plaintiff had, initially, impleaded three Defendants who were the contesting Defendants and were stated to be running websites www.erptrainingindia.com www.hyderabadglobaltechsolutions.in and www.sapvits.com. In addition, various unknown Defendants were impleaded as John Does. The intermediaries and the DNRs were also impleaded as Defendant Nos.5 to 10. ISPs were also impleaded as Defendant Nos. 11 to 32. DoT and MeitY were impleaded as Defendant Nos. 33 and 34 respectively. ICICI and PayPal, where accounts were opened, were impleaded as Defendant Nos. 35 and 36. Twitter (now 'X Corp. '), LinkedIn were impleaded as Defendant Nos. 37 and 38.

11. Upon filing of the suit, vide order dated 4th June, 2020 the Court passed an *ad-interim* injunction in the following terms:

"7. Considering the material placed on record, plaintiff has made out a prima facie case in its favour and in case no ad-interim injunction is granted the plaintiff would suffer an irreparable loss. Balance of convenience also lies in favour of the plaintiff and against the defendants.

8. Consequently, till the next date of hearing, defendant Nos.1, 2 and 3, their proprietors, agents, officers, servants etc. are restrained in terms of sub-para (a) and (b) of para-18 of the application.

9. Defendant No.5 is directed to deactivate the email



accounts "kphbrk@gmail.com, sayali.sapvits@gmail.com and sapvits.saptraining@gmail.com" in terms of sub-para (d) of para-18 of the application.

10. Defendant Nos.6 to 10 are also directed to deactivate, disable the website and domain names: <www.erptrainingindia.com/>.

<www.hyderabadglobaltechsolutions.in> and <www.sapvits.com> in terms of sub-para (e) of para-18 of the application.

11. Defendant Nos. 11 to 32 are directed to block the services and disable the access provided to defendant Nos.1, 2 and 3 by blocking the websites, URLs and respective IPs as mentioned in prayer (f) of para-18 of the application which are as follows:

S.	DOMAIN NAME	URL	IP ADDRESS
No.			
DEFENDANT NO.1			
1.	www.erptrainingindia.com/	http://erptrainingindia.com/	166.62.6.79
DEFENDANT NO.2			
2.	www.hyderabadglobaltechsolutions.in	http://hyderabadglobaltechsolutions.in/	66.199.188.195
DEFENDANT NO.3			
3.	www.sapvits.com	http://sapvits.com/	68.66.216.28

12. Defendant No.35 is directed to freeze the account of defendant No.1 with the name 'Tella Rama Krishna', Account No.058801517183 and the IFSC Code is ICIC0000588, branch address No. 101-102, Ground Floor, Shri Kalki Towers, Plot No.20, Opp Huda Bus Stop, NH-9, Chandanagar, Hyderabad-500050.

13. Defendant No.36 is also directed to freeze the account of defendant Nos.1 and 2 so as to restrain them from using defendant No.36's platform for aiding collection of money.



14. Defendant Nos.37 and 38 are also directed to deactivate the social media accounts of defendant Nos.1 and 3 through which they have been advertising and promoting their infringing activities and providing training using SAP material such as Twitter, LinkedIn as under;

DEFENDANT NO.1	
Twitter	https://www.linkedin.com/in/rama-krishna-aa407324/
LinkedIn	https://twitter.com/KPHBRK
DEFENDANT NO.3	
Twitter	https://twitter.com/sapvits/
LinkedIn	https://www.linkedin.com/company/vintageitsolutions/?trk=similar-companis_org_title

15. Compliance under Order XXXIX Rule 3 CPC be made within one week.

16. Order be uploaded on the website of this Court.”

12. During the pendency of the suit, the Plaintiff also came across another party which was illegally providing unauthorised ‘SAP’ online training services of SAP technical module, etc. in collaboration with Defendant Nos. 1 to 3. The said Defendant namely www.expertsoftonline.com and www.expertsofttrainings.com were impleaded as Defendant No.39 vide order dated 7th February, 2023 and **I.A. 10677/2020** was allowed by the Court. Now **I.A. 8958/2023** has been filed seeking impleadment of www.estrainings.com as Defendant No.40 which as per the submission of the Plaintiff is an extension of Defendant No. 39-www.expertsofttrainings.com. Some of the webpages of the Defendant no.40 are set out below:



02025 225796 SAP Training Institute in Secunderabad, Hyderabad / SAP Online Course Fee - ES Trainings

ES TRAININGS
(Regd / Training Institute)

Welcome to ES Trainings

All our trainers are corporate experts having 10 to 15 years of experience in implementation as well as corporate trainings. Training will be given as per as the real-time projects so that the participant will have the feel of working in the implementation of project.

SAP online trainings services by covers all SAP Technical Modules and SAP Functional Modules. ES Sap trainings is offered for students in different cities of India. All sap modules are provided through instructor classroom trainings at Hyderabad in India.

SAP Classroom training course gives you much more than just an instruction-led course. The classroom will be a opportunity to interact with experts SAP Classroom trainings is the traditional way to learn SAP. All courses are delivered by highly experienced SAP Consultants who have an rich functional experience and a proven.

(Image phone)

02025 225796 SAP Training Institute in Secunderabad, Hyderabad / SAP Online Course Fee - ES Trainings

SAP FIORI

(sap-fiori-training)

SAP FICO

(sap-fico-training)

SAP APO

(sap-apo-training)

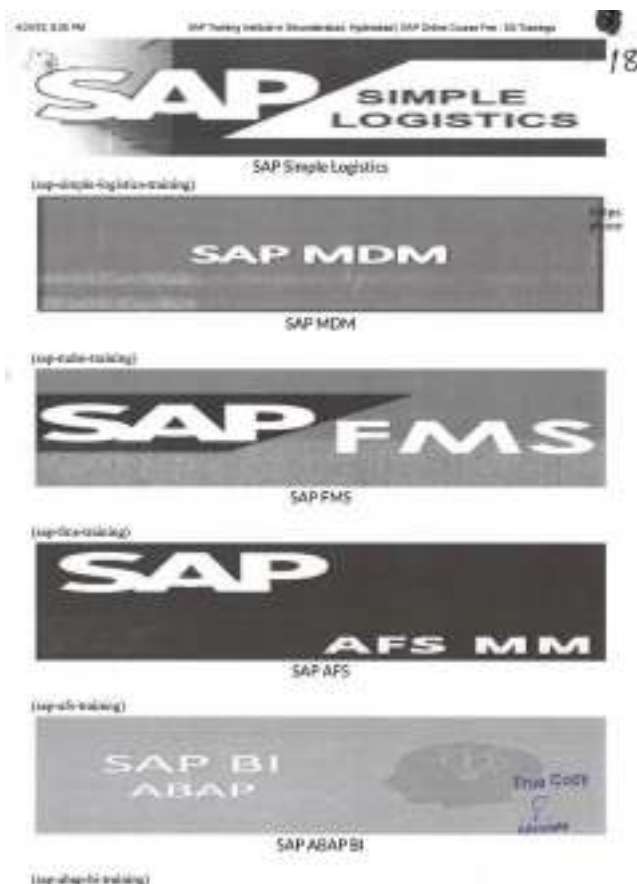
SAP EWM

(sap-ewm-training)

SAP GRC
RISK MANAGEMENT

(sap-grc-training)

True Copy
Advocate



13. The Court has perused the website extracts annexed to the application as also the handle on X.com, and the Facebook page. The same would reveal that Defendant No.40 is also involved and engaged in using of the mark 'SAP' and providing various training and online courses similar to what was done by the other Defendant Nos. 1 to 3 & 39. Thus, the impleadment application of the Plaintiff deserve to be allowed.

14. The amended memo of the parties filed with the application is taken on record.

15. None of the contesting Defendants has put up any defence in the present suit. Notice was issued to Defendant No.39, however, no reply was filed. Order dated 12th April, 2023 notes that all the contesting Defendants against whom substantial relief has been sought by the Plaintiff have been



served, however, none has sought to contest the matter or filed written statement. The said order reads as under:

*Ld. Counsels for defendant no. 14, 33 & 34 submits that they do not wish to file any written statement. **All of the contesting defendants against whom substantial relief has been sought by the plaintiff have been served, however they have not preferred to contest this ease or to file written statement and affidavit of admission/denial of documents.** In this regard law shall take its own course.*

The defendants who were supposed to file the compliance affidavit in terms of order dated 04.06.2020 have not filed the affidavit. Let the compliance affidavit be filed by defendants before next date of hearing.

16. In this view of the matter, the Court is of the considered opinion that Defendant No.1 to 3 & Defendant No. 39 and 40 who are closely linked, deserve to be permanently enjoined from using the ‘SAP’ formative marks in any manner or from providing SAP training or SAP online courses using the copyrighted work of the Plaintiff.

17. The Defendant DNRs shall lock and suspend the following domain names during their current registration cycle:

- www.erptrainingindia.com
- www.hyderabadglobaltechsolutions.in
- www.sapvits.com www.estrainings.com;
- www.expertsoftonline.com;
- www.expertsofttrainings.com.

18. When the said domain names fall into public domain, then the Plaintiff is free to take steps in accordance with law.



19. The DNRs shall also provide the details of the Subscribers/Registrants of the said domain names including email details, phone number, KYC details, credit card details or any other payment details which may be available in their database.

20. The other Defendants namely the ISPs shall block all the above websites and continue to block the ones already blocked vide order dated 4th June, 2020. Twitter (now 'X Corp.') is directed to suspend the handle @expertsoft3 within 48 hours.

21. Insofar as Facebook is concerned, it is also directed to pull down the impugned Facebook page the link of which shall be sent by Plaintiff's counsel to Facebook through the Grievance Officer.

22. Insofar as the DoT & MeitY are concerned, blocking orders shall be extended to www.estrainings.com, www.expertsoftonline.com, and www.expertsofttrainings.com and all ISPs shall give effect to the same.

23. The suit is decreed against Defendants 1-3, 39 & 40 in terms of paragraphs 66 (a), (b), & (c) of the plaint. In respect of the remaining defendants, the suit is decreed in terms of paragraphs 12-17 above. The decree sheet be drawn, accordingly.

24. All applications are disposed of.

PRATHIBA M. SINGH, J.

SEPTEMBER 4, 2023

dj/sk

(corrected & released on 11th September, 2023)