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

+ CS(OS) NO.2207/2006

SAP AG & ANR Plaintiffs

Through: Mr. Deb Jyoti Ghosh, Adv.

Versus

SUJI KUMAR & ANR Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **02.09.2016**

1. The two plaintiffs namely SAP AG and SAP India Systems have instituted this suit for permanent injunction to restrain the two defendants namely Mr. Suji Kumar and SAPzen Consulting Pvt. Ltd. from reproducing/installing or providing training on software programs of the plaintiffs, including but not limited to SAP 4.7E and from using the mark 'SAP' either by itself or in conjunction with any other word or mark as a trademark or as a trade style, amounting to infringement of plaintiffs' registered trademark and for ancillary reliefs.

2. The suit was entertained and vide *ex-parte* ad-interim order dated 30th November, 2006, the defendants restrained from using the software SAP 4.7E and/or from imparting training on the said software and Court Commissioners appointed to visit the premises of the defendants and to seize the pirated/infringing software. Vide subsequent order dated 5th December, 2006, the defendants were also restrained from using the mark 'SAP', either as a trade name or as a trade style. The said orders continue in force till now.

3. The defendants appeared in response to the summons and filed a written statement. However subsequently the counsel for the defendants sought discharge and none appeared for the defendants and the defendants were, on 22nd September, 2010, proceeded against *ex-parte* and plaintiffs permitted to lead *ex-parte* evidence.

4. The counsel for the plaintiffs, on enquiry, states that the Court Commissioners appointed reported seizure of the pirated/infringing copies of the plaintiffs' software at the premises of the defendants.

5. The plaintiffs in their *ex-parte* evidence have examined Mr. Yogesh Goyal and closed their evidence.

6. I have perused the pleadings and the evidence of the plaintiffs and find the plaintiffs to have made out a case for grant of permanent injunction in terms of prayer paragraph 38 (a), (b) & (c) of the plaint.

7. The counsel for the plaintiffs states that since interim injunction has continued for the last nearly ten years and the defendants have not contested the suit, the plaintiffs are not pressing for the ancillary reliefs claimed.

8. Accordingly, a decree is passed in favour of the plaintiffs and against the defendants jointly and severally in terms of prayer paragraph 38 (a), (b) & (c) of the plaint.

9. The parties to bear their own costs.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 02, 2016

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