

\$~16

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 126/2016 & IAs No.7075/2003 (u/O XXXIX R-1&2
CPC), 14421/2016 (for fixing date of hearing) & 10012/2018 (u/O
XXXIX R-1&2 CPC)

INFOSYS TECHNOLOGIES LTD. Plaintiff

Through: Mr. Jayant Mehta, Mr. Sudeep
Chatterjee, Ms. Sonal Chabblani, Ms.
Surbhi Singh and Mr. Rahul Kukreja,
Advs.

Versus

DATA INFOSYS LTD. & ORS. Defendants

Through: Ms. Neha Kapoor, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

21.01.2019

1. The plaintiff has instituted this suit (A) to restrain the defendants, of which the defendant No.1 is the Company and the defendants No.2 to 6 namely (i) Niranjan Lal Data; (ii) Babu Lal Data; (iii) Vijay Data; (iv) Daya Kishan Data; and, (v) Ajay Data are its Directors, from passing off their goods and/or services and/or business, by manufacturing, marketing, selling, advertising, directly or indirectly dealing in goods/services under the trade mark/name 'INFOSYS' or otherwise using the expression 'INFOSYS', whether used in isolation or in conjunction with any other word/expression, in respect of any goods or services or corporate name or domain name or as a part of the name of a division or in any other manner whatsoever and thereby infringing the registered Trade Mark Nos.475269, 475267 and 484837 of the plaintiff; (B) for further restraining the defendants from using any other mark/name deceptively similar thereto or colourable imitation

thereof, whether the expression is used by itself or as part of name/trade name or domain name using the mark 'INFOSYS'; and, (C) for ancillary reliefs.

2. The suit was entertained, though no *ex-parte* injunction granted. Thereafter the application for interim relief not considered and no order made in the hope that the trial in the suit would be concluded soon. Issues were framed in the suit and parties relegated to evidence. Though the trial stands concluded, but thereafter the suit has been pending for final hearing. In this manner, the suit has remained pending since the year 2003, without the plaintiff having any interim order in its favour.

3. The plaintiff applied for early hearing and which was allowed and the counsels were heard on 10th January, 2019. On the statement of the counsel for the defendants that she needs time of about 15 minutes more, the hearing was adjourned to today.

4. On the last date of hearing i.e. on 10th January, 2019, after hearing the counsels, the counsel for the defendants was further directed to obtain instructions, whether the defendants were willing to change the name of the defendant No.1 and to stop using the word 'INFOSYS' for any purpose whatsoever, and in which eventuality reasonable time could be granted to the defendants to effect the change.

5. The counsel for the defendants today states that she has taken instructions and the defendants are willing to effectuate the change. She however seeks adjournment to enable the parties to draw up a Settlement Agreement.

6. I am of the view that once the counsel has instructions and the counsel for the plaintiff states that on the defendants so agreeing, the plaintiff will not press the claim for ancillary reliefs, there is no need for again adjourning this suit which is already 15 years old.

7. The counsel for the defendants at this stage has handed over a copy of the order dated 4th June, 2009 of the Company Law Board, New Delhi Bench in C.P. No.53(ND)/2009 directing that no general meeting of the defendant No.1 Company be held, *status-quo* with regard to the shareholding be maintained, a copy of the agenda and minutes of all Board meetings to be given to the petitioner in the said proceedings and *status-quo* be maintained with respect to fixed assets of defendant No.1 company. Attention is also drawn to Section 16 of the Companies Act, 2013 granting time of three months for effectuating the change in name.

8. The counsel for the plaintiff has drawn attention to the order dated 30th June, 2014 of the Company Law Board, Northern India Branch and states that the earlier order dated 4th June, 2009 stands superseded thereby.

9. I am of the opinion that grant of four months time from today to the defendants to change the name of the defendant No.1 and otherwise stop use of 'INFOSYS' would serve the purpose.

10. Accordingly, with the consent of the parties, a decree of permanent injunction is passed, in favour of the plaintiff and against the defendants aforesaid, in terms of prayer paragraph 29(i) & (ii) of the plaint verified on 30th June, 2003. The defendants are however granted time till 20th May, 2019 to comply with the decree and the decree for permanent injunction will

come into operation with effect from 21st May, 2019.

11. The defendants are also directed to, on or before 20th May, 2019, destroy all goods/marks on the goods, stationery including letterheads, business card, dyes, blocks or any other article bearing the mark 'INFOSYS' or capable of reproducing the mark/name 'INFOSYS'.

12. The statement of counsel for the defendants that no application for registration of any mark with the word 'INFOSYS' has been lodged is taken on record and defendants ordered to be bound therewith.

13. The registrations obtained by the defendant No.1 with the word 'INFOSYS' and the mark subject matter thereof shall also stand rectified in terms of this decree, by cancellation thereof.

14. The parties are left to bear their own costs.

15. Decree sheet be drawn up.

16. The Registrar of Companies, Jaipur, Rajasthan is directed to, immediately on receipt of the application from the defendants for change of name, take necessary steps and deal with the said application expeditiously and within the time granted by this Court.

17. The defendants No.2 to 6 who constitute the Board of Directors of the defendant No.1 Company and/or the present Directors of the defendant No.1 Company are directed to, within fifteen days of today, hold a meeting of the Board of Directors of the defendant No.1 Company for the purposes of passing necessary resolution, as well as an ordinary meeting of the defendant No.1 within fifteen days thereafter and cause a resolution in terms of this decree to go through, for complying with the decree and for

submission with the Registrar of Companies, Jaipur.

18. A copy of this order be given *dasti* under the signatures of the Court Master.

RAJIV SAHAI ENDLAW, J.

JANUARY 21, 2019

‘bs’..