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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 12th April, 2022*+ **CS (COMM) 528/2020 & I.A. 11267/2020**

SAP SE

..... Plaintiff

Through: Mr. Ranjan Narula, Advocate.
(M:9891584230)

versus

ANOOP TECH AND ORS.

..... Defendants

Through: Mr. Kunal Khanna, Advocate for D-1.
(M9999757185)**CORAM:****JUSTICE PRATHIBA M. SINGH****Prathiba M. Singh, J.(Oral)**

1. This hearing has been done through hybrid mode.
2. The present suit for permanent injunction has been filed by the Plaintiff– SAP SE. The Plaintiff is a company engaged in providing SAP solutions, implementation, post-implementation support, training and certification for various customers and partners in India through its subsidiary- SAP India Private Limited. The Plaintiff is stated to have extensive business in India and has development centres in many prominent cities including Delhi. It is stated to have more than 1 lakh employees and serves lakhs of customers in more than 180 countries in the world. The Plaintiff provides various end-to-end software application solutions to its customers. One such application is SAP Business Suite which optimises all business-critical processes and it includes SAP ERP. Some of its ERP android software applications are used across industries for resource planning, customer relationship management, supply chain and supplier



relationship management. The Plaintiff has various IT products which are extremely popular, some of which are:

- a) *SAP ERP (Enterprise Resource Planning);*
- b) *SAP CRM (Customer Relationship Management);*
- c) *SAP PLM (Product Lifecycle Management);*
- d) *SAP SCM (Supply Chain Management);*
- e) *SAP SRM (Supplier Relationship Management).*

3. The software applications of the Plaintiff are sold under the name and mark 'SAP' with different module numbers and versions from time to time. The Plaintiff's software requires trained software professionals, who are able to load, execute, access, service, employ and display integrated end-to-end solutions derived from such software products for the client. The Plaintiff has, accordingly, appointed some companies as training partners for training personnel on SAP software.

4. The Plaintiff is the copyright owner of the various software programmes, such as SAP HANA, SAP CRM, SAP ABAP, SAP ERP 6.0, SAP Net Weaver, SAP ERP 2005, etc. which are literary works within the meaning of Sections 2(ffc) & 2(o) of the Copyright Act, 1957. The Plaintiff also owns the 'SAP' trademark and various variants of the same. After adoption of the mark 'SAP' in 1972, it has become one of the most distinctive brands in the world, especially in the area of software products and services. The Plaintiff has registered the 'SAP' word mark vide application bearing no. 578462 from 1992.

5. The Defendant No.1– Anoop Tech is an entity which started offering classroom and online coaching/ training of SAP courses on its website



www.anooptech.net and www.anooptech.com. On its website, various ‘SAP’ logos are being used. SAP copyright protected training materials and software were used by Defendant No.1 for the purpose of providing training on SAP products/services. Tools such as interactive websites, live demos, cloud platforms etc. were also used by Defendant No.1. ‘SAP’ trade marks were being used on the website/social media platforms in such a manner as though Defendant No.1 was connected to the Plaintiff. A list of SAP courses provided by Defendant No.1 from the website is as under:



6. On 27th May, 2020, the Plaintiff sent a cease-and-desist notice asking Defendant No.1 to cease from unauthorisedly offering any SAP online courses. The Defendant No.1 vide reply dated 11th June, 2020 confirmed that it is in the process of taking down the infringing content. Despite the said reply, it is the case of the Plaintiff that the said infringing content re-appeared on the website and telephonic communications were also of no avail. This led to the filing of the present suit.

7. The matter was considered on 1st December, 2020 and the Defendant No.1 was restrained in the following terms:



“10. Consequently, an ex-parte ad-interim injunction is granted in favour of the plaintiff and against the defendants in terms of prayer (a) of IA 11267/2020 till the next date of hearing before this Court. The defendant No. 1 is also restrained from putting up the infringing contents in relation to the plaintiffs trademarks and copyright on its websites www.anooptech.net and www.anooptech.com or any other website(s) created or on third party websites/platforms. The defendant No. 1 is further restrained in terms of prayer (c) of the application. The defendant No. 1 is directed to remove its listing/advertisements of the SAP courses in terms of prayer (f) in the application within 36 hours of the receipt of this order, failing which, the defendant Nos. 3, 4 and 5 are directed to take down/de-activate/disable the access to the websites and domain names as prayed in para (e) of the application on an intimation being given by the plaintiff within 72 hours of the said intimation.”

8. The Defendant Nos.3 & 4 are the registering authorities of two domain names www.anooptech.com and www.anooptech.net. The Defendant No.5 is the website hosting company of these two websites. No written statement has been filed by any of the parties.

9. On behalf of Defendant No.1, Mr. Kunal Khanna, Id. Counsel, has appeared and submits that he has instructions from Mr. Manjunatha K Krishnappa (M:9980594800), who is stated to be the proprietor of Defendant No.1 – Anoop Tech, that Defendant No.1 is willing to suffer a decree in this matter and that the websites have been taken down. It is further submitted that Defendant No.1 does not intend to use the mark ‘SAP’ or offer training courses with respect to SAP software.



10. In any event, after perusing the record, it is clear that the use of the word or mark 'SAP' either as a part of the trading style, domain name or the services offered by the Defendant No.1, even though they relate to 'SAP' software, would be violative of the Plaintiff's rights, both under the statute and the common law. The manner of usage by the Defendant no.1 is neither descriptive nor informational and constitutes trade mark use. Accordingly, the suit is decreed in terms of paragraphs 45(a) to 45(c) of the plaint against the Defendant No.1.

11. Defendant No.2- Ashok Kumar is a non-existent entity. Defendant Nos.3 & 4 are the Registrars of the domain names. Since the domain names www.anooptech.net and www.anooptech.com do not have relationship with the mark 'SAP', no relief can be granted. Insofar as Defendant No. 5 is concerned, since the infringing content has been pulled down, no further orders are required to be passed, so long as the infringing content is not re-hosted on the said websites/domain names.

12. Considering the fact that Defendant No.1 has not filed the written statement and has not contested the matter, a sum of Rs.2 lakhs is awarded as costs in the suit. The same shall be paid by the Defendant No.1 within 8 weeks, failing which the Plaintiff is free to take steps to recover the same in accordance with law.

13. The suit is decreed in the above terms. Decree sheet be drawn accordingly.

14. The suit, along with all pending applications, is disposed of.

PRATHIBA M. SINGH, J.

APRIL 12, 2022/dk/sk

(Corrected & released on 16th April, 2022)