

XACCT Technologies Ltd v Orient Telecommunication Networks Pte Ltd formerly known as
Orient Telecommunication Networks (Singapore) Pte Ltd and formerly known as XA Alliance
Pte Ltd
[2004] SGHC 144

Case Number : Suit 667/2003, RA 128/2004

Decision Date : 01 July 2004

Tribunal/Court : High Court

Coram : Choo Han Teck J

Counsel Name(s) : Samuel Chacko (Colin Ng and Partners) for plaintiff; Alvin Chang (M and A Law Corporation) for defendant

Parties : XACCT Technologies Ltd — Orient Telecommunication Networks Pte Ltd formerly known as Orient Telecommunication Networks (Singapore) Pte Ltd and formerly known as XA Alliance Pte Ltd

Civil Procedure – Discovery of documents – Specific discovery – Whether discovery of various internal documents should be ordered.

1 July 2004

Choo Han Teck J:

1 This action was commenced by the plaintiff for US\$427,300, being payment for a product and some services provided by them to the defendant. The product and services concerned were software called N2B Platform which was used to manage data, and other related services. The defendant did not pay for the product and services and the plaintiff sued for breach of contract. The defendant averred that it was the plaintiff who was in breach and counterclaimed for expenses incurred by reason of the plaintiff's failure to provide the product and services under the contract.

2 The issues at trial appear to be straightforward although technical as evidence has to be adduced to prove whether the product met with the contractual requirements. The plaintiff, however, had asked for discovery of various documents including internal email and purchase documents involving the defendant's acquisition of a company known as TMI Telemedia International Hong Kong ("TMI"). The plaintiff suspected that with the acquisition of TMI, the defendant no longer required the plaintiff's product. They were deeply suspicious of the defendant's motives. Mr Chacko, counsel for the plaintiff, therefore argued that the particulars of the acquisition of TMI are highly relevant. He gave some examples, orally, of the information sought. Examples of such information were the date the acquisition took place and when the defendant began using the software of TMI.

3 It appeared to me, after listening to counsel from both sides, that the plaintiff's request for discovery was a major fishing expedition designed to harass and embarrass the defendant. I suggested to Mr Chacko that the information that his clients sought could easily be obtained by an interrogatory since the questions posed were all very specific.

4 The plaintiff's preference for discovery seemed to me, an excessive and inappropriate way of obtaining information (which, in this case, might not even be relevant for the trial) instead of the more direct, focused, and less intrusive means of the interrogatory process. I am not satisfied that this application for specific discovery was in good faith but I gave them the opportunity to put specific interrogatories to the defendant along the lines that Mr Chacko had prayed to see the internal documents of the defendant.

5 The order for discovery was therefore set aside.

Defendant's appeal allowed.

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