

Microsoft Corporation & Anr vs M/S Czone Solutions & Ors on 14 July, 2020

Author: Rajiv Shakdher

Bench: Rajiv Shakdher

\$~1

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

CS(COMM)No.251/2020 & I.A.Nos.5544-48/2020

MICROSOFT CORPORATION & ANR.PL

Through : Mr. Pravin Anand, Mr. Saif Kha
Mr. Shantanu Sahay, Ms. Imon R
and Mr. Deepank Singhal, Adv.

versus

M/S CZONE SOLUTIONS & ORS.Defen

Through : Mr. Siddharth Sharma, Adv. for
& 2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% 14.07.2020 [Court hearing convened via video-conferencing on account of COVID-19]

1. Allowed. The plaintiffs are permitted to file additional documents. 1.1 The additional documents will be filed within 30 days of the lockdown qua this Court being lifted.

I.A.No.5547-48/2020

2. Allowed, subject to the plaintiffs curing the deficiencies referred to in the captioned applications within five days of the lockdown qua this Court being lifted.

CS(COMM)No.251/2020 & I.A.Nos.5544-45/2020

3. Issue summons in the suit and notice in the captioned applications via all means including email.

CS (COMM) No. 251/2020

3.1 However, insofar as defendant nos. 1 and 2 are concerned, Siddharth Sharma accepts service.

4. Mr. Pravin Anand, who appears on behalf of the plaintiffs, says that the defendants have been persistently and continuously infringing their well-

known trademark "Microsoft" .

4.1 It is Mr. Anand's contention that the plaintiffs are,

business of providing technical solutions and that the defendant nos. 1 and 2 also claim to be in the same business.

4.2 Mr. Anand says that the said defendants are illegally and, in an unauthorized manner, impersonating as the plaintiffs' personnel/employees. 4.3. By way of an example, Mr. Anand has referred me to a screenshot which is titled "Microsoft Certified IT Professional". 4.4 It is further averred that the plaintiffs' trademark "Microsoft" has been in use since 1975 and is known world over.

5. On the other hand, Mr. Sharma says that defendant nos. 1 and 2 are offering technical solutions on remote basis to their clients outside the country.

5.1 Mr. Sharma also says that the said defendants and/or its employees/officers, as alleged or at all, have not indulged in impersonation or attempted to convey to the public at large that they are, in any way, connected to the plaintiffs.

6. In rejoinder, Mr. Anand says that the stand taken by Mr. Sharma is not correct and that there is an overwhelming evidence on record of this Court as well as the concerned criminal court which suggests to the contrary.

CS(COMM)No.251/2020 page 2 of 4

7. In my view, the plaintiffs, at least at this stage, have set up a prima facie case in their favour. The balance of convenience also appears to be in the favour of the plaintiffs. The plaintiffs will suffer irreparable damage if the necessary relief is not granted to them.

8. Furthermore, given the submission made by Mr. Sharma and the material placed on record, I am inclined to injunct the use of plaintiffs' trademark "Microsoft" by the defendants.

8.1 In addition thereto, defendant nos. 1 and 2 are also enjoined from using any other trademark which is deceptively similar to the plaintiffs' registered trademark.

8.2 Besides this, defendant nos. 1 and 2 are also restrained from holding themselves out as entities comprising "Microsoft professionals" which are in the business of providing technical support.

9. This injunction will operate till further orders of the Court.

10. In the meanwhile, the defendants will file the written statement(s) in the suit and reply(ies) to the captioned applications within four weeks from today. Replication(s) and rejoinder(s) thereto, if any, be filed before the next date of hearing.

11. Needless to say, the aforesaid observations and directions will not, in any manner, impact the criminal proceedings that have been initiated against defendant nos. 1 and 2.

12. Renotify the matter on 27.08.2020.

CS(COMM)No.251/2020 page 3 of 4

13. The plaintiffs will comply with the provisions of Order XXXIX Rule 3 of the CPC, insofar as defendant no. 3 is concerned, within one week from today.

JULY 14, 2020
Aj/KK

RAJIV SHAK

[Click here to check corr](#)

CS (COMM) No. 251/2020