

Intel corporation v Retd. Admiral B.R. Vasant & others (trading as Intel Soft Pvt. Ltd)

CS/OS 1155/2003. Order 11.08.2005

Court rules in favour of Intel corporation holding prior rights in the mark 'Intel'

With the advent of the Information Technology revolution in India and widespread use of computers in every field, the mark Intel has become a household name in India.

In Intel corporation v Retd. Admiral B.R. Vasant & others (trading as Intel Soft Pvt. Ltd.) (suit no. 1155/2003) the Delhi High court has issued an injunction restraining the defendant from using "Intelsoft" or any other name/mark deceptively similar to "Intel", including as a trade name, trademark, domain name or email address.

In or around December 2001, Intel Corporation came to know about Intelsoft's existence through their listing in the online telephone directory. Upon making inquiries at the companies Registry records, Intel Corporation gathered that the defendant was incorporated as a company with the Registrar of Companies, Karnataka in the name and style of "Intelsoft". Further as per the memorandum of objects, the defendant "Intelsoft" was found carrying on the business of software development, data processing and hardware consultancy. Further the company's objects included buying, selling, maintenance, acquisition of computers and communication systems to develop, import, and market computer and communication software application packages in India or outside. Pursuant to inquiries, Intel Corporation sent a warning letter to the defendant "Intelsoft" on December 21, 2001 notifying them of Intel's right in the "Intel" mark. Further, Intel tried to settle issues amicably and offered "Intelsoft" a

reasonable phase-out period during a face-to-face meeting to discuss terms of settlement. However, negotiations between the parties failed and Intel Corporation moved to the court to seek an injunction restraining the Defendant from using Intelsoft as a trade mark/trade name.

Accordingly, a suit for passing off was filed by Intel Corporation against Intelsoft Pvt. Ltd. at the High court of Delhi. Intel requested the court for interim relief restraining the defendants from using the "Intelsoft" word as a trading style and /or as a trademark, domain name, alleging that it is deceptively similar to Intel's registered trademark "Intel" and trading style "Intel Corporation". Intel Corporation's case was that it has been using the name Intel as a trading style and as a trademark since 1968 and enjoys a global reputation in relation to computer hardware including semi-conductor devices, memory chips, microprocessors, CPUs etc. That around the world the trade and public associate the word "Intel" with Intel Corporation and nobody else. Intel Corporation also relied upon its 2000-plus worldwide trademark registrations, including those in India consisting of the word "Intel" in respect of computer hardware. In support of its reputation the Plaintiff (Intel Corporation) also relied upon the "Intel Inside" program, a logo licensing and co-operative advertising program. Intel Corporation submitted that under this program international computer manufacturers such as IBM, Dell, Hewlett- Packard, Compaq and Wipro, Zenith, HCL,

Vintron, Acer and PCS based in India that sell personal computers containing Intel manufactured microprocessors are licensed to use Intel's Intel Inside logo on their computers and in their advertising and promotional materials. Through this program, the Intel Inside logo appears on the front panel of millions of computers around the world. Thus, the mark Intel is globally well known amongst trade and public.

As the defendants Intelsoft Pvt. Ltd. did not enter appearance before the High court, the suit was proceeded ex-parte. On the basis of evidence adduced by Intel (Plaintiff) and affidavits filed in support, the High court granted a permanent injunction against Intelsoft in terms of prayer clause restraining the defendant "Intelsoft" from using the "Intelsoft" word as a part of its trading style, trademark, domain name or email address.

The above suit was filed by Intel seeking a passing-off remedy. However, as per the provisions of the new Trademark Act that came into force in September 2003, the definition of infringement has been broadened. The use of a registered trademark as a trade name or part of a trade name would now constitute trademark infringement. A corresponding amendment is also being made to the Companies Act 1956 directing the Registrar of Companies not to register a company name that resembles a registered trademark.

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