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IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
(Intellectual Property Rights Division)

GA-COM/1/2025
IP-COM /57/2025

INDIA MART INTER MESH LIMITED
VS
OPEN AI INC. AND ORS.

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 24th December, 2025.

Appearance:

Mr. S.N. Mookherjee, Sr. Adv.

Mr. Rudraman Bhattacharyya, Sr. Adv.

Mr. Sourojit Dasgupta, Adv.

Mr. S.K. Bajoria, Adv.

Mr. Dhruv Chaddha, Adv.

Ms. Gargi Vashistha, Adv.

Mr. Siddhartha Banerjee, Adv.

Mr. Akash Munshi, Adv.

...for the petitioner.

The Court: In view of the urgency, the matter is treated on the Day's List.

This is a suit *inter-alia* seeking declaration that the United States Trade Representatives (USTR) reviews containing the findings against the petitioner are not binding on the respondents and cannot be relied on by any of the respondents to exclude the petitioner its marked websites and listings from the search results generated on AI engines including ChatGpt and for other consequential reliefs.

Briefly, the petitioner is engaged in the business of integrated electronic business to business (B2B) which provides an internet based platform with free and paid listings for various industry product services, particularly for listing the profile and catalogue of small and middle enterprises. The petitioner runs and operates the above platform through its web portal www.indiamart.com and mobile application whereby any

company or individual can advertise their products and seeks buyers for their goods and services. In effect, the petitioner provides a business model for both buyers and sellers. The petitioner boasts of having its activities around forty different countries and engaging 3000 employees. The petitioner also relies on its huge accessibility and turnover.

In the usual course of business, the petitioner has been regularly and uninterrupted been using its mark "IndiaMART" all over the country and also abroad and has a vast network resulting in widespread consumer reorganization knowledge. The mark of the petitioner has also been recognized as a well-known mark under the Trade Marks Act, 1999.

The grievance of the petitioner in this suit is directed against the selective discrimination at the hands of the respondents. The petitioner complains of trade libel through implied disparagement, conduct resulting in dilution of its mark, injurious falsehood, unlawful inference with their business resulting in unfair competition. The respondents no. 1 is also an intermediary as defined under the Information and Technology Act and is a not for profit organization established under the laws of Delaware, USA. The object of the respondent no. 1 is primarily in developing artificial intelligence and the respondent no. 2 is an entity responsible for the commercial operation of ChatGpt which is its flagship consumer AI chat box/interface.

The petitioner complains of the respondents specifically and consciously excluding the petitioner from being shown or surfacing in their ChatGpt service whereas all other platforms and e-commerce market place listings are appearing and have been made available.

It is alleged that in excluding the petitioner from its scope and ambit, the respondent is relying on a report or review of the office of the United States Trade Representatives (USTR) reviews in which the name of the petitioner has featured. There is nothing to show that prior to such listing the petitioner had been given any notice or opportunity.

In such circumstances, it is alleged that the blind reliance on the USTR by the respondents is arbitrary, capricious and without any basis. There is no basis in arriving at such finding by the USTR. The petitioner has never been given any chance to defend itself and has been selectively discriminated without any logic. In any event, it is alleged that there are other entities whose names though appearing in USTR, i.e., DHGATE, PINDUODUO, SHOPEE AND TAOBAO for counterfeiting and piracy are still available in the search engine ChatGPT.

The e-mails and correspondences exchanged between the parties demonstrates that there is no justification in excluding the petitioner.

The petitioner also relied on a Press Release issued by the Ministry of Consumer Affairs, Food and Public Distribution, inter alia, suggesting that the report prepared by the office of United State Trade Representative (USTR) and their findings are not binding and that India is under no obligation to take action based on such report. Significantly, this aspect of the matter has neither been considered nor dealt with by the respondents.

In view of the above, it prima facie appears that the petitioner is being selectively discriminated and justifiably excluded without any logic. Inevitably, there is loss of goodwill, reputation and commercial injury which is being caused to the petitioner. Nevertheless, any relief sought for by the

petitioner would virtually amount to granting a final decree at this stage. Thus, without giving the respondents an opportunity, there is no scope of passing any *ad interim* order as on date.

Despite service, the respondents remain unrepresented.

In view of the above, notwithstanding a strong prima facie case in favour of the petitioner, an opportunity should be provided to the respondents before any interim order is passed. In view of ensuing Vacation, let this matter appear on 13 January, 2026 for further hearing.

The petitioner is directed to effect fresh service on the respondents both by courier as well as by e-mail and any other mode of service intimating them of the passing of this order and the filing of the suit.

(RAVI KRISHAN KAPUR, J.)

SK./S.Bag/S. Pal