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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CS(COMM) 1028/2024 with I.A. 45300/2024, I.A. 45301/2024, I.A. 45302/2024, I.A. 45303/2024 and I.A. 45304/2024

ANI MEDIA PVT LTD .....Plaintiff

Through: Mr. Sidhant Kumar, Mr. Akshit Mago, Ms. Monyaa Chandok, Mr. Om Batra and Ms. Anshika Saxena, Advocates.

versus

OPEN AI INC & ANR.

.....Defendants

Through: Mr. Amit Sibal, Sr. Advocate with Mr. Sanjeev Kapoor, Mr. Nirupam Lodha, Mr. Madhav Khosla, Ms. Moha Paranjpe, Mr. Gautam Wadhwa, Ms. Malika Nandkedlyar, Mr. Rajat Bector, Mr. Ankit Handa, Mr. Darpan Sachdeva and Mr. Saksham Dhingra, Advocates.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

O R D E R

% 19.11.2024

I.A. 45304/2024 ***(seeking exemption from filing typed copies of the dim/legible documents)***

1. Allowed, subject to the plaintiff filing legible copies of the annexures within four (4) weeks from today.

2. The application stands disposed of.

I.A. 45303/2024 ***(exemption from pre-institution mediation)***

3. As the present suit contemplates urgent interim relief, in light of the

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judgment of the Supreme Court in ***Yamini Manohar* v. *T.K.D. Krithi***, 2023 SCC Online SC 1382, exemption from the requirement of pre-institution mediation is granted.

4. The application stands disposed of.

I.A.45302/2024 *(under Order XI Rule 1 (4) CPC)*

5. The present application has been filed on behalf of the plaintiff seeking leave to file additional documents under the Commercial Courts Act, 2015.

6. The plaintiff is permitted to file additional documents in accordance with the provisions of the Commercial Courts Act, 2015 and the Delhi High Court (Original Side) Rules, 2018.

7. Accordingly, the application is disposed of.

I.A. 45301/2024 *(under Order XI Rules 1 (6), 2 and 5 CPC)*

8. Issue notice.

9. Notice is accepted by Mr. Sanjeev Kapoor, counsel appearing on behalf of the defendants.

10. List on 28th January, 2025.

CS(COMM) 1028/2024

11. Let the plaint be registered as a suit.

12. Issue summons.

13. Mr Sanjeev Kapoor, counsel appearing on behalf of the defendants accepts summons and waives issuance of formal summons.

14. Mr. Amit Sibal, senior counsel appearing on behalf of the defendants raises a preliminary objection *vis-à-vis* the maintainability of the suit on the ground of territorial jurisdiction.

14.1 This aspect will be considered once the written statement is filed.

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15. The written statement(s) shall be filed by the defendants within thirty days from the receipt of summons. Along with the written statement(s), the defendants shall also file affidavits of admission/denial of the documents of the plaintiff, without which the written statement(s) will not be taken on record.

16. Liberty is given to the plaintiff to file replication(s), if any, within thirty days from the receipt of the written statement(s). Along with the replication(s) filed by the plaintiff, affidavit of admission/denial of the documents filed by the defendants be filed by the plaintiff.

17. The parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document which is not in their power and possession, its detail and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

18. If any of the parties wish to seek inspection of documents, the same shall be sought and given within the timelines.

19. List before the Court on 28th January, 2025.

I.A. 45300/2024 *(under Order XXXIX Rule 1 and 2 CPC)*

20. This application has been filed seeking following directions against the defendants:

> *"a. Pass an ex-parte ad-interim injunction restraining the Defendants, or any person acting for or on their behalf, either directly or indirectly, from storing, publishing reproducing or in any manner using, including through th ChatGPT model, the copyrighted Plaintiff's Works or any other original works of the Plaintiff.*
>
> *b. Pass an ex-parte ad-interim order directing the defendants to disable access of ChatGPT to Plaintiff's Works published anywhere by the Plaintiff or its subscribers."*

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21. Issue Notice.

22. Mr. Sanjeev Kapoor, Advocate accepts notice on behalf of the defendants.

23. Without prejudice to the rights and contentions of the defendants, Mr. Sibal submits that the defendants have already blocklisted the plaintiff's domain 'www.aninews.in' in October, 2024. As a result, the said domain will be excluded from the future training of the defendants' software.

23.1 The statement is taken on record.

24. Let the reply be filed within four (4) weeks.

25. The present suit raises novel legal issues arising on account of recent technological advancements. At this stage, some of the key issues that warrant consideration include the following:

I. Whether the storage by the defendants of plaintiff's data (*which is in the nature of news and is claimed to be protected under the Copyright Act, 1957*) for training its software *i.e.*, ChatGPT, would amount to infringement of plaintiff's copyright.

II. Whether the use by the defendants of plaintiff's copyrighted data in order to generate responses for its users, would amount to infringement of the plaintiff's copyright.

III. Whether the defendants' use of plaintiff's copyrighted data qualifies as '*fair use*' in terms of Section 52 of the Copyright Act, 1957.

IV. Whether the Courts in India have jurisdiction to entertain the present lawsuit considering that the servers of the defendants are located in the United States of America.

26. Counsel for the parties inform the Court that this is the first of its kind

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lawsuit filed in India against the defendants. Therefore, there is no established jurisprudence on the aforesaid issues which arise for consideration.

27. Mr. Sibal submits that there have been cases filed against the defendants in the United States of America as well as other jurisdictions raising similar issues. However, there is no authoritative ruling as on date.

28. Considering the range of issues involved in the present suit arising on account of recent technological advancements *vis-à-vis* copyrights of various copyright owners, this Court is of the view that two *Amici Curiae* be appointed to assist the Court in this case, ***(i)*** a lawyer practicing in the field of intellectual property including copyright and ***(ii)*** an academician in the field of intellectual property including copyright.

29. Accordingly, the Mr Adarsh Ramanujan, Advocate and Dr Arul George Scaria, Professor of Law, National Law School of India University (NLSIU) are appointed as *Amici Curiae* in the present case to assist the Court.

30. Let a complete set of plaint paper-book along with a copy of the written statement to be filed be supplied to the *Amici Curiae*.

31. The *Amici Curiae* shall file their brief note of submissions before the next date of hearing.

32. List on 28th January, 2025.

AMIT BANSAL, J

NOVEMBER 19, 2024
Vivek/-

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