

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****IN ITS COMMERCIAL DIVISION****COMMERCIAL MISCELLANEOUS PETITION NO. 50 OF 2025**

Asustek Computer Incorporation

...Petitioner

Versus

The Registrar of Trade Marks

...Respondent

Mr. Anees Patel a/w Ms.Dishita Shah & Ms.Priyanka Prabhakar i/b ANM Global Inc., for Petitioner.

Mr. Vinit Jain a/w Mr.Gaurav Mhatre, for Respondent No.1.

Ms.Charu Shukla a/w Ms.Amishi Sodani, Ms.Retti Shetty i/b Ms.Charu Shukla, for Respondent No.2.

CORAM : ARIF S. DOCTOR, J.

DATE : 17th NOVEMBER 2025

P.C.-

1. The caption Miscellaneous Petition impugns an order dated 30th May 2024 passed by Respondent No.1 by which the Petitioner's notice of opposition bearing no. 1047402 was dismissed and the Trade Mark Application No. IRDI-3994059 filed by Respondent No.2 came to be allowed.

2. The grievance of the Petitioner in a nutshell is that the Petitioner had not received any link for the hearing held by Respondent No.1 and it was in these circumstances that the order came to be passed.

3. Today when the matter was called, learned counsel appearing on behalf of Respondent No.1 conceded that there was inadvertence at the end of Respondent

No.1 as no link for the said hearing was sent to the Petitioner. Learned counsel has tendered an email received by him from the Trade Mark Registry. The email reads thus :

“Sir, As discussed with your office, we came to know that your office is yet to receive the copy of petition in captioned matter. In this regard, please find the copy of petition attached herewith. This office has perused the petition and upon re-visiting the records, it transpires that a total of 3 oppositions had been filed against the mark of Respondent no. 2, including that of petitioner, however while serving the hearing links, the concerned officer omitted to send the hearing link to the petitioner resulting the absence of petitioner and consequent dismissal in default. Therefore, in case the petitioner prays the hon'ble court for remanding the matter back to TM Registry, the registry is ready to reconsider the matter and allow hearing.

The Matter is listed on 13.11.2025.

Regards,

Ankit Sharma,

Registrar of TM

TMR Mumbai

4. Hence, in light of the above, learned counsel for Respondent No.1 submits that the matter may be remitted back for the fresh consideration.

5. Ms. Shukla, learned counsel appearing on behalf of Respondent No.2 has vehemently opposed the matter being remanded back. It is her submission that the Petitioner has not been vigilant in prosecuting its opposition. She submits that even if no link for the hearing was given, it was the Petitioner's obligation to have followed up with the Registry. She submitted that the Petitioner not having done so was clearly not diligent in prosecuting its opposition proceedings. She then submitted that Respondent No.2 and the Petitioner have been co-existing by

using their respective marks for the last several years and thus, there was no merit in the opposition proceedings filed by the Petitioner.

6. Given that today the Registry has accepted that there has been inadvertence on its part in sending the hearing link to the Petitioner and has also placed on record an email communication by which the Registry has conceded to the order being set aside and the matter being remanded back. Given that today the Registry has accepted permission to sent the hearing link to the Petitioner which has consequently resulted in the absence of the Petitioner at the hearing, I find that it would be in the interest of substantive justice to remit the matter back for fresh consideration. I find no merit in the opposition raised by Ms.Shukla. The basic canon of natural justice has not been fulfilled for no fault of the Petitioner. No prejudice whatsoever would be caused to Respondent No.2, since all contentions raised by Respondent No.2 are kept open and would be adjudicated upon in such fresh hearing including the contention that both Respondent No.2 and the Petitioner have been co-existing for several years.

7. In the light of this, the Petition is accordingly disposed of in terms of prayer clauses (c) & (d) which read thus :

“c) That this Hon'ble Court be pleased to set aside the impugned order dated 30 May 2024 passed by Respondent No.1 dismissing the Petitioner's Notice of Opposition bearing No.1047402 and allowing Respondent No.2's impugned trade mark Application No. IRDI. 3994059 to proceed for protection / registration in India (annexed at Exhibit – A to the Petition);

d) That this Hon'ble Court be pleased to order and direct Respondent

No.1 to reinstate the Petitioner's Notice of Opposition bearing No.1047402, to reschedule the opposition hearing/s by ensuring proper issuance and communication of hearing notice/s and virtual hearing link/s;"

8. The Commercial Misc. Petition is disposed of.

(ARIF S. DOCTOR, J.)