

Will the Real OpenAI Please Stand Up?

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As you may have noticed, it is nearly impossible to use the internet today without encountering artificial intelligence (or, in common parlance, AI) in one form or another. This has largely resulted from the proliferation of AI tools, generative AI platforms, and the discourse surrounding them. Perhaps the most famous of these generative AI platforms available today and occupying AI discourse is ChatGPT. ChatGPT is one of the leading generative AI platforms and functions as an AI chatbot that can carry on conversations with users, generate answers to complex questions or issues posed by users, generate content such as songs and images, and play games with users.

ChatGPT was developed by an AI research company called Open AI, and is widely credited with starting the current AI revolution. OpenAI was founded as an AI research organization in December 2015 and quickly garnered a strong reputation in the AI field based on its AI algorithm and software product developments and releases, research,

and promotion. As the development of AI garnered more and more popularity and attention, so did OpenAI and its products, leading OpenAI to become one of the top AI companies in the world.

Of course, with OpenAI's success and popularity (particularly thanks to the launch of ChatGPT), many individuals and companies—both large and small—have tried to emulate OpenAI's and ChatGPT's success. While most have tried to do so by developing and launching their own separate AI-related products and platforms (some successful, some not so much), others appear to have tried to emulate OpenAI a little *too much*. One such instance involves a company called “Open Artificial Intelligence, Inc.” and its owner Guy Ravine, both of whom were named as Defendants in a trademark infringement action brought by OpenAI (for once, an AI-related dispute that doesn't involve copyright claims!).

To their credit, according to OpenAI's complaint and subsequent pleadings, Open Artificial Intelligence and Ravine seem to have recognized from the very beginning OpenAI's potential glow up from unicorn to bona fide market disruptor. In 2015, the same year that OpenAI launched, Open Artificial Intelligence and Ravine allegedly scrambled to acquire rights in the “OpenAI” name—first by acquiring the domain name “open.ai” and setting up a webpage that said “Announcement Will Be Made Soon,” and then seeking to register the trademark “Open AI” with the USPTO by relying on the webpage as a use in commerce. According to OpenAI, Ravine then emailed one of OpenAI's founders to propose a collaboration between OpenAI and Ravine/Open Artificial Intelligence. A bold business strategy that OpenAI ultimately...rejected. After that rejection, the webpage Ravine created at open.ai started redirecting website traffic to OpenAI's webpage located at openai.com.

This was not the end for Ravine though. In 2016, after the USPTO rejected his “Open AI” trademark application for lack of use in commerce, Ravine allegedly copied content from another AI-related website and submitted it as a new specimen. Though the USPTO declined to register the “Open AI” mark on its Principal Register based on descriptiveness, it permitted Ravine to register the mark on the Supplemental Register. And just like that, Ravine and Open Artificial Intelligence were back in business!

Meanwhile, OpenAI was garnering widespread acclaim through the research, development, and release of various AI products and publications, all of which it was doing in connection with its “OpenAI” name. As a result of its acclaim and notoriety, OpenAI (perhaps belatedly) chose to apply to register its “OpenAI” trademark with the USPTO in January 2022. With that decision to register “OpenAI” came OpenAI's discovery of Ravine's trademark on the Supplemental Register and that Ravine and Open Artificial Intelligence had been redirecting traffic from its open.ai webpage to OpenAI's openai.com webpage. Despite early efforts by OpenAI to purchase the open.ai domain and settle the dispute early, no resolution was reached, and Ravine dug his heels in by filing a letter of protest with the USPTO and launching his own apparent image generation platform on open.ai. In response, OpenAI filed various claims alleging trademark infringement, fraudulent registration, and cancellation of the Defendants' mark

on August 4, 2023, to which the Defendants responded with counterclaims for reverse trademark confusion.

After nearly two years of litigating the case, on April 9, 2025, OpenAI filed a motion for summary judgment as to all of its claims and the Defendants counterclaims, which the court granted in its entirety on July 21, 2025. Given the virtually identical nature of the trademarks (“OpenAI” versus “Open AI”) and the virtually identical industry and highly related products the parties purport to offer (generative AI-related platforms/tools), the parties conceded that the marks caused, and were likely to continue to cause, consumer confusion. Thus, the court’s decision instead hinged (unsurprisingly) on priority—who gained a protectible interest in the OpenAI/Open AI mark first?

In particular, the court’s inquiry was three-fold: (1) was Ravine’s and Open Artificial Intelligence’s first “use” of the “Open AI” mark bona fide in light of Ravine’s ownership of the open.ai domain name and “Announcement Will Be Made Soon” webpage, and his 2015 trademark application?; (2) if not, do either of the parties’ marks have inherent distinctiveness or secondary meaning?; and (3) if so, when was that secondary meaning acquired? As to the first question, the court held that the Defendants procured the Open AI mark fraudulently through misrepresentations to the USPTO and did not make a bona fide use of it in commerce, and cancelled the registration. As for the second question, the court answered the in the negative as to the Defendants, finding that Defendants’ mark was descriptive without secondary meaning based on a lack of any evidence that Open AI acquired secondary meaning. However, the court did find that OpenAI’s mark acquired secondary meaning by at least November 2022, if not earlier. In turn, by launching its own AI image-generating platform **after** OpenAI gained secondary meaning, Defendants infringed OpenAI’s mark.

Having found in favor of OpenAI on all of its claims and on the Defendants’ counterclaims, the Court permanently enjoined the Defendants from using the Open AI mark or any confusingly similar marks in connection with AI products or services. While it is unclear if the Defendants intend to continue offering AI-related products or services, the court’s order makes it clear that they will have to change their name if they do. Luckily, Defendants can take solace in the fact that there is an abundance of generative-AI tools at their disposal to assist in coming up with a new name.