



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**



### **Megha Middha**

*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## Dr. Namita Jain



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

*Assistant professor of Law*

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and*

*learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **COMPREHENSIVE OVERVIEW OF TRADEMARK LAWS IN INDIA: REGISTRATION, RIGHTS AND RECENT DEVELOPMENTS**

AUTHORED BY - UJALAMBE ABHAY DAYANAND

## **ABSTRACT**

*This article provides a thorough review of trademark laws in India, highlighting important elements such as the registration process, privileges granted to trademark owners, infringement clauses and recent advancements in the area. It examines the meaning and importance of trademarks as well as the different ways they can be used and the crucial part they play in the economic world. The registration procedure is studied in depth, with emphasis on the steps, prerequisites, deadlines and associated costs. The protection against infringement, the means of enforcement and the capacity to license or assign the mark are some of the rights and advantages of trademark registration that are covered. The article also goes into detail about trademark infringement and enforcement, discussing the legal requirements, various remedies and the significance of preserving trademark rights. To demonstrate the changing legal landscape, recent changes to Indian trademark regulations are highlighted, including the Trademarks Act's modifications, significant rulings and case studies. We also look at the particular difficulties and chances given by e-commerce as well as the international aspects of trademark protection in India including agreements and treaties. The article also discusses trademark maintenance and renewal, highlighting the significance of preserving and enhancing trademark rights over time. To demonstrate how trademark rules are used in practice, several significant Indian trademark cases are reviewed, including the Ranbaxy Laboratories Limited v Anand Prasad case and the Amul case. To effectively safeguard intellectual property in India, the essay emphasizes the need for ongoing adaptation of trademark laws to meet developing infringement strategies as well as the significance of well-equipped courts and enforcement bodies. Overall, it draws attention to the strong legal system that protects corporate identities, encourages fair competition, and supports creativity and innovation in the Indian market.*

**Keywords:** *Trademark, Infringement, Intellectual Property, Innovation.*

## INTRODUCTION

A trademark or trademark is one of the components of intellectual property rights and is denoted by the symbols TM or ®. A mark is a distinctive sign or indicator of some kind that is used by an individual, business organization, or other legal entity to distinguish its goods and/or services from those of other entities and to identify uniquely the source of its products and/or services to consumers. A trademark is a sort of intellectual property and often consists of one or more of the following: a name, word, phrase, logo, symbol, design or picture. Additionally, there is a variety of non-conventional trademarks made up of marks that do not fit within these predefined categories. Trademarks play a pivotal role in the business world, serving as valuable assets that distinguish goods and services, establish brand recognition and foster consumer loyalty. In India, the legal framework surrounding trademarks is governed by the Trademarks Act 1999 and subsequent amendments. This article aims to provide a comprehensive overview of trademark laws in India, exploring the registration process, rights and benefits conferred to trademark owners, infringement provisions, and recent developments in the field.

## UNDERSTANDING TRADEMARKS

A trademark can be defined as a distinctive sign, symbol, word, or combination thereof that identifies and differentiates the goods or services of one party from those of others. It serves as an intangible asset that represents the reputation, quality, and credibility associated with a brand.

**Trademarks can take various forms, including logos, names, slogans, or even specific colors.**

**Registration Process:** In India, the registration of trademarks is administered by the Office of the Controller General of Patents, Designs, and Trademarks. The registration process involves several stages, including application filing, examination, publication, opposition, and registration. This section delves into each step of the process, highlighting the requirements, timelines, and associated fees.

**Rights and Benefits of Trademark Registration:** Trademark registration provides several exclusive rights and benefits to the owner. This section explores the advantages of registering a trademark in India, such as the right to use the registered mark, protection against infringement, the ability to enforce legal action, and also provide the right to assign or license the registration mark.

**Infringement and Enforcement:** Trademark infringement refers to the unauthorized use of a registered trademark that is likely to cause confusion or deceive consumers. This section discusses the legal provisions related to infringement, including the tests for determining infringement, available remedies, civil and criminal penalties, and the importance of enforcing trademark rights.

**Recent Developments and Case Studies:** Trademark laws are subject to continuous development to keep pace with evolving business practices and technological advancements. This section highlights significant recent developments in Indian trademark laws, including amendments to the Trademarks Act, landmark judgments, and notable case studies that have shaped the legal landscape.

**International Protection of Trademarks:** India is a signatory to various international agreements and treaties related to trademark protection, such as the Paris Convention and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). This section explores the implications of these agreements on trademark laws in India and the mechanisms available for the international protection of trademarks.

**Trademark and E-commerce:** In the era of e-commerce, trademarks face unique challenges and opportunities. This section examines the interface between trademark laws and e-commerce platforms, discussing issues such as online brand infringement, domain name disputes, the liability of intermediaries, and the role of technology in trademark enforcement.

**Trademark Renewal and Management:** Trademark registration in India is valid for ten years, after which it must be renewed to maintain protection. This section provides an overview of the trademark renewal process, the importance of proper trademark management, and strategies to protect and strengthen trademark rights over time.

## **RIGHTS AND REMEDIES OF A TRADEMARK OWNER**

To stop unauthorized use of a trademark, the owner of a registered trademark may file a lawsuit for trademark infringement. Registration is not necessary, though. A common law trademark owner may also initiate a lawsuit, but an unregistered mark may only be protected in the region

in which it has been used or in regions where it may be reasonably expected to spread<sup>1</sup>. If a third party uses your trademark without your permission or copies it, you have two options for legal action. In the event of a registered trademark, these remedies include an action for infringement, and in the case of an unregistered trademark, they include an action for passing off. The former is a common law remedy, whereas the latter is a legislative remedy. A court may order an injunction, monetary reparations for business losses, or the confiscation or destruction of counterfeit labels, tags, and other items in a case involving infringement or passing off. Although trademark registration is a prima facie indication of a mark's validity, it cannot supersede an earlier, consistent trademark user.

Trademark infringement is the illegal use of a trademark's exclusive rights without the permission of its owner or any of its licensees (if such permission falls within the parameters of the license). When a party—the "infringer"—uses a trademark that is the same as or confusingly like one belonging to another party in connection with goods or services that are the same as or similar to those that the registration covers, an infringement may take place. A trademark owner has the right to file a lawsuit against someone who uses it without permission.<sup>2</sup>

## **TRADE MARK LAWS IN INDIA**

The revised Trade Marks Act, of 1999, which took effect on September 15, 2003, codifies Indian trademark law. During that time, the old Trade and Merchandise Marks Act of 1958 was abolished. The revised Trademarks Act of 1999 complies with the TRIPS Agreement, to which India is a member, and the WTO's recommendations. Certain nations have been designated by India as convention nations, giving their residents identical freedoms to those enjoyed by its nationals. Within six months of applying in their home country, an individual or business from a convention nation may apply for the trademark's registration in India.

## **CASES OF TRADE MARK LAW IN INDIA**

The Amul Case: No one else is permitted to utilize Amul's trademark after winning the Gujarat High Court lawsuit. Two local shop owners were the targets of trademark infringement lawsuits brought by The Kaira District Co-operative Milk Producers' Union Ltd. and GCMMF. Amul Cut Piece Stores and Amul Chasmaghar before the District Court, Anand. The District Court in Anand

---

<sup>1</sup> The Trade Marks Act, 1999

<sup>2</sup> The Trade Marks Act, 1999

issued a decision on April 25, 2007, declaring that there was clear evidence of trademark infringement and prohibiting the two from using the Amul logo. This temporary injunction had been contested before the Gujarat High Court by Amul Chasmaghar. The Gujarat High Court found in favor of Amul, describing the trial court's judgment as accurate, correct, lawful, and by the Trade Marks Act 1999.

***Ranbaxy Laboratories Limited vs. Anand Prasad & 4 Others***<sup>3</sup>: The mark "FORTWIN" had been in use by the appellant since 1975. He was the mark's registered owner. The respondent applied for the trademark "OSTWIN." Both trademarks have to do with medicinal formulations for the treatment of bones. The respondent was sued by the appellant because the marks were confusingly similar. According to the IPAB, the prefixes are "FORT" and "OST," and both marks are completed with the suffix "WIN." It was further argued that as the competing products are also medicinal, there might be major repercussions as a result of public confusion or deceit.

## **SCOPE OF FOREIGN INVESTORS ABOUT THE REGISTRATION OF TRADE MARK IN INDIA**

One of the crucial safeguards that firms in India should use is trademark registration. Many applicants, both local and international, have been successful in getting their marks registered in India. Many of those registrations have been validated by Indian courts, who have also ruled in the rights holders' favor. Businesses need to implement additional trademark protection tactics in addition to registering their trademarks in India. Following are a few of them. Request that trademark searches in the relevant classes, including supplementary classes, be done in the Indian Trade Marks Registry.

Find out if and how much third parties are utilizing your trademarks by ordering common law searches (including online, market research, Yellow Pages, and directories). Determine whether the trademark is available for use or not based on this information and after requesting the opinion of the local counsel. Immediately apply for registration if the trademark is usable. The owner of the rights might think about employing a monitoring service to keep an eye on trademark journals and notify them of any trademarks that have been published that are confusingly similar or that are descriptive.

---

<sup>3</sup> Ranbaxy Laboratories Limited vs. Anand Prasad & 4 Others 2004 (28) PTC 438 (IPAB)

If the trademark owner has a well-known mark that has been in use for some time and has built up goodwill and reputation, it is advised that in addition to filing a trademark application in India, they also issue press releases, publish cautionary notices, and advertise the mark to make sure the appropriate audience is aware that they are entering the Indian market and protecting their mark from any infringement by third parties. As there have been numerous instances of third parties registering domains for well-known marks to extort money by selling these domain names to the rights holders, the rights holder should also take immediate action to register their domain names, including country code top-level domain names in India.

## CONCLUSION

It may be inferred that the Indian Trade Mark Law has to be changed often to keep up with evolving and novel trademark infringement techniques. For the quick and effective resolution of matters involving intellectual property, courts, and enforcement authorities must both be well-equipped and educated. Trademark laws in India form a robust legal framework that safeguards brand identity, promotes fair competition, and protects the rights of brand owners. The Trademarks Act, of 1999, and subsequent amendments provide a comprehensive framework for trademark registration, enforcement, and protection. By understanding and leveraging these laws, businesses can secure their brand reputation, gain a competitive edge, and foster a culture of innovation and creativity in the Indian marketplace.