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# How can Trademark Infringement Affect Small Businesses: With Special Focus on Environmental Issues Related and Sustainability

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## ABSTRACT

*First of all we need to understand the meaning of trademark before understanding how can trademark infringement affects the environment and related problems respectively. Also we will be looking into some case laws which are important from the perspective of the understanding of the viewer's respectively in order to understand the topic in depth.*

*So basically it starts with the onset of the industrial revolution wherein it can be observed that the increase in the production and distribution of goods basically requires the emergence of trademark law and at the same time every manufacturer has therefore been producing a line of different products respectively. In order to maintain a balance between environment and trademark related activities in today's changing world and so the paper discusses about this principle.*

*As Trademark and the IPR Sector is growing at a robust pace, so the environmental problems related to it is gradually increasing and more importantly as we all know that regions of India such as North- East India, Uttarakhand, Southern India , Western Ghats, Eastern Ghats, Chota Nagpur Region, Jammu and Kashmir are quite sensitive so we can observe that trademark infringement in these regions becomes quite problematic in relation to trademark related environment problems as they are quite sensitive in nature.*

*Loss of revenue: Failing to protect intellectual property can lead to lost revenue.*

*Legal issues: Trademark infringement can lead to legal issues. In India, the penalties for trademark infringement can include civil and criminal penalties, such as up to three years in prison and a fine of ₹2 lakh.*

*Misleading consumers: Trademark infringement can mislead consumers into thinking that a product or service is environmentally friendly when it is not. For example, the EUIPO recently denied registration of the trademark "Sustainability through quality" because it was not considered to be an indicator of commercial origin.*

*Under Section 135 of the Trademarks Act, 1999 it can be observed that one can initiate a legal proceeding in order to pass off or in relation to infringement of the trademark. It can*

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*be observed that in trademark infringement cases, although trademarks basically serves as an indispensable assets which mainly encapsulates the identity, reputation as well as the goodwill of a brand but it should be kept in mind that the landscape is not without its challenges and so the small businesses often find themselves navigating the intricate realm of trademark infringement cases respectively. We shall be studying more about the issue in detail through case laws, provisions given under Trademarks Act related to infringement and more importantly would like to conclude our article through suggestions and possible solutions.*

## **I. INTRODUCTION**

As we can observe, a legal proceeding can be initiated in matters related to passing off or wherein there is an infringement of trademark under Indian Trademark Law (Section 135 of the Trade Marks Act, 1999) and in this case the remedies that can be claimed are:

**(A) Permanent & Interim Injunction Against Use of The Mark-** Direction will be included to the infringer so that he does not use the mark again and also to prohibit him to use the website as well as the direction to the domain name registrar (intermediary) in order to take the site down. With the aim of securing the desired outcome of the complainant, successfully obtaining an injunction is usually sufficient.

**(B) Damages or an Account of Profits Made Through Use of the Trademark-** As we move further into the topic, then it can be observed that there are alternative remedies such as damages as well as the account of profits and moreover where one can only claim one of them respectively. Further in most cases of squatting, then in that case there is no profitable use of the trademark, because it can be observed that the squatter is not selling any product as well as the services.

The basic aim or the intention of the squatter is mainly to transfer the domain for an exorbitant sum in relation to the legitimate brand owner and thus profits related to monetary gains can be made. The transfer of the domain name can be done when a direction to the relevant registrar in order to initiate the transfer respectively.

One of the important points which can be taken into consideration is that even if the infringer is a foreigner, then in that case the foreign entities (such as domain name registrars) are more likely to comply with the orders of a court of another country and with regards to the enforcement it can be done without approaching a foreign court respectively.

With regards to consideration and setting up dominance, it can be observed that within the

competitive wilderness of center, a solid trademark henceforth serves as a little business thunder respectively. A brand acknowledgement is cultivated by a particular trademark respectively and more importantly it can clearly be observed that customers promptly recognizes the brand and then partner it with quality, values as well as a particular encounter they look for and then afterwards a solid brand henceforth acts as a fight cry, which basically declares the business's particular esteem suggestion respectively.

**False Environmental Claims:** When counterfeit or infringing products use trademarks related to eco-friendly practices, they mislead consumers into thinking they are purchasing environmentally responsible goods. This misrepresentation can harm efforts to promote sustainability by reducing trust in genuine green products. For example, counterfeit products may claim to be made from recycled materials when they are not, contributing to increased waste and resource depletion.

**Erosion of Trust in Eco-Friendly Brands:** Trademark infringement may undermine brands that are genuinely committed to environmental sustainability. If consumers start to confuse fake or inferior products with authentic environmentally conscious brands, it could decrease the overall demand for sustainably made goods, thus impacting eco-friendly initiatives.

**Encouraging Unsustainable Practices:** Trademark infringement is often associated with unregulated production, which can bypass environmental standards that genuine companies must follow. For instance, counterfeit manufacturers might ignore environmental regulations, leading to higher pollution, unsafe working conditions, and the depletion of natural resources.

**Undermining Certification Systems:** Many trademarks serve as indicators of products that meet certain environmental standards, such as "organic" or "fair trade." Infringement on these trademarks can create confusion and devalue certification systems, ultimately weakening efforts to ensure eco-friendly practices within industries.

By combating trademark infringement, companies can help protect the integrity of eco-friendly claims, maintain consumer trust in sustainable products, and support broader environmental goals.

## **II. TRADEMARK INFRINGEMENT OCCURRENCE AND ITS IMPACT ON ENVIRONMENT RELATED PROBLEMS**

In the case of *People United For Better Living in Calcutta v State of West Bengal*, it was basically observed that the Calcutta High Court had applied its mind to some of the problems related to conversion and exploitation of Wetlands and at the same time how can it was observed

that the facts of the case related to the parts of wetlands which were henceforth being reclaimed for providing living sites as well as for the location of a world Trade Centre which was in regards to Trademark Infringement of Environmental Laws respectively.

With lacking of trademark as well as inadvertent utilization or mainly when businesses through a need of exhaustiveness, backhanded infringement mainly happens and the main reason regarding the unauthorized utilization of trademarks, it can be well observed that E-Commerce Websites as well as social media act as a major culprit regarding the given issue <sup>23</sup>and further the most common strategy which can be traced here with regards to the trademark infringement can be basically be attributed to the fact that Cybersquatting as a major reason wherein somebody tries to register a space title with regards to the intention of offering it to the legitimate trademark proprietor respectively .

With regards to the buyers who are looking for the honest to goodness brand, it can be a well observed fact that little businesses may henceforth discover their trademarks which are utilized on fake items which are basically sold online, advance obscuring or where the case is such that it causes noteworthy perplexity respectively.

With regards on the impact of trademark infringement on environmental related problems it can be a well observed fact that it mainly causes an assault on little business wherein the trademark infringement unleashes an obliterating three-pronged assault on these businesses and further it also results in a low constrained budgets wherein the legitimate ensnarement which henceforth ensures the brands would eventually strain. In order to compete viably, it is a well observed fact that legitimate expenses rapidly amasses and at the same time it also redirects assets which are mainly absent from basic zones which can be taken into the consideration- improvement of item or its promotion and afterwards this money often relating to strain can henceforth smother development as well as the development which often prevents the little business's capacity respectively.

#### **(A) Case Example: EPA v. Allsteel Inc. (1996)**

While not directly related to trademark infringement, this case involved the EPA enforcing environmental regulations on a company's use of materials that were hazardous. This scenario could lead to branding implications if a company's product was marketed with eco-friendly

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<sup>2</sup> Using Intellectual Property to Improve Environmental Protection- Harvard Journal of Law and & Technology- <https://jolt.law.harvard.edu>

<sup>3</sup> Springer link.springer.com- Intellectual Property in the Age of the Environmental Crisis  
Green Trademarks and the Risk of Green washing- World Intellectual Property Organization <https://wipo.int>  
SS RANA <https://ssrana.in> Trademark Infringement- Trademark Misuse in India

labels or claims that were not substantiated or violated environmental laws. In such cases, consumers and environmental groups may challenge such branding as false or misleading, potentially leading to trademark-related claims.

Incapability of the buyers in order to recognize between the veritable and the fake is because of the fact that the foremost harming which is basically the result of trademark infringement which lies within the perplexity which it sows within the commercial center respectively and more importantly it henceforth results in the decrease in believe as well as devotion among the clients who henceforth encounters negatively with the encroaching item which ultimately relates it with the initial brand respectively.

#### **(B) Case Example: EPA v. Allsteel Inc. (1996)**

While not directly related to trademark infringement, this case involved the EPA enforcing environmental regulations on a company's use of materials that were hazardous. This scenario could lead to branding implications if a company's product was marketed with eco-friendly labels or claims that were not substantiated or violated environmental laws. In such cases, consumers and environmental groups may challenge such branding as false or misleading, potentially leading to trademark-related claims.

#### **(C) Case Example: Lanham Act and Environmental Claims**

Under the Lanham Act, companies may bring actions for false advertising if a competitor falsely claims environmental friendliness or eco-certifications in its branding when such claims are untrue. If such misleading claims result in harm to consumers or the environment, it could potentially involve both trademark and environmental violations. For example, a company claiming to be eco-friendly while violating environmental laws may face legal challenges from both competitors (under trademark law) and environmental regulators.

### **III. SMALL BUSINESS VS. CORPORATE GIANT: A COMPARATIVE CASE STUDY REGARDS TO ENVIRONMENTAL ANALYSIS**

Let we understand our topic through a comparative case wherein Envision a little artisanal coffee shop had named "Bean Haven" respectively. It was observed that a multinational coffee chain had been opened with the name- "Bean Sanctuary Café" respectively. Unequal fight which little businesses frequently confronts has been highlighted by the case and more importantly the likeliness henceforth causes perplexity among clients and further the little trade henceforth faces lawful expenses which ensures its stamp, but on the other hand corporate mammoth can bear a legitimate group respectively.

In the recent case of **Goa Foundation v Sesa Sterlite Ltd.**, it was basically observed that the Supreme Court with a long and hard look at the alarming environment scenario in Goa and the actions which were basically taken in this view was that “ To end Illegal Mining by the Lease Holders as well to start on a clean slate” that in 2014 the court had cracked on the indiscriminate mining and appointed the monitoring committee to dispose of the illegally- mined ore respectively and then the iron ore being vested in the state government the mining lease holders had no freedom for illegal mining and then afterwards the High Court misread the Apex Court under Section 8(3) of MMDR Act in respect of those to execute mining activities respectively.

#### **IV. CONCLUSION AND SUGGESTIONS**

As we conclude how can trademark infringement can affect small business, then it can be observed that the problems related to environmental problems can be solved when increasing trademark infringement problems and these are the possible solutions to the above problems as follows -

##### **1. Financial Burden**

**Legal Costs:** Trademark infringement lawsuits can be expensive. Small businesses may not have the budget to fight a legal battle or settle disputes. This could drain funds that would otherwise be used for sustainability initiatives, such as eco-friendly materials, energy-efficient systems, or waste reduction programs.<sup>4</sup>

**Loss of Reputation and Revenue:** If a small business is accused of infringement, it may face a loss of consumer trust. This could hurt sales, reducing the financial capacity to invest in environmentally sustainable practices.

##### **2. Resource Allocation and Operational Disruptions**

**Diverted Focus:** Trademark issues demand time and attention from the business owners, diverting resources away from operations and sustainability efforts. Businesses that want to prioritize green initiatives may find themselves bogged down with legal battles, slowing down the adoption of sustainable practices like reducing carbon footprints or sourcing ethical products.

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<sup>4</sup> Trademark Enforcement Strategies: Corporate Environmental Infringement, Legal Regulations – <https://www.frontierssin.org>  
Court Considers Environmental Problems and Traffic in Trademark Infringement Case- Grunecker – Von Jatje Agena -08 July 2021 <https://grunecker.de>  
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**Reputation Damage:** For small businesses with a focus on sustainability, allegations of infringement can tarnish their reputation as an ethical brand, especially if they are seen as contributing to environmental harm. For example, if the trademark infringement involves environmentally harmful practices or products, it could further damage the business's green image.

### **3. Environmental and Ethical Impact**

**Supply Chain Disruptions:** If a small business is involved in trademark infringement, it may have to pull certain products from the market or change suppliers. This could disrupt sustainable supply chains or cause delays in green product offerings.

**Sustainability Initiatives at Risk:** In the case of a dispute over trademarks that also involves environmental claims (e.g., "eco-friendly" or "sustainable"), it could complicate or halt the progress of legitimate sustainability efforts. Small businesses, already operating in competitive and resource-constrained environments, may not have the bandwidth to adjust their branding or marketing, especially if they have to focus on legal concerns rather than sustainability goals.

### **4. Damaged Partnerships**

**Loss of Eco-Friendly Partnerships:** Many small businesses focus on eco-conscious collaborations with suppliers, customers, or other partners. Trademark disputes can jeopardize these relationships, particularly if an environmental partner sees the business as a liability or incompatible with its green mission.

**Investor Relations:** Investors, especially those focused on environmental impact and sustainability, might hesitate to support a business involved in legal issues, including trademark infringement. This reduces access to funding for future green initiatives, such as expanding sustainable product lines or improving waste management processes.

### **5. Potential for Environmental Greenwashing**

**Accusations of Misleading Claims:** Small businesses that are accused of trademark infringement, particularly in relation to sustainability claims, may find themselves accused of "greenwashing"—falsely presenting products or practices as environmentally friendly. This accusation could be used against them in court or by competitors, undermining their credibility in the green marketplace.

**Correcting Misleading Branding:** If the infringement relates to a trademark that includes environmentally friendly terms, the business might need to alter its branding and this can involve revising labels, packaging, or marketing materials—efforts that may undermine the



business's sustainability messaging or force them to use less eco-friendly materials as a cost-cutting measure.

## **6. Mitigation and Solutions for Small Businesses**

**Legal Awareness and Precautionary Measures:** Small businesses should proactively protect their trademarks and ensure they are not infringing on others. Legal advice can help avoid disputes. By establishing clear, legally compliant environmental claims, businesses can maintain their credibility and sustainability focus.

**Alternative Dispute Resolution (ADR):** Engaging in mediation or arbitration to resolve trademark disputes can be less costly and time-consuming, allowing businesses to focus on their environmental initiatives.

**Strategic Sustainability Communications:** Ensuring that sustainability claims are clear, truthful, and substantiated can help small businesses avoid legal issues related to misleading environmental marketing. It also protects the company's green reputation in the event of a trademark dispute.

**Collaboration and Advocacy:** Partnering with environmental organizations or industry associations can provide small businesses with guidance on both legal protection and sustainability practices, making it easier to navigate the complexities of trademark law while maintaining green . Also we need to make strong understanding between the trademark infringement and how environmental problems can be duly resolved through effective measures, government policies, committees, bills, acts, International and National Regulations and finally trademark related issues can only be resolved through proper awareness, understanding, curbing misleading information and increasing the punishment related to environmental problems in the country respectively.

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