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# Infringement of Trademarks

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## ABSTRACT

*The primary goal of a trademark is to make it easier for consumers to identify the source of a certain product or service. In turn, the source aids in determining the quality. Consumers often make purchasing decisions based on the quality of the product. That is why a trademark is so significant in the commercial sector. A trademark indicates the origin and quality of products or services to the consumer. This is why it's crucial to make sure your trademark isn't being used without your permission. A trademark is a symbol of the owner's brand value. In most cases, trademark infringement costs the owner of the infringed mark money and harms their reputation. It's always preferable to be cautious and prevent prospective infringers from profiting from your goodwill and reputation. This paper explains the meaning of trademark infringement with some case laws.*

**Keywords:** *Trademark Infringement, Types of Infringement, Remedies, Indian laws, Suit for Infringement.*

## I. INTRODUCTION

A trademark is a symbol in the form of a word. It is a device or label that applies to commercial products to inform buyers that the item is a good manufactured or otherwise dealt in by a certain person as distinguished from similar goods manufacture. A trademark indicates a product's origin and ensures that its quality remains constant. A trademark promotes a product and sets it apart from others. In Section 2(1)(zb), a “trade mark means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours.”<sup>2</sup>

The use of a trademark prohibits others from copying a company's or individual's products or services without authorization. They also restrict any marks that have a high possibility of being confused with one that already exists. This implies that a company can't use a symbol or brand name that looks or sounds similar to, or has the same meaning as, one that's already registered—especially if the products or services are connected. For example, a soft drink

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<sup>2</sup> Trade Marks Act, 1999, No.47, Acts of Parliament, 1999 (India).

company, cannot lawfully use a symbol that looks like Coca-Cola and sounds like Coke.<sup>3</sup> The laws that regulate trademarks do not expire. This indicates that the trademark belongs to the holder for the whole life of the product or service. However, there are certain exceptions. To benefit from trademark laws, the user must make continuous, legitimate use of the trademark. In fact, for the trademark law to be enforced, a firm or individual must routinely manufacture, produce, market, and sell a product bearing a certain trademark. Every five years, you can do this by submitting a section 8 declaration with the USPTO. Failure to do so may result in the cancellation of your registration. Anybody who claims trademark or service mark rights in a mark may use the TM (trademark) or SM (service mark) designation with the mark to notify the public of the claim. To use these designations, you do not need to have a registration or even a pending application. The claim might be true or untrue. The registration sign (R) may only be used if the mark has been registered. Under the TRIPS Agreement, India's duties for trademark protection include protection to distinguishing marks, recognition of SM, indefinite periodical renewal of registration, removal of compulsory licensing of trademarks, and so on. India, being a common law country, embraces not only codified law but also common law principles, and as such permits for infringement and passing off proceedings against trademark infringers. The Trademarks Act, 1999 is the law that governs trademark protection in India. The Act establishes the regulations governing trademark registration, protection, and infringement penalties. Trademarks are treated as intellectual property throughout the world. Under Section 135 of the act, it recognizes both infringements and passing off proceedings. There are several international and state organizations that safeguard intellectual property such as trademarks. The Indian Patent Office, which is supervised by the Controller General of Patents, Designs, and Trademarks, is in charge of trademark protection in India. In India, trademark infringement is specified in Section 29 of the Trademarks Act, 1999. Simply defined, infringement occurs when an unauthorized individual uses a trademark that is "identical" or "deceptively similar" to a registered trademark. Trademark infringement arises when someone violates the exclusive rights attached to a registered trademark without the permission of the trademark owner or any licensees (provided that such authorization was within the scope of the license). Infringement occurs when the infringer (i.e., the person infringing) uses a trademark that is confusingly similar to a registered trademark owned by another person in relation to products or services that are identical or similar to the products or services covered by the registration. The owner of a registered trademark may file legal action against the infringement. A non-registered trademark cannot be infringed as such, and the

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<sup>3</sup> Carla Tardi, *Trademark*, (Feb. 20, 2021, 10:04 AM) <https://www.investopedia.com/terms/t/trade-mark.asp>.

trademark owner cannot initiate infringement procedures. Instead, the owner may file a claim under common law for passing off or misrepresentation, or under legislation that bans unfair commercial practices. In some countries, trade dress infringement may also be actionable. To show infringement of a registered trademark, all that is required is that the infringing mark be identical or deceptively similar to the registered mark; no more proof is required.

For unlawful use of a trademark's imitation by a third party, the owner of the trademark has two options. In the event of an unregistered trademark, these remedies are an action for passing off and action for infringement in the case of a registered trademark. An infringement action and a passing-off action are not the same things. An infringement action is a statutory remedy, whereas a passing-off action is a common law remedy. A criminal complaint can also be brought in the event of trademark infringement or passing off. It should be observed that, according to the provisions of the Trade Marks Act, 1999, the violations under the Act are Cognizable, which means that police can file a FIR (First Information Report) and directly prosecute the offenders.

## **II. TYPES OF TRADEMARK INFRINGEMENT**

When analyzing trademark infringement, it is important to understand that there are two categories of infringement:

### **1. Direct infringement**

A few conditions must be satisfied for a direct breach to occur, and they are as follows:

- **Use by an unauthorized person:** This indicates that a trademark violation occurs only when the mark is used by someone who is not authorized by the registered trademark owner. Infringement does not occur if the mark is used with the permission of the registered trademark owners.
- **Identical or deceptively similar:** The unauthorized person's mark must be either identical to or deceptively similar to the registered trademark. The phrase "deceptively similar" here simply means that the common customer may be confused by the marks and mistake them for the same. It is sufficient to prove infringement if there is a possibility of misrecognition of the marks.
- **Registered trademark:** The Act exclusively protects trademarks that have been registered with India's trademark registrar. The common law of passing off is utilized to settle disputes when an unregistered mark is violated. It is a type of tort law that is utilized when another person's or group of people's actions cause hurt or damage to their goodwill.

- Class of goods or services: To constitute trademark infringement, the unlawful use of the mark must be utilized for the propagation of products or services that are in the same class as the registered brand.

In the case of *Kaviraj Pandit Durga Dutt Sharma v. Navaratna Pharmaceutical Laboratories*,<sup>4</sup> the Apex Court held that the burden of proof is upon the Plaintiff to establish that the defendant's trademark is deceptively similar in the products for which his mark is registered.

*Milmet Oftho Industries & Ors v. Allergan Inc.*<sup>5</sup> was a significant decision in which the Apex Court extended trademark protection in India to a well-known international brand. An Indian firm was barred from using the trademark OCUFLOX by the court. The decision was made even though the fact that the US firm had not utilized the mark in the Indian market and that the mark had not been registered in India. The respondent in this instance was the first to enter the market and use the mark, according to the court. Furthermore, if the respondent was the first to join the global market, the fact that they have not utilized the mark in India is irrelevant. It was also said that in the domains of health care and medicine, any chances for deceit and misunderstanding should be avoided at all costs while ensuring that the public's interest is not endangered.

## **2. Indirect infringement**

Indirect infringement is a common law theory that holds not only direct infringers but also those who incite direct infringers to conduct infringements responsible. Contributory infringement and vicarious responsibility are two types of indirect infringement, often known as secondary liability. In contrast to direct infringement, there is no particular provision in the Act dealing with indirect infringement. This does not mean that there's no risk of indirect infringement. The universal law principle underpins the concept and practice of indirect infringement. It holds not just the primary infringement responsible, but also anyone who aids or encourages the direct criminal to infringe. Indirect infringement can be divided into two categories:

- Vicarious liability: According to Section 114 of the Act, if an organization violates the Act, the entire organization is responsible. As a result, everyone accountable for the firm, including the primary offender, will be liable for indirect infringement, except for someone who acted in good faith and without knowledge of the infringement. The components of vicarious responsibility are: - when the person has control over the primary infringer's actions

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<sup>4</sup> *Kaviraj Pandit Durga Dutt Sharma v. Navaratna Pharmaceutical Laboratories*, 1965 SCR (1) 737.

<sup>5</sup> *Milmet Oftho Industries & Ors v. Allergan Inc.*, (2004) 12 S.C.C. 624 (India).

– when the person is aware of the infringement and participates in it – when the person stands to profit financially from the infringement. The only time a corporation is immune from vicarious responsibility for infringement is if it acted in good faith and had no knowledge of the infringement.

- **Contributory infringement:** Contributory infringement is composed of merely three elements: When a person (a) is aware of the infringement, (b) participates significantly in the direct infringement, or (c) causes the primary infringer to conduct infringement. There is no exemption in the situation of contributory infringement since the contributing infringer has no opportunity of acting in good faith.

In *Hearst company v. Dalal Avenue Verbal Exchange Ltd.*,<sup>6</sup> the court found that a trademark is infringed when a person uses a mark that is identical to or deceptively similar to the trademark in the course of business in relation to the products for which the trademark is registered. The use of the mark by such a person must be done in a way that is more likely to be interpreted as a trademark.<sup>7</sup>

All of the conditions of Section 29(4) of the Act appear to have been met in *Ford Motor Company of Canada v. Ford Service Centre*.<sup>8</sup> The Court ruled in this instance that using a well-known brand as a business name and trading style is also a trademark infringement. In a suit for trademark infringement, it is well-established law that the plaintiffs' exclusive and fundamental rights of infringement of trademark cannot be negated if the plaintiffs delay in bringing the action before the Court.

### III. NECESSARY AND SUFFICIENT CONDITIONS

Any individual who infringes on the rights given by trade mark registration infringes on the registered trademark. To be specific, the following requirements should be met to establish an infringement:<sup>9</sup>

- The mark used by the person must be either identical or deceptively similar to the registered mark;
- The goods or services for which it is used must be particularly covered by the registration;
- Use of the mark must be in the course of trade in areas covered by the registration;

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<sup>6</sup> *Hearst company v. Dalal Avenue Verbal Exchange Ltd.*, (1995) 2 CALLT 346 HC.

<sup>7</sup> Diva Rai, *Trademark Law in India*, (Jun. 8, 2019, 10:04 AM) <https://blog.iplayers.in/trademark-law-in-india/>

<sup>8</sup> *Ford Motor Company of Canada v. Ford Service Centre*, 2009 (39) PTC 149.

<sup>9</sup> P. NARAYANAN, *LAW OF TRADE MARKS AND PASSING OFF* 531 (Eastern Law House, 6<sup>th</sup> Edn. 2017).

- Use of the mark should be in such a way that it is likely to be interpreted as use as a trademark;
- Defendants should not be allowed to use Section 2(1)(r)30, which covers both registered and unregistered users.

These criteria are both required and sufficient to demonstrate infringement. However, under Section 29, the following uses are also considered infringement if they are likely to cause public misunderstanding or have a connection with the registered mark.<sup>10</sup>

- Identical mark used in relation
- A mark that is used in connection with identical or similar goods or services
- Identical mark used in relation to identical goods or services

#### **IV. FORMS OF INFRINGEMENT**

- A registered trademark is violated when it is used in the course of business by someone who is not the registered proprietor or authorized user of the trademark.
- Infringement of a registered trademark occurs when a person who is not the registered proprietor or an authorized user of such trademark uses in the course of business a mark that is similar to identical to the registered trademark.
- Infringement also occurs when such a person uses a mark in relation to goods and services that are similar to those for which the trademark is registered.
- Infringement would also arise if the registered trademark has developed a reputation in India, and the use of such a mark, or one that is similar to it, without due reason is harmful to the registered trademark's unique character or repute.
- Any advertising of a registered trademark that takes undue advantage of and is opposed to honest practices in industrial or commercial issues infringes on that trademark.
- In instances where the distinctive features of a registered trademark consist of or comprise such work, phonetic sound as well as their visual depiction will infringe on the registered trademark.

#### **V. WHAT DOES NOT AMOUNT TO INFRINGEMENT OF TRADEMARKS IN INDIA?**

Section 30 of the Trademarks Act of 1999 specifies the criteria under which a trademark cannot

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<sup>10</sup> Rahul Chakraborty, *Growth of Intellectual Property Law and Trade Marks* SSRN 39 (2009).

be deemed to be infringed. Such factors can be invoked as defenses in trademark infringement actions by the alleged infringer, allowing him to avoid culpability. These circumstances include:

- When a person uses a trademark in line with honest practices in industrial or commercial issues;
- When such use is not aimed to gain an unfair advantage or is harmful to the distinctive character or reputation of the brand.
- Use of a mark for an indication- Any time a trademark is used to identify the kind, quality, amount, intended purpose, value, geographical origin, time of production of products or rendering of services, or any other attributes of goods or services.
- Use of a mark that is not within the scope of registration- When trademarks are registered, they are subject to specific requirements and limits. When the alleged infringement falls within the scope of such restrictions, it does not establish a case of trademark infringement.
- Implied consent – When an infringing use of a trademark occurs in the continuation of the allowed use by the original proprietor, who has not later destroyed or obliterated it, the users cannot be considered to constitute an infringement.

## **VI. LEGAL ACTIONS AND REMEDIES AGAINST INFRINGEMENT OF TRADEMARKS**

When a trademark is allegedly violated, both civil and criminal action can be taken. A criminal complaint may be filed by the complaining party. Infringement of trademarks is recognized as a cognizable violation under the Trademark Act of 1999, which means that a police complaint may be filed and the infringers can be punished immediately. Even the courts have the right to undertake raids and seizures. On the other hand, such violations might be the subject of a legal lawsuit. Regardless of whether the trademark is registered, pending, or unregistered, a lawsuit can be filed. As trademark infringement is an ongoing offence, there is no limited time for filing a complaint. If the infringements are properly proven, the court of competent jurisdiction may award the following remedies:

- Temporary injunction
- Permanent injunction
- Damages
- Account of profits

- Appointment of a local commissioner by the court for the detention or sealing of infringing content and accounts. The court may even award injunctions and require customs officials to prevent infringing goods from being exported or disposed of to safeguard the owner's property interests;
- An application under Order 39 rule 1 & 2 of the CPC for a temporary or ad interim ex-parte injunction.

In the case of a criminal procedure, the court will impose the following punishment: Imprisonment for a term of not less than six months, which may be extended to three years, or a fine of not less than Rs 50,000, which may be extended to Rs 2 lakh, or both.

## **VII. TRADEMARK INFRINGEMENT AND PASSING OFF**

The Delhi High Court explained the distinction between passing-off and a trademark infringement suit in the matter of Cadbury India Limited and Ors. v. Neeraj Food Products<sup>11</sup> as follows:

- A passing off action is a common law remedy, while a trademark infringement action is a statutory remedy. Passing off action is a deception action in which a person misrepresents his goods as those of another, although in an infringement action, the Plaintiff asserts to have an exclusive right to use the disputed trademark in relation to those goods because he is the registered owner of the disputed trademark.

- In the event of an infringement lawsuit, the defendant's use of the plaintiff's trademark may be required, but it is not required in the case of a passing off action.

- If the defendant has adopted the essential features of the plaintiff's trademark, the fact that the getup, packing, and other writing or marks on the goods or on the packets in which the defendant offers his goods for sale show marked differences or demonstrate a trade origin different from that of a registered proprietor of the mark would be immaterial for the case of infringement. The defendant's culpability for such infringement may be absolute. In the event of passing off, the defendant may avoid responsibility if he can demonstrate that the additional substance is adequate to distinguish his goods from the plaintiff's.

- If the essential features of the plaintiff's trademark have been adopted by the defendant, the fact that the clothing, packaging and other labels or marks on the goods or on the packaging in which the defendant offers his goods for sale show significant differences or indicate a

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<sup>11</sup> Cadbury India Limited and Ors. v. Neeraj Food Products, 142 (2007) DLT 724.

different commercial origin than that of a registered trademark owner, would be irrelevant in the case of trademark infringement. The defendant's liability for such violation can be absolute. In the event of passing off, the defendant may escape liability if he can demonstrate that the additional substance is adequate to distinguish his goods from the plaintiff's.

In the recent case of *S. Syed Mohideen v. P. Sulochana Bai*,<sup>12</sup> the Apex Court held that the passing off right is a broader relief than infringement. This is because the passing off theory is based on the basic concept that no one has the right to portray his or her own business as the business of another. The aforesaid deception is maintainable for a variety of grounds, other than registered rights, which are allocated rights under the Act.

### **VIII. JURISDICTION FOR FILING TRADEMARK INFRINGEMENT CASES**

In the Trade Marks Act of 1999, Section 134 deals with jurisdiction when it comes to initiating an infringement claim. "Suit for infringement to be instituted before District Court (1) No suit- (a) for the infringement of a registered trade mark; or (b) relating to any right in a registered trade mark; or (c) for passing off arising out of the use by the defendant of any trade mark which is identical with or deceptively similar to the plaintiff's trade mark, whether registered or unregistered, shall be instituted in any court inferior to a District Court having jurisdiction to try the suit."

A lawsuit for trademark infringement must be filed in a District Court within its jurisdiction or a High Court having original jurisdiction to hear such cases. The Code of Civil Procedure governs the court's jurisdiction as well as the procedure. The violation must have occurred within the court's geographical jurisdiction. The statute of limitations for initiating a lawsuit is three years after the infringement occurred.<sup>13</sup> When an infringement occurs repeatedly, a new cause of action emerges *de die in diem*, and action will always be brought in response to any new violation. The defendant must be engaged in a business within the District Court's jurisdiction, as held in *Surendra Kumar Maingi v. Dodha House*.<sup>14</sup> The Delhi High Court had no jurisdiction to hear the case since there was no evidence of infringing products being sold and the plaintiff had no office or branch in Delhi, nor any petition to that effect. The averments in the plaint should be examined when considering whether the court has jurisdiction to hear an application for an interim injunction. It is not dependent on the defendant's defense.

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<sup>12</sup> *S. Syed Mohideen v. P. Sulochana Bai*, 2015 (2) RCR 810 (Civil).

<sup>13</sup> The Limitation Act, 1963, No.36, Acts of Parliament, 1963.

<sup>14</sup> *Surendra Kumar Maingi v. Dodha House*, A.I.R. 1998 All. 43 (India).

## IX. SUIT FOR INFRINGEMENT AGAINST REGISTERED TRADEMARK

According to Section 28(1) of the Act, the registration of a trade mark grants the registered owner exclusive rights to use the trade mark and the right to seek remedies in the case of an infringement. Furthermore, in Section 27(1) only a registered user can file a claim for infringement against a mark that is identical or deceptively similar to his registered trade mark. Infringement can be sued by the registered owner, his legal successors, and the registered user(s). Infringement can also be sued by the assignee of a registered trademark. If the trademark registration is acquired before the passing off suit's final ruling, the passing off suit can be transformed into a simultaneous effect of infringement and passing off.<sup>15</sup> A registered trade mark holder does not have exclusive rights to use a mark that is identical or substantially identical to another registered trade mark owner. The plaintiff must establish that the fundamental characteristics of his registered mark have been reproduced, which is a well-established legal position. The plaintiff who charges infringement bears the burden of proving "deception."

In *Clinique Laboratories LLC and Anr v. Gufic Limited and Anr.*,<sup>16</sup> the Court stated that Sections 28(3), 29 & 30(2) (e) cannot be interpreted separately. As per the court, Section 31 treats trademark registration as simply prima facie proof of its legality, while also allowing for correction before the Registrar. As a result, the legislature's aim was not to prevent infringement actions against the registered proprietor. But also, because courts would have had to wait for the conclusion of the rectification procedures if the purpose was that the registration is legal as long as it existed, regardless of whether it is prima facie or not.

The issue in *Abbott Healthcare Pvt. Ltd. v. Raj Kumar Prasad & Ors.*,<sup>17</sup> was whether the Court could consider the current complaint under Section 28(3) read with Section 30(2) (e) of the Act. This Court has already determined that an action for such an injunction would lie where the two trademarks are registered, and Sections 28(3) and 30(2) (e) do not prevent the filing of a suit,' the court noted in response to the aforementioned issue.

In *Cox Distillery and Anr. v. McDowell and Co. Ltd and Anr.*,<sup>18</sup> it was decided that the court must consider the following factors when assessing whether one trade mark is infringing on another: (i) Whether the general characteristics and scheme of the two marks are similar enough

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<sup>15</sup> Alba Law Offices, *Maintainability Of Suit For Infringement And Passing Off Against Registered Trade Mark Holder*, (Jan. 10, 2018, 10:04 AM), <https://www.legallyindia.com/views/entry/maintainability-of-suit-for-infringement-and-passing-off-against-registered-trade-mark-holder>.

<sup>16</sup> *Clinique Laboratories LLC and Anr v. Gufic Limited and Anr.*, MANU/DE/0797/2009.

<sup>17</sup> *Abbott Healthcare Pvt. Ltd. v. Raj Kumar Prasad & Ors.*, 2014 (58) PTC 225 (Del).

<sup>18</sup> *Cox Distillery and Anr. v. McDowell and Co. Ltd and Anr.*, A.I.R. 1999 M.P. 118 (India).

for an inexperienced buyer to mistake one for the other. (ii) The Court is not required to process on the line as to what are the specific points of dissimilarity between the two markings, as if the Court was solving a visual quiz to count the number of hidden or not-so-hidden dissimilarities in two seemingly identical photographs. (iii) The test is what impression a person familiar with the plaintiff's mark would have, while looking at the defendant's infringing mark. There is evident misleading resemblance leading to infringement of plaintiff's trade mark if he is likely to perceive the infringing mark as that of plaintiff's goods. As a result, the best test is the impression made on the mind of an innocent buyer.

Plaintiff was selling items under the registered trade mark 'Lakme' in *Lakme Ltd. v. Subhash Trading*.<sup>19</sup> For the same class of items, the defendant was using the trade mark "Like-me." It was said that the words had a remarkable resemblance. The two terms have a similar phonetic sound. There is a strong probability that the plaintiff's items may induce deceit and confusion in the minds of potential purchasers. An injunction was issued.

The Apex Court stated in *Amritdhara v. Satya Deo*,<sup>20</sup> that an ordinary buyer would be more concerned with the overall structure and phonetic similarity, as well as the character of medicine he has previously bought or been told about, or about which he has otherwise learned and which he wants to purchase. The terms "Amritdhara" and "Lakshmandhara" were deemed to be deceptively similar, and registration of "Lakshmandhara" was approved on the ground of an honest concurrent user.

*Bisleri International Pvt. Ltd.* was the defendant in *Coca-Cola Company v. Bisleri International Pvt. Ltd.*,<sup>21</sup> under a master agreement transferring and assigning trademark rights for MAAZA. It also provided Coca-Cola the formulation rights, intellectual property rights, know-how, and goodwill for bottling and distributing a mango fruit drink called MAAZA in India. The defendant has now applied for trademark registration in Turkey for the term MAAZA and has begun exporting the identical fruit drink under that brand. Coca-Cola sought a permanent injunction as well as infringement damages for passing off and trademark infringement as it was given to them by Bisleri. In the end, Bisleri was found to have violated the interim injunction by utilizing the brand MAAZA in India and even offering it for export, which was a clear example of trademark infringement.

The domain names owned by the Plaintiff and the Defendant, 'Yahoo!' and 'Yahoo India!' respectively, were almost alike and phonetically similar in *Yahoo!, Inc. v. Akash Arora &*

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<sup>19</sup> *Lakme Ltd. v. Subhash Trading*, 1996 PTR 202 (Del).

<sup>20</sup> *Amritdhara v. Satya Deo*, 1963 A.I.R. 449.

<sup>21</sup> *Coca-Cola Company v. Bisleri International Pvt. Ltd.*, MANU/DE/2698/2009.

Anr.<sup>22</sup> The complainant believed that the resemblance would deceive and confuse people, leading them to assume that the two domain names were linked. The Delhi High Court ruled that the name "Yahoo!" has become unique and distinctive and that the public has come to identify it with the plaintiff. It went on to say that a domain name performed a comparable purpose to a trademark and so ought to be protected in the same way.

The plaintiff in *Christian Louboutin v. Pawan Kumar*,<sup>23</sup> discovered that the defendant was selling women's footwear with the plaintiff's "RED SOLE" trademark. The plaintiff has registered the 'RED SOLE' trademark in several countries, and it is a distinctive feature of their products. The plaintiff is recognized by customers all around the world, according to the Delhi High Court, and the same is true in India. The court determined that the 'RED SOLE' was a well-known trademark and that the 'RED SOLE' was often linked with Christian Louboutin. The defendant was also compelled to pay damages.

In *Pidilite Industries Limited v. Poma-Ex Products & Ors.*,<sup>24</sup> the Defendant was accused of dishonestly using Plaintiff's trademark mark "KWIK." Defendant used the trademark 'KWIKHEAL' and the product packaging was identical to Plaintiff's 'FEVIKWIK.' The High Court of Bombay ruled that the mark "KWIK" cannot be used by Defendant since it is a prominent element of the Plaintiff's trademark. The court went on to say that the marks' phonetic resemblance would readily mislead and defraud consumers. The Plaintiff's trademark, 'KWIK,' was found to be a prominent component to them and an injunction was issued prohibiting the defendant from using it.

In *DM Entertainment v. Baby Gift House and Ors.*,<sup>25</sup> the Daler Mehndi, a pop star, had granted the trademark "DALER MEHNDI" as well as personality rights to the Plaintiff firm. The Defendant began to Daler Mehndi dolls and profited on the artist's fame. The Plaintiff sought a permanent injunction against the Defendant from the court. The court imposed an injunction against the defendant, recognizing the artist's publicity rights as well as the Plaintiff's celebrity merchandising rights.

## **X. CONCLUSION**

In India, the demand for trademark registration is rising by the day, showing that people are becoming more conscious of the need of protecting their products. Infringement of trademarks is a regular occurrence nowadays. Although there are numerous solutions to deal with the

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<sup>22</sup> *Yahoo!, Inc. v. Akash Arora & Anr.*, 1999 (19) PTC 201.

<sup>23</sup> *Christian Louboutin v. Pawan Kumar*, CS (COMM) 714/2016.

<sup>24</sup> *Pidilite Industries Limited v. Poma-Ex Products & Ors.*, 2017 (72) PTC 1.

<sup>25</sup> *DM Entertainment v. Baby Gift House and Ors.*, MANU/DE/2043/2010.

problem, not all of them are executed well. Every method used to prevent infringement is riddled with loopholes, which eventually jeopardize the legislation at hand. Any type of trademark violation harms the individual or entity, lowering the brand value. In addition to direct infringement, there is also an indirect infringement. Although there are no laws relating to indirect infringement, obligations do arise under the universal law concept. As a result, a little amount of awareness among individuals is necessary to avoid any sort of infringement on their product and to quickly overcome it with legal assistance and instruction. The Indian courts are expanding and clarifying the definition of trademark infringement. As more and more firms move global, trademark law must evolve as well. In India, the domestic scenario is likewise overflowing with start-ups, prompting many large corporations to enforce their trademark rights against deceptively identical items and brands. Every day, new challenges concerning multinational enterprises arise, necessitating the creation of an international legal framework capable of being implemented globally to prevent and cure trademark infringements.

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