

Protecting the Taste of India: Amul's fight against trademark infringement

Introduction

Trademarks are valuable intellectual property of any company. Protecting them helps a company to maintain their position in the market and prevents weakening of their brand identity, which can lead to loss of revenue. On the other hand well known trademarks signify superiority and consistency which are protected under Section 11 (10) of the Trademarks Act, 1999. Consumer confidence is built by protecting these marks as it insures that consumers receive the expected standard of goods or services. Protecting such types of marks is vital for overseas companies to safeguard their reputation and market share in different jurisdictions. In recent times we have seen many cases in which courts have taken stringent steps to protect well-known marks such as Rolex, Lacoste, etc.

The case discussed in this article is of the renowned brand AMUL which according to Brand Finance's Food and Drink 2024 report¹ has an AAA+ rating and has emerged as the strongest food brand in the world. Amul's robust brand strength is ascribed to its remarkable results in familiarity and recommendation with a turnover of Rs.55,000 crores in the financial year 2023. This emphasizes the 'AMUL' trademark's long-standing use and wide-ranging repute across borders.

Facts of the case

Amul is an Indian brand owned by Gujarat Co-Operative Milk Marketing Federation Ltd. which is Plaintiff No.1 in this case filing the initial lawsuit. It uses the trademark 'AMUL' for all milk and milk based goods as well as other food and beverages. The Italian company Terre Primitive is the primary defendant of this lawsuit. Its line of business is the sale, marketing, promotion and advertising of cookies and chocolate-covered biscuits under the brand 'AMULETI' which the Plaintiff asserts is confusingly similar to the registered and well known trademarks.

In India, Amul is a trustworthy and distinguished brand that has been a household name for a very long time. The Ld. Intellectual Property Appellate Board has notified the mark 'AMUL' as a well-known trademark, via a letter dated May 29, 2015.² Under the trademark 'AMUL', the Plaintiff sells its goods not only in India but also in a number of foreign countries. Thus, the trademark and company's goodwill and reputation are no longer limited to their home country, resulting into the brand gaining worldwide recognition. The Plaintiff contends that the mark 'AMULETI' is both structurally and visually identical to their mark and therefore it will confuse the public and mislead susceptible people.

The Plaintiff affirms that Defendant has been using the mark 'AMULETI' since 2020, whereas they have been using the mark 'AMUL' since 1958. According to the Plaintiff, the Defendant have blatantly copied the mark 'AMUL' by adding 'ETI' to its suffix making it 'AMULETI' and

¹ <https://brandfinance.com/press-releases/taste-of-success-for-global-food-brands-led-by-nestle-lays>

² CG/TMR/Well-known trademarks/2015/147

thus this is undoubtedly going to cause confusion or deception in the course of their trade and the unwary consumers are definitely going to be misled by the Defendant's products as Plaintiff's products are affiliated with the Defendant's. Additionally, the Defendant has been marketing, advertising, and promoting its products on their website as well as on Facebook and Instagram. The Plaintiff asserts that the Defendant's actions in the present situation involves a case of passing off in which the it deceives the public into thinking that the goods it is selling are connected to or originated from the Plaintiff's.

Order of the Delhi High Court

The Delhi High Court under Justice Mini Pushkarna, passed an order of interim injunction prohibiting the mark 'AMULETI' or any logo or word that is identical to or confusingly similar to the Plaintiffs' registered trademark for the purposes of selling, marketing, advertising, promoting, or any other purpose. The court further ordered the Defendant to turn over any products, packaging materials, advertisement materials, cartons, wrappers and labels bearing the mark 'AMULETI' to the Plaintiff for destruction. The court has also directed Meta Inc. to delete the posts bearing the trademark 'AMULETI' from all social media pages. This order of interim injunction was indispensable considering the fact that it would have caused irreparable loss to the Plaintiff. The Judge while passing the order was of the opinion that anybody who has access to the domain of the Defendant would be led to assume that the goods being offered under the Defendant's mark 'AMULETI' originate from Plaintiffs and the likelihood of consumers being deceived by the use of the mark 'AMULETI', by the Defendant is high, given the well-entrenched position of the Plaintiffs' mark 'AMUL' in the milk and milk products market, including confectionary items such as chocolates. Further, the Court stated that the use of an identical trademark by the Defendant would lead to dilution and ruining of the Plaintiff's mark as they have no control over the quality of products offered by the Defendant. It will be interesting to see how the case unfolds further as the next hearing is scheduled in January, 2025.

Analysis of the Order

The decision emphasized on the significance of protecting well known trademarks from cross border infringement and passing off which strengthens the Plaintiff's rights to their established brand identity and character. What happens in cross border infringement is that a trademark is utilized in such a way that it abuses the rights of the trademark proprietor in a diverse jurisdiction. This can include complexities such as a party in one country uses a trademark comparable to a trademark protected in another country, leading to consumer misconception. Infringement of trademark and passing off has been a vital issue since rise of digital period by utilization of misleadingly similar well known trademarks on social media websites. Certain parts of well-known trademarks are utilized by these infringing parties to lure the buyers. Online marketing and sales can simply complicate such circumstances even more. Keyword advertising, cybersquatting and social media abuse are just a few of the new forms of trademark infringement made conceivable by the internet and digital technologies, which makes it harder for businesses to protect their intellectual property. Orders like the one passed in the present scenario will discourage infringers from taking advantage of a well-known brand's reputation since they are the ones who run the hazard of confronting legal challenges, enduring huge budgetary

misfortunes and harming their goodwill. Therefore it is always advised to the trademark proprietors to frequently monitor global markets, register their marks in numerous jurisdictions and take advantage of the legal remedies provided by the Indian laws such as cease-and-desist letters, litigation, or negotiation with infringers.

Conclusion

The order passed by Delhi High Court is one of a kind in terms of protection of a trademark of an Indian brand from foreign infringement. The risk of foreign entities infringing well known trademarks increases with globalization. This order of Delhi High Court helps AMUL to strengthen its brand identity against such threats, highlighting the idea that Indian trademarks hold significant value on the worldwide forum. It demonstrates the robust framework provided by Indian trademark laws, which offers wide-ranging protections to well-known trademarks. By passing an order in favor of AMUL, the court has protected the notion that the legacy and uniqueness of a brand are vital, and they deserve rigorous protection from any kind of infringement. As the marketplace becomes more digital and interconnected, companies will face new challenges in protecting their trademarks.

About the Author



Richa Rane is a recent law graduate who is currently working as a Paralegal at Aditya and Associates. She has a keen interest in IP laws and is looking forward to gain more knowledge and experience in this field.

Richa can be reached out at ranericha7@gmail.com