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# IPEXELS

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# PATENTS



# PATENTS



## Bar on the Public Sale of Uniforms in Jammu and Kashmir

The importance of Patent Rights is yet to gain proper recognition in the Indian legal system. It is evident that there has been a significant degree as to an increase in the development of Intellectual Property. There had been unauthorized sales of combat uniforms in the Udhampur region of Jammu and Kashmir and the Army is cautioning the public and creating awareness regarding the same. They plan to put a bar even on the sale of uniforms which look similar to the actual design. They have also been planning to take action against any individual or business who has any involvement in the same. This is because it would threaten the authenticity and safety of the military and the nation as a whole. The Army have realized that the threat is serious and have applied to the Controller of Patent, Design and Trademarks for their own Intellectual Property Rights which will give them legal protection as well as the power to take action against the individuals.

# PATENTS



## ITC Ruling to not be overruled by Biden Admin:

The Biden Administration will not overrule a US International Trade Commission decision that could block imports of Apple Watches for infringing AliveCor patents related to heart monitoring, the office of the US Trade Representative has clarified.

In its ruling in December, the ITC recommended a limited exclusion order and a cease-and-desist order for Apple Watch models with ECG features for infringing the patents AliveCor health monitoring patents related to electrocardiogram technology., holding them to be violative of the patents held by Its enforcement would mean that Apple would no longer be permitted to import any new Apple Watch Models supporting the ECG feature.

# PATENTS



## Pfizer/BioNTech and Moderna gear up for trial in the London High Court.

Pfizer and its German partner, Moderna are preparing for a trial set to take place in April of 2024. The matter arose when Pfizer and BioNTech decided to initiate legal action against Moderna in London in September, against two of Moderna's patents in relation to its messenger RNA (mRNA) vaccines.

Moderna also brought its own suit for damages against Pfizer and BioNTech for their Comirnaty vaccine. These companies have engaged in litigation in various jurisdictions.

# PATENTS



## Huawei Sues Xiaomi Over Alleged Patent Infringement of Camera and Other Technologies: Companies in negotiations

A little over a month after the SIPO in China accepted the case filed by Huawei against Xiaomi over infringement of its four patents, Xiaomi has disclosed that it is in talks with Huawei and are negotiating.

The case was filed by Huawei against Xiaomi for patents including relating to 4G/LTE, smartphone camera and device unlock technology.

Last year, the CEO for Huawei Consumer Business Group had spoken up against infringements of Huawei's patents and refusal of other companies to copy the same without paying anything to Huawei.

# PATENTS



## Lenovo required to pay \$138.7M for InterDigital Patents

A London's High Court, on 16th March, 2023 ruled against the Chinese Lenovo group and ordered it to pay InterDigital Inc. \$138.7M for the case brought over the terms on which Lenovo should take a license of its patents, which are required for 3G, LTE, and 5G standards.

The judgement centres on Fair, Reasonable, and Non-Discriminatory (FRAND) terms of a license for InterDigital's patents and it was held that the previous offers made by both the parties were not made on the FRAND terms and the order was passed to pay an amount in lump sum to cover for past and future sales of mobile phones from 2007-2023.



# COPYRIGHT



# COPYRIGHT



Zazzle sued to the tune of hundreds of millions of dollars for allegedly stealing Intellectual Property of Laatz

Nicky Laatz, one of the leading custom premium font designers in the world has brought an action against Zazzle, alleging that the internet design and printing giant stole its fonts and made them available to tens of millions of Zazzle designers and customers without permission or compensation to the designer. Laatz has alleged that Zazzle instructed one of its employees to pose as an individual designer and obtain a single-user license for the Blooming Elegant Trio of fonts, but were actually obtained for Zazzle's illegal use. According to the complaint, these fonts were then uploaded onto Zazzle's server, where quickly went on to become one of the most popular fonts, thereby causing loss to Laatz.

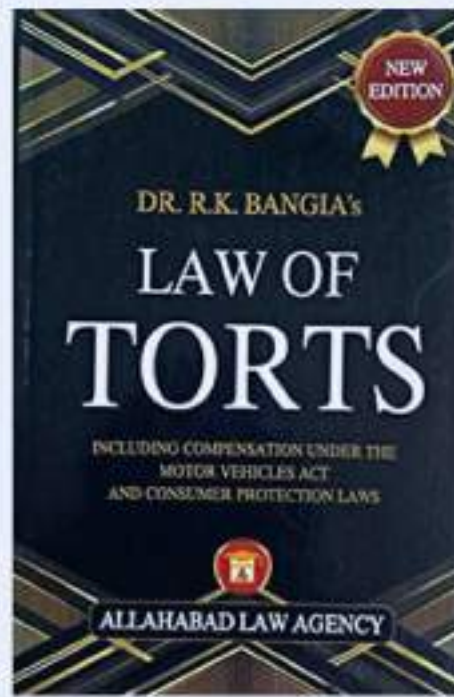
# COPYRIGHT



## Copyright infringement case against Shamshera and allowing to be released on OTT

A plea was filed with the courts stating that the movie 'Shamshera' is significantly based on the petitioner's literary work namely 'Kabu na chhadein khet'. The movie was supposed to be released on OTT platforms not far from the date when the petition was filed. Hence the producers were directed to pay ₹1 crore to the court. This decision was taken as the movie had already been released on theatres and was set to be released on the OTT platforms, and the deposit was made in order to balance the equities. The producers requested that they be allowed to release the movie on the platform because if they fail to do so they would be breaching contracts with third parties. The case for copyright infringement is listed for further hearing

# COPYRIGHT



## Injunction restricting Amazon from selling pirated copies of 'Law of Torts'

The Delhi court has restricted Amazon from selling, publishing, etc., the unauthorized copies of Allahabad Law Agency's 'Law of Torts'. It was found out by the plaintiff that the e-commerce giant was selling copies of the textbook which had pirated content. The infringing copy was written by Dr. Narendra Kumar and has veritably copied the preface, and some other pages from the original book in question. The court prima facie held that there has been infringement of the author's and publishing house's copyright and hence they passed an interim injunction to restrict the selling and publishing of Kumar's books.

# COPYRIGHT



## Documentary production team sued by UFC

The producers of the documentary "Bisping: The Michael Bisping Story," ScoreG, have just been sued for copyright infringement by the UFC, the organisation that oversees mixed martial arts worldwide. A large amount of the documentary is alleged to include copyrighted material belonging to the UFC that was utilised without permission or a licence, according to the lawsuit, which was filed before a federal court in Los Angeles. Additionally, it is said that the UFC "encouraged Bisping, who is one of the documentary's producers, to have Score G get in touch with UFC to explore licencing." UFC has now sought compensation for lost licence revenue, lowered copyright work value, and other reliefs.

# COPYRIGHT



## Artists sue AI image generation tools Stable Diffusion, Midjourney over copyright

Stability AI and Midjourney, the creators of the AI Image generator softwares "Stable Diffusion" and "Midjourney" for allegedly violation of the "rights of millions of artists" by using millions of copyrighted images without any form of consent, credit, or compensation.

The lawsuit claims that these software companies benefit commercially and profit richly from the use of the copyrighted images and the plaintiffs are aiming for a jury trial to get damage recovery of an unspecified amount.

# TRADEMARKS



# TRADEMARKS



## Injunction granted in Dominos' trademark case

An injunction was granted by the Delhi High Court against a Ghaziabad based pizza outlet, Dominick Pizza, from using the name Dominick's Pizza after multinational pizza giant Domino's filed a suit for trademark infringement. The case titled Dominos IP Holder LLC & Anr v Ms Dominick Pizza & Anr involves Dominoes alleging that the defendant not only copied its name, but also the flavour and dishes. It was argued that they are supplying pizzas in Delhi, which can be easily ordered through online food portals and there have been actual instances of confusion. The bench held that the two marks were deceptively similar and Google reviews of the defendants were negatively impacting the business of the plaintiff. Further it was observed the name 'Dominick' is integrally and historically associated with the Domino's since 'DomiNick's Pizza' was the name of the first store that Domino's purchased in the year 1960. It has also directed Domain Name Registrar (DNR) GoDaddy to block/suspend the defendant's domain names.



# TRADEMARKS



## Settlement reached in the Theos v. Theobroma dispute

A settlement has been reached in the Theos Food Pvt Ltd & Ors v. Theobroma Foods Pvt Ltd trademark dispute before the Delhi High Court. Theos filed the current lawsuit in an effort to prevent Theobroma from utilising the "THEOS" brand while Theobroma had filed a trademark infringement lawsuit against Theos before the Bombay High Court. Theobroma was using the mark "THEOS" as a prefix to the names of numerous food items being sold across its outlets in the case of Theos. Theobroma, on the other hand, asserted that it was the first to use the marks and to have adopted them, and it stated that Mumbai was where it originally built its first store or café in 2004. Through the settlement, Theos has agreed to restrict its sales of products bearing the "THEOS"/"THEO'S" mark to the Delhi-NCR region while Theobroma would be free to expand its outlets under the mark/name of "THEOBROMA". Theos is also not allowed to make any online sales beyond the Delhi-NCR region and if they want to do so, they must do it under a mark/name which is neither identical nor deceptively similar to "THEOBROMA". Further, the Court also ruled that Theos was free to use a prefix or a suffix in addition to its mark or name for expansion, as long as the mark or name overall was not identical or misleadingly similar to Theobroma and did not cause confusion. Theobroma would continue to have all of its trademark registrations for "THEOBROMA" and its registered variants and derivatives, including "THEOS" and "THEO". The issue stands resolved as of now.

# TRADEMARKS

## EUROSPORT

Delhi HC restrains Eurosport from using its logo as it is similar to that of Star Television Productions Limited

The Delhi high court has granted an injunction to Star Television Productions Limited in order to restrain Eurosport, Discovery Communications LLC, and Discovery Communications India from using its EUROSPORT trademark till the trademark infringement suit, filed by Star Television, is decided. The injunction was granted because Star Television had established a prima facie case in its favour. The plaintiff, Star Television, has contended that the use of the single star logo by Eurosport, a subsidiary of Warner Bros. Discovery and also one of the defendants, is deceptively similar to the trademark owned by them. Eurosport was formerly known as DSPORT, but after the name change, it has been using a logo that contains a globe and a single star. Star Television's argument is that they have been using the trading name and style "STAR" since 1991 in India. On the other hand, Eurosport said that the presence of a star in their logo is not new because their brand used to have a "Rings of Star" logo when it was founded in 1989. Eurosport also stated that it is the registered owner of the trademark and its different variations in over 100 jurisdictions, including India.

# TRADEMARKS



[Urgent Interim Relief is Extremely Important In IPR Cases To Protect Interest Of Parties As Well As Consumers, says Delhi High Court](#)

A suit was filed by Bolt Technology seeking a permanent injunction against Ujoy Technology for allegedly using the identical mark 'BOLT' along with the logo in relation to an identical business of providing charging points for EVs. The Delhi High Court noted that the Defendants were using an identical mark, 'BOLT,' in an identical colour scheme, and that their mobile application was available on both Google Play and the Apple App Store. It also stated that consumers and mobile users could download both Bolt's and the Defendants' mobile applications on a "minute-by-minute" basis. The Delhi High Court has observed that urgent interim relief, including ex-parte and ad-interim relief, is critical in intellectual property rights cases because it involves not only the interests of the parties to the case but also the consumers of the products and services in question. Courts grant such reliefs not only to protect statutory and common law rights, but also to avoid confusion, deception, unfair and fraudulent practices in the marketplace, according to Justice Pratibha M Singh. "Intellectual property cases relate to a wide gamut of businesses such as - medicines, FMCG, food products, financial services, technology, creative works such as books, films, music, etc. Recent trends also point towards large scale misuse on the internet. In some cases, due to misuse of known marks and brands, the consumers are being duped into parting with large sums of money. The rights of the parties are affected almost on a daily basis as there is continuous manufacturing, selling, and offering of services or goods to the customers," the Court added

# TRADEMARKS



## Delhi high court raises concern over alarming rise in cases of Trademark Infringement by Anonymous persons

The worrying increase in cases of trademark infringement via online anonymity has recently alarmed the Delhi High Court. “Matters in which unknown persons are infringing and utilising well-known marks, to the injury of the holder of the mark, are mushrooming at an alarming rate”, noted Justice Prathiba M. Singh’s single bench in the case of “Livspace Pte. Ltd. & Anr v. Livspace-Reviews.Com & Ors”. The statement was made as part of a lawsuit brought by the interior design platform “Livspace” against a website called “www.livspace-reviews.com” that was set up by anonymous users and on which negative and defamatory reviews of the business were posted. Allegations were made that the Plaintiff’s website served as the inspiration for the whole look and feel of the Defendant’s fake website. The website was absolutely devoid of any information, the Court saw right away. Additionally, no information was accessible about any of the people who had left such harsh assessments. It stated that these are the “perils of some internet-based firms”. The Court observed that the material of the contested website was highly disparaging of the Plaintiffs and could have a detrimental effect on their operations. “While there can be no doubt that general criticism and review would be permissible in terms of any business, the fact that the website, its operations, the persons reviewing, etc., have all been completely masked, without any details provided at all, clearly gives the Court the feeling that the same is ingenuous and clandestine”, it observed.

# TRADEMARKS

The image shows the CrossFit logo, which consists of the word "CrossFit" in a bold, white, sans-serif font. The "C" is significantly larger than the other letters. The logo is set against a solid black rectangular background.

## Delhi High Court Permanently Restrains Gym & Fitness Centre From Infringing CrossFit's Trademark

A gym and fitness centre was recently ordered to stop using the Cross Fit LLC trademark without permission after the Delhi High Court issued Cross Fit LLC a permanent and binding injunction in the case of "Cross Fit Llc v Rtb Gym And Fitness Centre". Justice Prathiba M. Singh noted that the defendant gym had ignored notice to appear and as a result, no ex parte testimony would be needed in the case. The plaintiff's complaint was that the defendant, a gym and fitness centre owned and controlled by Mr. Arun Sharma, was using the identical mark "CROSSFIT" for similar services related to fitness and exercise. The Plaintiff became aware of the Defendant's use of the aforementioned mark in September 2020. The plaintiff claims that from March 2018, the defendant has conspicuously displayed the mark "CROSSFIT" on its property, in its literature, and on its internet pages as hashtags. In October 2021, the Court issued an ex parte ad-interim injunction in this case. Nevertheless, the defendant persisted in using the CROSSFIT mark and disobeyed court orders, causing the Plaintiff to suffer a loss of around Rs. 8.5 lakhs. Given the defendant's "contumacious conduct," the court decided it was appropriate to issue a show-cause contempt notice and levied a cost of Rs. 10 lakhs in the plaintiff's favour. The Court also designated a Local Commissioner to visit the defendant's location and check that all hoardings and other billboards, signage, display items, brochures, packaging, and literature containing the mark "CROSSFIT" have been taken down.

# TRADEMARKS



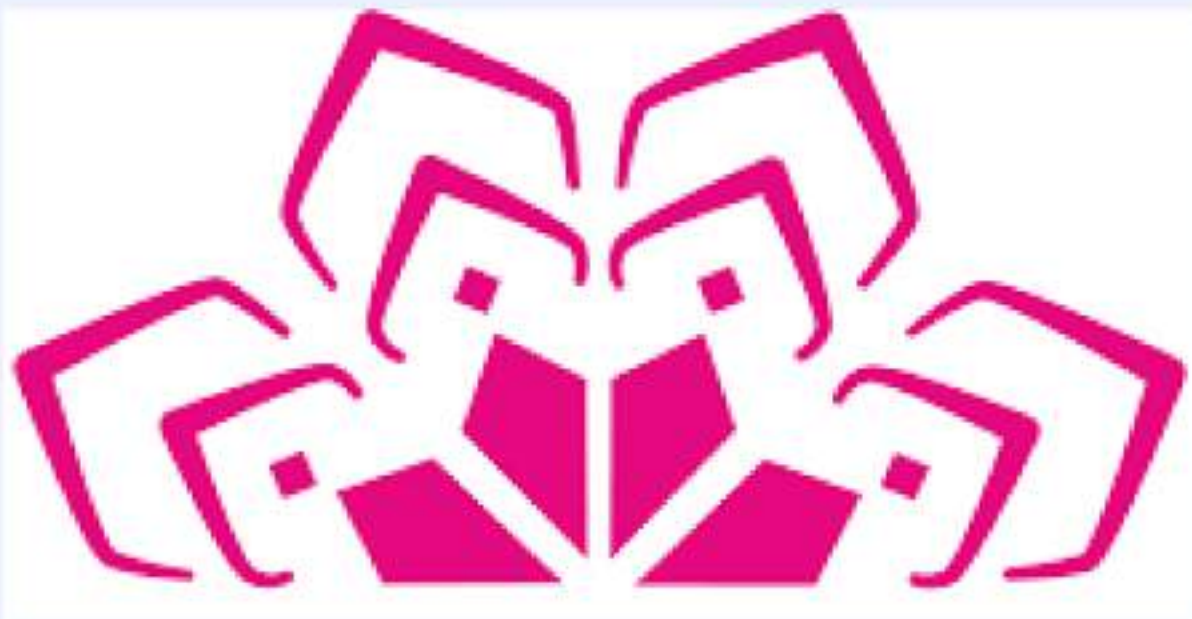
VIVANTA  
HOTELS & RESORTS

Delhi High Court permanently injuncts GRAND VIVANTA from using VIVANTA mark; Adopts new name GRAND VIHAN

In a suit titled "The Indian Hotels Company Limited v. Grand Vivanta Vacations Private Limited", Indian Hotels Company Limited, a member of the renowned "TATA" Group of Companies, is seeking a permanent injunction barring infringement of its registered trademark "VIVANTA", which is used in connection with hospitality services such as hotels and resorts, both in India, and is marketed under the names/marks "TAJ, SeleQtions, GINGER, and VIVANTA". GRAND VIVANTA Vacations Private Ltd (the "defendant") has been permanently restrained from using the mark/name VIVANTA/VIVAN or any other mark/name that is confusingly similar to that of the Plaintiff's mark - VIVANTA with or without a prefix or suffix for its hospitality services, resorts, hotels, restaurants, or any other related services. The defendants consented to use GRAND VIHAN Vacations Private Limited and/or GRAND VIHAN as their new marks. The Defendant, is a New Delhi-based company known as "Grand Vivanta Vacations Private Limited." The Defendant advertises the mark "VIVANTA" on a number of social media sites, including Facebook, Instagram, and YouTube. It also has a mobile app with the same false name on the Play Store. When some customers informed the Plaintiff about the Defendants' infringement-related activities in June 2021, along with numerous consumer complaints posted online, the Plaintiff learned that the Defendant and its representatives were defrauding the public by obtaining sizable sums of money for vacation packages and also abusing the name "VIVANTA," which was later determined to be substantive.

# TRADEMARKS

The defendant argued in an interim application under Order XXXIX Rule 4 of the Code of Civil Procedure that, as a start-up with only about a year under its belt, it is willing to make appropriate changes to its name by changing the word VIVANTA in GRAND VIVANTA Vacations Private Limited. In order to prevent the defendant from using the mark/name VIVANTA/VIVAN or any other mark/name that is confusingly similar to that of the Plaintiff's mark - VIVANTA with or without a prefix or suffix - in relation to any of its resorts, hotels, restaurants, or other combinations for its hospitality services, resorts, hotels, restaurants, or any other related services, the Court issued a permanent injunction. The defendant was additionally ordered by the court to stop using the domain name [www.grandvivanta.com](http://www.grandvivanta.com) and to transfer it to the plaintiff within a week. The defendant was also given permission by the court to use the moniker GRAND VIHAN for its resort's website and mobile application.



# TRADEMARKS



Samsung India is temporarily restrained from using the registered trademark "Concierge."

A Bengaluru court has issued a temporary injunction prohibiting Samsung India from using the "Concierge" registered trademark. Although there is a prima facie case against the defendants (including Samsung), the court observed that the defendants should be heard first before issuing an ex-parte injunction order. As a result, the Court issued an order for an ad-interim injunction. The issue started when along with its founder Dipali Sikand, Lesconcierges Services Pvt. Ltd. and Club Concierge Services (India) Pvt. Ltd. filed a lawsuit against Samsung India and Story Experiences Private Limited for trademark infringement regarding Sikand's legally registered and owned "Concierge" trademark. According to Sikand, who claims to be the first person to introduce concierge services in India, Samsung India, through Story Experiences Private Limited, had improperly used the trademark "Concierge" in a number of brochures, publicity materials, advertisements, etc., in connection with the President's Club, a loyalty programme for Samsung dealers and distributors. The second defendant (Story Experiences), it was further asserted, was attempting to capitalise on the plaintiffs' goodwill and reputation. In addition to this, it was alleged that the defendants were damaging and weakening the plaintiffs' reputation.



# TRADEMARKS



Jewellery brand NIMA's trademark "washes away" after an order by the Delhi HC favouring NIRMA.

A trademark of a jewellery company called "Nima" was recently ordered to be deleted from the Register of Trade Marks by the Delhi High Court because it was deceptively similar to the name of the well-known detergent manufacturer, Nirma. In addition to impeding Nirma's potential ambitions to expand into other industries and creating confusion in the minds of unaware consumers, the Court reasoned that utilisation of the trademark in question by the respondents could dilute Nirma's mark. It was decided that Nima's trademark registration could not be authorised and must be revoked as a result. The argument put forth by Nirma was that its predecessor firm created and registered the trademarks "NIRMA" and "NIMA" in the respective years of 1969 and 1982. Following that, the business began using the trademarks "NIRMA" and "NIMA" for a variety of goods and services, including toilet soaps, detergents, liquid blue, scouring bars, shampoo, toothpaste, and other chemicals, as well as tea, salt, spices, and other dietary supplements. It was learned that the jewellery company NIMA had received trademark registration for its mark, and was reported in the Trade Marks Journal in November 2003. Additionally, the respondents asserted that they have been using the mark "NIMA" since 2000. It was further stated by the court that the mark "NIMA" used by the respondent was phonetically and deceptively similar to the mark "NIRMA" used by the petitioner. The Court also acknowledged that the petitioner's mark 'NIRMA' had been declared as a "well-known trade mark" under Section 2(1)(zg) of the Trade Marks Act.

# TRADEMARKS



Ad-interim injunction instituted against Tensberg because of having a phonetic similarity to Carlsberg.

The Delhi High Court has granted an ad interim injunction in favour of the plaintiff in a suit brought by Carlsberg Breweries A/S against Tensberg Breweries Industries Pvt Ltd., alleging that they have adopted a deceptively similar mark and are marketing their beer in a deceptively similar bottle so as to cause confusion in the minds of the general consumers. The identical shade of green for the bottle and the combination of green and white for the can, as well as the appearance of the deceptively similar crown, all suggest that the defendants intended to be as similar to the plaintiff's mark as possible. It is the plaintiff's position that it is the registered owner of the trademark "CARLSBERG," which was originally registered in India on July 9, 1949, and that it made the first sale in India under the aforementioned brand in 1904, long before the defendant entered the Indian market. The court ruled that the plaintiff is without a doubt the owner and original adopter of the mark "Carlsberg" and that, with its registration, it has a superior right over the defendants, who, according to their own evidence, only adopted the mark in India in 2018 and do not have registration in the mark. The Court observed that beer cans and bottles are not purchased with meticulous inspection but rather more casually. The two marks and their trade dress initially appear to be misleadingly similar and are likely to mislead and confuse a gullible consumer with a hazy memory. The Court stated that it is not just the use of the mark but also the packaging of the product, specifically the bottle and the can, that serve as prima facie indicators of the defendants' intention to capitalise on the goodwill and reputation of the plaintiff, leading to confusion and deception in the minds of unwary consumers.

# TRADEMARKS



## Adidas loses three stripe mark, Grosgrain

Adidas lost a trademark infringement lawsuit against Thom Browne, where it claimed that the brand, renowned for its luxury fashion items used former's "three-stripes" logo design without authorization. Adidas has maintained a reputation for strongly defending its brand trademark rights to its "three-quadrilaterals" logo, which it first began using on footwear in 1952. The company owns 24 federal trademark registrations for different variations of the stripes, covering all kinds of apparel.

Adidas sued Thom Browne, claiming that the "Grosgrain" sign infringed upon the "three stripes of Adidas"

While Adidas claimed the power of such infringement, Thom Browne claimed to have been using this logo from 2009 and contended that Adidas exercised undue delay. Adidas, however, maintains that it became aware of the allegedly infringing logo in 2018

# TRADEMARKS



## Dhruv Rathee's Trademark Connundrum

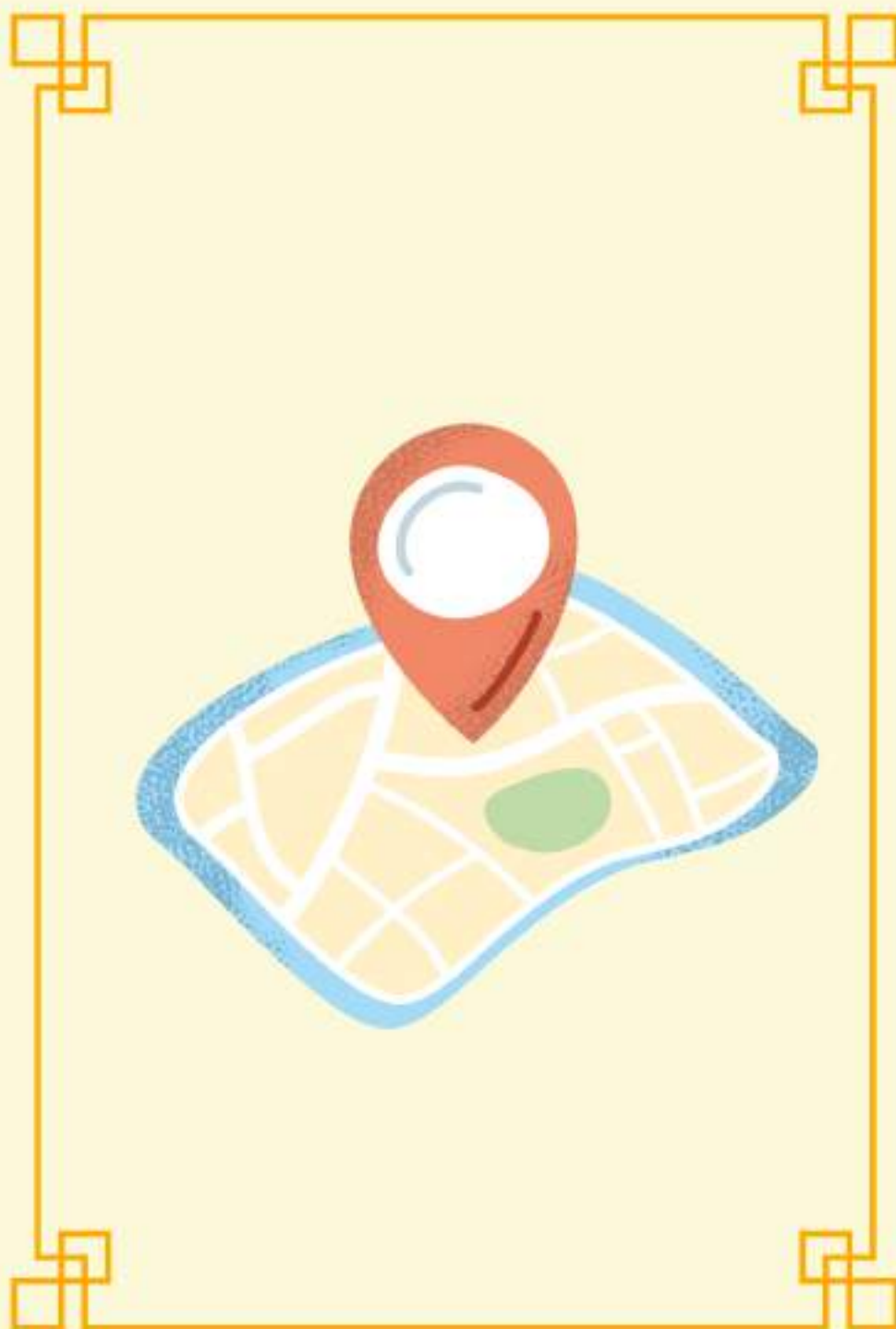
Dhruv Rathee is a popular YouTuber and social media personality who creates content related to politics, social issues, and environmental concerns. In 2019, he launched a brand of fresh juice called "Real Juice" which he marketed as a healthy and eco-friendly alternative to packaged juices.

However, this led to a trademark dispute with Dabur, a well-known Indian company that produces and sells fruit juices under the brand name "Real". Dabur filed a case in the Calcutta High Court alleging that Dhruv Rathee's use of the name "Real Juice" infringed on their trademark.

In August 2020, the Calcutta High Court ruled in favor of Dabur and issued an interim order restraining Dhruv Rathee from using the name "Real Juice" or any other similar names that could cause confusion with Dabur's trademark. The court also directed Dhruv Rathee to remove all social media posts and advertisements related to "Real Juice".

Following the court's order, Dhruv Rathee changed the name of his juice brand to "Ireal" and continued to market and sell the product. The case is still ongoing, and the final decision on the trademark infringement claim has not yet been reached.

# GEOGRAPHICAL INDICATIONS



# THE ROSOGOLLA CONTROVERSY



## The Rosogolla controversy

A geographical indicator is a type of intellectual property which is designated to a product according to the basis of their geographical origin. The same is done because certain products found in India have origin specific to the people and culture of an area, have certain values associated with it and need to be given the same degree of protection as any other type of intellectual property. The act used for such a protection is the Geographical Indications of Goods (Registration and Protection) Act, 1999 and the same was enacted in line with India's obligations that accrued when it became a signatory to TRIPS. The controversy regarding where the decadent sweet rasgulla originated is time immemorial.

# THE ROSOGOLLA CONTROVERSY

Often the cause of friendly banter turned to heated discussions among Odias and Bengalis, both Odisha and West Bengal have claimed to be the originator of this world-famous sweet dish. The debate seemed to have settled when in 2017, West Bengal was given the GI tag for “Banglar Rasogulla” upon an application made by the West Bengal State Food Processing and Horticulture Development Corporation Limited (WSFPHDCL) for obtaining such status. However, thereafter, Odisha received a GI tag for “Odisha Rasagola” renewing the debate. Having tasted both the versions of this sweet, the Author can safely state that the two have significant differences which can be attributed to their state of origin. Historically too, the versions have different and completely unique origins. The Bengali version was first concocted by iconic Bengali confectioner Nobin Chandra Das in the 19th century in Kolkata, which was later popularized in India and subsequently the world. This sweet of West Bengal is distinct because of its soft and spongy texture, sweet taste and white color. When the same was granted the GI tag, objections were understandably raised by the Odisha government who claimed that a sweet similar to the one prepared by Das in Kolkata had been part of offerings to Lord Jagannath since the 12th century, although no evidence could be provided for the same by the Odisha Government.

# THE ROSOGOLLA CONTROVERSY

The Registrar, however after its investigations, decided that the two sweets, one from West Bengal and one from Odisha were decidedly dissimilar. The version of Odisha is light brown and less sweet and not as spongy as the Bengali version that was formulated by Das. That is to say that the Odia version is unique and distinct from the Bengali version. Thus, the Registrar sought it fit to grant a separate GI tag to the Odia version in 2018 upon an application by the Odisha Small Industries Corporation Limited (OSIC Ltd.) and Utkal Mistanna Byabasayee Samiti on the behalf of the State of Odisha. The grant of GI tags to two versions of the same sweet shows quite a wide interpretation of Section 2(e) of the afore-mentioned 1999 Act states that geographical indication can be provided to a good if the quality, characteristic or reputation of the good is attributable to the geographical origin and is unique in nature. The uniqueness of the two sweets were rightly recognized by the Registrar and accordingly the granting of separate GI tags for the two is justified. While it is definitely not settled with respect to which state was the actual originator of the sweet, the different varieties of this sweet has temporarily settled the debate.



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