



Trademark

Why in News?

The Delhi High Court granted an **interim injunction in favour of Hamdard Laboratories** in its plea against Sadar Laboratories Private Limited for **infringing its registered trademark**.

- The Court has restrained the manufacture and sale of sweet beverage concentrate 'Sharbat Dil Afza' during the pendency of a lawsuit for alleged trademark infringement by **Hamdard Dawakhana which sells 'Rooh Afza'**.

What is the Court's Verdict?

- The court said Rooh Afza served as the **source identifier for Hamdard for over a century and has acquired immense goodwill** and it was essential to ensure that the competitors keep a safe distance from the mark.
- It is not difficult to conceive that a person who looks at the label of 'DIL AFZA' may recall the label of 'ROOH AFZA' as the word 'AFZA' is common and the meaning of the words 'ROOH' and 'DIL', when translated in English, **are commonly used in conjunction**.
- Both the products have the "**same deep red colour and texture**" and "structure of the bottles is not materially different" and thus **opined that the "commercial impression of the impugned trademark is deceptively similar to the appellants' trademark"**.

What is a Trademark?

- A trademark is **a sign capable of distinguishing the goods or services** of one enterprise from those of other enterprises. Trademarks are protected by [Intellectual Property Rights \(IPR\)](#).
- **In India**, trademarks are governed by the Trade Marks Act 1999, which was amended in 2010.
- It legally **differentiates a product or service from all others of its kind** and recognizes the source company's ownership of the brand.
- Although trademarks do not expire, the **owner must make regular use of it in order to receive the protections** associated with them.
- It serves as **a badge of origin exclusively identifying a particular business** as a source of goods or services.
- **Trademark infringement is the unauthorised usage** of a sign that is identical or deceptively similar to a registered trademark.
- A mark is said to be **strong when it is well-known and has acquired a high degree of goodwill**.
- The degree of the protection of any trademark changes with the strength of the mark; the stronger the mark, the higher the requirement to protect it.

UPSC Civil Services Examination Previous Year Questions (PYQs)

Q. In order to comply with TRIPS Agreement, India enacted the Geographical Indications of Goods (Registration and Protection) Act, 1999. The difference/differences between a "Trade Mark" and a Geographical Indications is/are (2010)

1. A Trade Mark is an individual or company's right whereas a Geographical Indication is a

community's right.

2. A Trade Mark can be licensed whereas a Geographical Indication cannot be licensed.

3. A Trade Mark is assigned to the manufactured goods whereas the Geographical Indication is assigned to the agricultural goods/products and handicrafts only.

Which of the statements given above is/are correct?

(a) 1 only

(b) 1 and 2 only

(c) 2 and 3 only

(d) 1, 2 and 3

Ans: (b)

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