



# Trademark

## Why in News?

The Delhi High Court has restrained Khadi Designing Council of India and Miss India Khadi Foundation from using the '**KHADI**' Trademark after the [Khadi and Village Industries Commission \(KVIC\)](#) filed a Trademark Infringement Lawsuit.

- The court held that the defendants had infringed KVIC's trademark and engaged in passing it off.
- A trademark infringement lawsuit is a legal action taken by a trademark owner to stop **others from using their trademark without permission**, or in a way that could cause confusion or dilute the value of the trademark.

## What is a Trademark?

- A trademark is a symbol, word, phrase, design, or combination of these elements that is used to **identify and distinguish the goods or services of one company** from those of another.
- Trademarks are protected by [Intellectual Property Rights \(IPR\)](#).
- Trademarks can be registered with government **agencies to provide legal protection against unauthorized** use by others.
- In India, trademarks are protected under the [Trade Marks Act 1999](#) and its subsequent amendments.
  - The Act provides for the **registration of trademarks and establishes a system of penalties for infringement**.
- Trademark infringement occurs when someone uses a mark that is identical or deceptively similar to a registered trademark **without the owner's permission. Infringement can result in legal action**, including damages, injunctions, and criminal sanctions.
- To maintain legal protection for a trademark, the owner must make regular use of it in connection with the goods or services for which it is registered. Failure to use a mark for an extended **period of time may result in the mark being canceled or invalidated**.

## 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)

Exp:

- Trade Mark is a sign that a business/individual uses to distinguish its own goods or services from those of its competitors and Geographical Indication is an indicator that certain products have a regional origin, which is common to all such products in that entire region and the producers (community) in that region are allowed to use the Geographical Indication. **Hence, statement 1 is correct.**
- Only one undertaking can use a Trade Mark registered in its name and address by obtaining a license, whereas every undertaking in the same region is allowed to use the same Geographical Indication. **Hence, statement 2 is correct.**
- A Trade Mark is assigned to goods as well as services, whereas Geographical Indication is assigned to agricultural goods, natural good or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin. **Hence, statement 3 is not correct.**
- **Therefore, option (b) is the correct answer.**

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