Alliance Journal of Intellectual Property Law (AJIPL)
Volume: 3, Issue: 1, 2025 | e-ISSN: 2584-0363

ASSESSING THE LIKELIHOOD OF CONFUSION: BALANCING TRADEMARK PROTECTION AND FAIR COMPETITION

Ansa Alexander[1]

ABSTRACT

In the evolving times of global commerce, trademarks function and serve a remarkable and important role by being the crucial identifiers for making the needed distinction between products and services. They help foster consumer trust and protect brand equity. Central to the broader trademark jurisprudence is the doctrine of "likelihood of confusion". This covers both the registration of marks and the adjudication of various infringement claims. This article critically examines the multifaceted nature of brand confusion. The author distinguishes between direct and indirect confusion and examines how courts strive to strike a balance between trademark protection and the principles of fair competition. The study has also drawn on many inputs from European and American jurisprudence relating to these topics, and the article analyses key factors in confusion assessment, such as visual, phonetic, and conceptual similarities, the distinctiveness of a specific mark, the comparative proximity of goods or services, and consumer perception. Another key factor is the role of consumer sophistication and contextual factors such as marketing channels, which further complicates the analysis. Through doctrinal interpretation and case studies, the paper investigates how courts apply the "global appreciation test" and the significance of standards of appellate review. The article advocates for a restrained and evidence-based approach to enforcement, cautioning against the overreach of dominant market players under the guise of preventing confusion. The article tries to establish that trademark law must preserve a dynamic equilibrium. This must also seek to safeguard consumer interests and brand integrity, while ensuring that it does not stifle competition or innovation arising in the field. With an emphasis on clarity, contextuality, and proportionality, the likelihood of confusion test can continue to serve as a fair and functional tool in the wider arena of intellectual property adjudication.

1. Ansa Alexander, 3rd Year Student, National University of Advanced Legal Studies, Kochi

Keywords - Likelihood of Confusion, Trademark law, Distinctiveness, Consumer Perception, Fair Competition

INTRODUCTION

In this era of a growing number of brands and consumer products, there is a need for goods with good product brands to be adequately trademarked. It is the brand name that carries the public image and value. Trademarks are essential tools for protecting a company's long-held business reputation and brand name. Trademarking these brand names ensures that the goods are differentiated from similar brands in this competitive market. Trademarks also ensure that consumers know the source of the product, and also protect the interests of the owner. Trademarks seek to protect the large investment and long-standing reputation that the brand owner has contributed to create. Through getting a trademark registration, an owner is stopping other competitors from reproducing their products or from taking away the goodwill of the company[2]. The likelihood of confusion in trademarks arises when two trademarks are so similar that consumers may mistakenly presume they are from the same owner. According to the definition by CJEU, the Likelihood of confusion happens "where the public can be mistaken as to the origin of the goods or services in question"[3]. Trademark owners are entitled to protection against predatory trade practices, yet some take an overly aggressive approach in enforcing their rights. This aggression often springs from the overextension of the "likelihood of confusion" test, a shift that began in the 1950s. Today, the likelihood of confusion has become the central and major focus of trademark law, with actual confusion reduced to just one of several factors in determining whether questionable trading behaviour warrants injunctive relief[4]. This likelihood of confusion can be considered as one reason for refusing trademark registration. The similarity does not mean they have to be identical copies of each other. A similarity in sound, appearance, meaning, or commercial impression of the trademark is sufficient to create a likelihood of confusion.

There are multiple factors that determine the level of confusion that may arise between different brand names. Firstly, the relative similarity between the goods and services that have similar trademarks is one instance that can create confusion. The more distant the variant of goods or services they tend to represent, the less likely it is that there would be an overlap between the trademarks. Secondly, the similarity in marks is a subjective standard that can only be decided by the courts. The similarity does not mandate the goods to be absolutely identical, but a mere likelihood of confusion between the trademarks is necessary to qualify under this threshold. Thirdly, the similarity can also be attributed to the appearance and design of the product. For instance, an identity in appearance was seen in the brands of Newports and Newport.[5] This similarity is not only limited to appearance and design but also how the brand name sounds like too similar which is a criteria determining the quantum of similarity. For instance, when the products are "Gold Coffee" and "Golden Coffee", the substance which is traded and the names are too similar to each other, it can likely confuse any reasonable person. Similarly, when two or more marks are phonetically similar, there also exists a likelihood of confusion between them. Also, the design or the visual representation of the trademark can also contribute to confusing

2. Pacini, Paolo. "Likelihood of confusion in the judgements of the European Courts and in the decisions of the OHIM." (2005).
3. I. Fhima et al. "Assessing Likelihood of Confusion." The Confusion Test in European Trade Mark Law (2019). https://doi.org/10.1093/oso/9780199674336.003.0006.
4. Daniel R Bereskin, Likelihood of confusion: the irrational basis of trade mark protection, Journal of Intellectual Property Law & Practice, Volume 14, Issue 3, March 2019, Pages 223–229, https://doi.org/10.1093/jiplp/jpy154
5. Pix of Am., Inc., 225 USPQ 691 (TTAB 1985)

the consumers[6]. Section 11 of the Trademarks Act[7] often comes into play as a remedy that gives the Registrar of Trademarks the authority to grant or reject trademark applications. The authority can refuse an application for registration of a particular trademark which is significantly similar or if there exists a scope for creating a likelihood of confusion in the public with the coming of that trademark. Additionally, Section 29 of the Trademarks Act 1999[8] details that likelihood of confusion is one ground for constituting a trademark infringement suit.

DISTINCTIVENESS OF MARK AS A FACTOR

The level of distinctiveness of the earlier mark is also a determining factor in the final decision of whether the new mark has the potential to cause a sense of likelihood in the minds of consumers. There are strong arguments indicating that the more renowned or commercially successful a mark is, the greater the likelihood of it being confused with other marks that competitors may copy. Courts in the United States have often held that a highly distinctive mark is more easily remembered by consumers than a less well-known mark. Once a mark is evoked, consumers who see a similar mark are more likely to believe that the latter is connected with the former. Another argument draws on this theme, that if a consumer encounters a mark that resembles a familiar one, they may cease to scrutinize the marks, ignore the dissimilarities, and sloppily associate the two marks. Even though imperfect recollection of an earlier mark is an established element in trademark law, consumers are also supposed to be "reasonably circumspect." This puts consumers in a dilemma: they cannot be both circumspect and careless at the same time.[9] When it comes to India, there has been an occasion when the likelihood of confusion was applied by the courts. One significant case that came in the year 1959 is the *Corn Products Refining Company vs. Shangrila Food Products Limited*[10] case decided by the Hon'ble Supreme Court of India, which dealt with the question of similarity between two similar marks –'Glucovita' and 'Gluvita'. In this case, the court took the view that both the marks were neither visually similar nor phonetically the same to cause confusion in the minds of the public.

Furthermore, it is unlikely that most consumers would view a mark that is similar to a famous one, immediately stop thinking critically, assume it is the same mark, and go ahead and buy—unless, as the old adage goes, they are indeed a "moron in a hurry." The evolution of the standards for likelihood of confusion has increasingly strained the existing balance between trademark enforcement and the principles of free speech and fair competition. While we know the necessity for trademark owners to protect their marks from losing distinctiveness due to imitation, drawing the line between proper enforcement and overreach is a challenging task. Nevertheless, trademark litigation appears to be motivated more by the desire to protect market share or prevent perceived dilution rather than a genuine concern about protecting goodwill from misappropriation or harm. In certain occasions, it must be noted that injunctions are issued even when evidence for causing harm to owners of trademarks or to consumers is relatively flimsy, and, worse, even in scenarios where harm is only deemed probable due to similarity of the marks. Such decisions raise a need for more tempered action on trademark protection measures in relation to wider interest of competition and freedom of expression.

6. Seven Factors For Identifying Trademark Likelihood of Confusion, CORSEARCH BLOG , Also available at https://corsearch.com/content-library/blog/seven-factors-for-identifying-trademark-likelihood-of-confusion/
7. Trade Marks Act, No. 47 of 1999, § 11 (India), No. 47 of 1999.
8. Trade Marks Act, 1999, No. 47 of 1999, § 29 (India).
9. Johnson, P. Enhanced Distinctiveness and Why "Strong Marks" Are Causing Us All Confusion. *IIC* **55**, 185–212 (2024). https://doi.org/10.1007/s40319-023-01400-0
10. AIR 1960 SC 142

UNDERSTANDING DIRECT AND INDIRECT CONFUSION

Trademark confusion, a landmark concept in trademark law, encompasses both direct and indirect confusion. This was articulated particularly in the UK case of L.A. Sugar, where Mr. Purvis QC, sitting as the Appointed Person, articulated the extent of consumer confusion. Direct confusion occurs when a consumer mistakenly identifies a junior mark as being the same as a senior mark. Indirect confusion, on the other hand, occurs when the consumer recognises the junior mark as different, but, because of similarities between the marks and goods, incorrectly ends up making an assumption of a connection between them. This leads public to the erroneous belief and confusion on the premise that the junior mark represents a brand extension or is otherwise affiliated with the senior mark[11].

The Appointed Person in this scenario identified three specific scenarios where indirect confusion is more likely to occur:

1. Replication of a Distinctive Element: This is when the junior mark uses a highly distinctive feature of the mark which is comparatively senior to it, for example, "TESCO" in a junior sign like "RED TESCO."
2. Weak Additions. Such additions to the junior mark are weakly distinctive. For example, use of terms like "LITE" adds little differentiation.
3. Natural Extension or Logical Variants: Where the junior mark appears to create a natural extension or logical variant of the senior mark. This could include brand extensions or cases where the average consumer mistakenly believes the junior goods to be merchandise or products licensed by the senior mark holder[12].

It is these principles that underscore the significance of making an evaluation in its entirety, rather than forming a picture based solely on certain quotients. When trademarks are compared, it must be done not merely on the visual and phonetic similarities between marks, but also the broader consumer perception of the relationship between the marks and goods involved. This was also reiterated by the High Court of Delhi while deciding the case of *Bigtree Entertainment Pvt. Ltd. vs. D. Sharma,* wherein the court looked into the entire business environment while making a decision on the question of the likelihood of confusion between the similar platforms of 'Bookmyshow' and 'Bookmysports'[13]. Recognising both direct and indirect factors that create confusion, trademark law aims to safeguard consumer trust and the distinctiveness of established brands.

CHANCES OF CONFUSION

One significant addition to trademark literature is the "Confusion Test" adopted in European Trademark Law, which can rightly be seen as something much needed in the Indian trademark arena as well, where confusion has outgrown the average consumer. Indeed, an investigation into the decisions of national offices, including the European Union Intellectual Property Office, and different courts, with a specific focus on national courts in the country and the EU courts, reveals a chaotic application of various laws. Compared to the clear and seemingly simple language of legislation, these decisions often seem mysterious or even contradictory. However, the authors clarify that this impression is misplaced. They thoroughly deconstruct the parts of the confusion test, thus dispelling the notion that the demanded "global appreciation test" is capricious or unpredictable. On the contrary, they prove that it is based on a coherent and consistently applied approach across Europe, methodically examining the various types

11. Ibid, [2].
12. *Hearst Holdings Inc & Anor v A.V.E.L.A. Inc & Ors* [2014] EWHC 439 (Ch), [150 -162]
13. Anushka Saha, *How Does the Indian Judiciary Interpret "Likelihood of Confusion" in Trademark Cases?*, 6 Indian J. L. & Legal Rsch. 1207 (2024).

of similarity in order to determine if a given mark is likely to be confused with another[14].

In one instance, the General Court upheld the invalidity of the disputed RCD on the grounds of a likelihood of confusion. This was raised on the applicant's prior 3D CTM. The court clarified that the notion of "use" under Article 25(1)(e) of CDR does not involve a full or detailed reproduction of the earlier sign. Even with differences or additional features in the contested design, these elements were found of secondary importance and insufficient to defeat the similarity in the impression of the shapes as such. The court determined that the geometric form, dimensions, and compact rectangular body with rounded edges of the earlier mark and the design in question were highly similar and partially identical to one another. Moreover, the judges concluded the cleaning devices that include this disputed design were identical to those goods for which the earlier mark was registered under Nice Class 21. The said consumer, who is to be considered as the average EU consumer of everyday cleaning goods, would not perceive these differences.

The court stressed the fact that the previous mark was not at all distinctive, and yet, that was enough to establish a similarity of a "trade mark type" under Article 9(1)(b) CTMR. In total, the similarities were likely to create confusion for the average consumer, hence satisfying the Article 9(1)(b) CTMR conditions.

In a ruling regarding the likelihood of confusion between the two EU collective trade marks of 'HALLOUMI' and the sign 'BBQLOUMI', the EU General Court determined that there was no likelihood of confusion under Articles 8(1)(b) and 75–82 of Regulation 2017/1001 (the EU Trade Mark Regulation, EUTMR)[15]. This conclusion was based on the level of similarity between the signs, the goods and services in question, and the distinctive character of the earlier mark. This marks a latest chapter in an ongoing legal battle between the Foundation for the Protection of the Traditional Cheese of Cyprus, known as Halloumi, and a Bulgarian firm attempting to register 'BBQLOUMI' as an EU trade mark.

THE DETERMINER OF CONFUSION

A trademark could be a mere symbol, word, name or combination of words or names or any combination thereof, used to identify the original source of goods or services and also used to distinguish them from one another. Similarly, a service mark distinguishes competing service providers. Altogether, these different features read together make a distinct mark that carries the identity and ease of identification for its customers. A well-known brand carries the assurance that any individual can trust the source from which the good or service is coming. For instance, Coca-Cola and McDonald's signify consistent quality and brand recognition across locations.

The vital role played by trademarks in the global economy cannot be overstated. They aid in preventing consumer confusion and protecting businesses from competitors who might exploit their reputation through similar marks. The owner has the option to file a lawsuit for trademark infringement, which can occur when a competitor in the field uses a mark that is very similar to an established trademark. This can mislead consumers regarding the source of goods or services. To prove a case of infringement, trademark owners must demonstrate a "likelihood of confusion" between the trademark that they own and the one that is the infringing mark. Multiple factors are considered in this analytical exercise. Most important is the "sight, sound, and meaning" test, a comparison is made of the overall appearance, phonetics , meaning, and overall commercial impression made by these marks. Identical or nearly identical marks

14. Rosati, Eleonora. "Nature, scope, and application of the confusion test in European trade mark law: from (an undue) confusion to clarity." Journal of Intellectual Property Law & Practice 15 (2020): 139-140.
15. Nedim Malovic, EU General Court says that there is no likelihood of confusion between EU collective trade mark 'HALLOUMI' and 'BBQLOUMI', Journal of Intellectual Property Law & Practice, Volume 16, Issue 4-5, April-May 2021, Pages 291–292,

are likely to cause confusion when, for example, "Koka Kola" closely resembles "Coca-Cola.".[16]

The relatedness of goods or services is also another critical factor in the coexistence of marks. Goods or services which are unrelated can coexist without being confused. For instance, Delta is both a service mark for airlines and trademark for plumbing fixtures owned by different persons. The separate consumers would not associate different products with the same origin since they are unrelated in nature.

The sophistication of the consumer base also impacts the likelihood of confusion. Highly knowledgeable and professional purchasers, such as those buying jet engines, are less likely to be confused, as their decisions depend on product knowledge rather than brand marks. On the other hand, everyday supermarket shoppers, who often make quick purchasing decisions, are more likely to be confused when they come across similar marks[17]. Ultimately, no single factor determines the likelihood of confusion or the intensity of confusion it can cause. Courts often weigh multiple or all relevant factors together to reach a fair assessment of the situation. While this article discusses the primary factors, other elements also play a role in this analysis. The major goal of trademark law is to safeguard both consumer trust and, at the same time, the reputation of trademark holders, ensuring a fair and competitive marketplace. A fair understanding of these factors is necessary so that businesses can better navigate trademark disputes and protect their intellectual property**.**

CASE OF ATHLON AND DECATHLON

The European Union's General Court found that the EUIPO Board of Appeal did not err in finding that there was no such likelihood of confusion between the marks ATHLON and DECATHLON. This was a situation where the goods in question were identical. The element "athlon" was common to both marks and, in itself, weak regarding distinctiveness, because it is a word related to athletics and sports. In this regard, the element "athlon" cannot dominate the impression of the overall marks. The court noted that the visual differences between the marks were greater than the phonetic differences, and for part of the public, the conceptual similarities were more pronounced. The ATHLON mark had unique stylisation and graphical elements that were sufficient to create a specific visual identity. These differences are enough to avoid confusion for the relevant public. This calculation is based on the perspective of an average consumer, who is assumed to be reasonably observant and cautious. The decision underscores the principle that even where the goods are identical, it is the distinctiveness of shared elements and the overall impression of the marks that plays a major role in assessing the likelihood of confusion. Weak distinctiveness of the shared element, as in the case at hand, could significantly reduce the possibility of confusion, especially when such is accompanied by noticeable visual distinctions[18].

ROLE OF CONSUMER PERCEPTIONS

What marks could be confused by a reasonable consumer is at the core of trademark likelihood of confusion disputes. While protecting the consumer from deception regarding source, the law protects investments in brand identity made by trademark owners. Whether such a consumer could confuse one mark with another is thus predicated on how the typical consumer perceives and then interacts with the marks involved. From the viewpoint of an average consumer, who is considered reasonably better - informed, observant, and circumspect, a picture emerges of the role of consumer

16. David V. Radack, Likelihood of Confusion—The Basis for Trademark Infringement, Also available at https://www.tms.org/pubs/journals/jom/matters/matters-0212.html
17. Deborah Sewagudde, How likely is a 'likelihood of confusion'?, Journal of Intellectual Property Law & Practice, Volume 6, Issue 6, June 2011, Pages 359– 361,
18. Janet Strath, Jog on: General Court finds no likelihood of confusion between DECATHLON and ATHLON, Journal of Intellectual Property Law & Practice, Volume 16, Issue 8, August 2021, Pages 765– 767

perceptions. But this standard varies in relation to the nature of the goods or services. In some cases, such as with specialised or high-value items, like medical devices or luxury goods, consumers will likely be more cautious, minimising the potential for confusion. In other cases, like impulse purchases of common, mundane items, such as snacks or household goods, the consumer will be less cautious, thereby increasing the likelihood of confusion. Therefore, we can see a relation between the price of a commodity and the chances of confusion in it. Courts and trademark offices consider consumer perception through a study of various factors. This includes similarity in looks, sound, and meaning between the marks, the relatedness of the goods and the overall commercial impression. The context within which the marks are met includes marketing channels and demographics of the target[19].

In legal disputes, evidence of consumer perception can be effectively measured using consumer surveys, expert testimony, and market research. Consumer surveys, in particular, are valuable tools in identifying the changing consumer perceptions surrounding a brand. In the case of K.M. Knitwear vs. Registrar of Trademarks (2023), the High Court of Madras clarified that the likelihood of creating confusion must be assessed from an individual's perspective, considering the average intelligence and imperfect recollection of a person. Consumer surveys gauge real-world reactions to the marks in question. They offer quantitative and qualitative insights into potential confusion. Courts may also consider anecdotal evidence, which is collected from these actual instances of confusion reported by consumers or retailers.

While deciding the case of *Kent RO Systems Ltd. & Anr vs. Amit Kotak and others*[20]. The Delhi High Court realised the importance of giving due regard to the domain-specific names which can create confusion among online consumers or consumers in the digital space. Consumer perception is, therefore, becoming the prism through which trademark disputes are evaluated. These surveys provide empirical data on the extent to which consumers believe certain brands emanate from the same sources or brands. Courts undertake the task of balancing the divergent interests of consumers and trademark owners by focusing on how marks are likely to be understood and associated with by the public, while fostering fair competition at the other end.

THE IMPACT OF STANDARDS OF REVIEW

The standard of review carries a crucial role in the likelihood of confusion decisions made by appeals courts in trademark cases. It is a method that determines how much weight appellate courts give to lower courts' determinations. For instance, in the U.S., the issue of likelihood of confusion presents a mixed question of law and fact. Appellate courts commonly review findings of facts for "clear error" and conclusions of the law de novo. A dual standard like this can significantly impact the outcome of cases. While reviewing the factual findings, appellate courts demonstrate deference to the trial court's assessment of evidence. This may include witness credibility, consumer surveys, and market context, under the "clearly erroneous" standard. A deference at this stage can make it challenging for appellants to overturn decisions unless there is a manifest error. For instance, while deciding the case of *Stone Brewing Co. v. MillerCoors LLC (2022)*[21],the Ninth Circuit affirmed the trial court's finding that there is no likelihood of confusion. This view was based on no clear error in the factual determinations about consumer perceptions and branding practices. Conversely, the de novo review of legal principles affords appellate courts greater flexibility in reinterpreting the application of the law to specific facts. Taking the case of *Jack Daniel's Properties,*

19. Kearney, Í., & Vincent-Wayne Mitchell, *Measuring Consumer Brand Confusion to Comply with Legal Guidelines, 43 Int'l J. Market Res.* 85, 85-91 (2001). https://doi.org/10.1177/147078530104300103.

20. Kent RO Systems Ltd. v. Amit Kotak, 2017 SCC OnLine Del 7201

21. *Stone Brewing Co. v. Millercoors LLC,* 3:18-cv-00331-BEN-MDD (S.D. Cal. Jul. 26, 2022)

Inc. v. VIP Products LLC (2023)[22], the Apex Court reevaluated the balancing of trademark protections and First Amendment considerations by the lower court. The court empasised that the legal principles surrounding the expressive use of trademarks required fresh scrutiny, even as factual findings were respected.

The interplay between these differing standards determines the outcome. A deferential review may solidify a decision by a lower court if the evidence is plausible. On the other hand, a de novo review may provide the possibility of recalibrating the legal framework. Recent cases emphasise the growing importance of providing strong factual evidence at trial because it may become determinative under appellate scrutiny. This dichotomy points out how procedural nuances can affect substantive trademark law outcomes.

CONCLUSION

The likelihood of creating confusion remains the bedrock of trademark law. The various tests and methods undertaken try to balance and find a common ground between the protection of trademark owners' rights and the preservation of fair competition. With the increasing proliferation of various brand names and diversification of consumer products, courts and trademark offices are tasked with the challenge to navigate complex disputes where confusion risks vary based on multiple factors. Such risks and possibilities include the distinctiveness of various marks, the relative interdependence of goods and services, and the priorities of the target consumer base. For instance, in the case of the pharmaceutical industry, the standard of care required is significantly higher. This was deliberated while deciding the case of *Cadila Healthcare Limited vs Cadila Pharmaceuticals Limited (2001)*[23], where the court viewed that the two marks of 'Falcigo' and 'Falcitab' were similar to each other, and regarding the specific nature of the pharmaceutical industry, there is a higher likelihood of confusion in the field.

Highly distinctive marks may carry a greater risk of confusion due to their ability to be easily recalled by consumers. The weaker or common the elements within marks are, the lower the risks might be, especially where they are accompanied by notable visual or conceptual distinctions. Evolving case law over the years shows that courts assess confusion in a distinct and sophisticated manner with a global appreciation test that considers both direct confusion and indirect confusion. Direct confusion happens at those times when a particular consumer believes that one mark is another, whereas indirect confusion happens when the marks are perceived to be associated or affiliated. Consumer perception also plays a critical role in these evaluations, and courts rely on tools such as surveys, expert testimony, and real-world evidence of confusion

Ultimately, the policy of trademark law functions and works with the larger objective of balancing fairly competing interests, protecting consumers from confusion and deception in the highly competitive market sphere and protecting businesses from unfair competition, while furthering a competitive marketplace that works to protect freedom of expression and incentives for innovation. This calls for clear application of various tests and tempered enforcement of trademark rights. The challenges that lie ahead are the subjectivity involved in judicial interpretations, the evolving business landscape and the impact that digital technology and commerce will create.

REFERENCES

1. Pacini, Paolo. "Likelihood of confusion in the judgements of the European Courts and in the decisions of the OHIM." (2005).
2. I. Fhima et al. "Assessing Likelihood of Confusion." The Confusion Test in European Trade Mark Law (2019).
3. Daniel R Bereskin, Likelihood of confusion: the irrational basis of trade mark protection, Journal of Intellectual Property Law & Prac-

22. *Jack Daniel's Properties, Inc. v. VIP Products LLC*, 599 U.S. 140 (2023)
23. Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd., (2001) 5 SCC 73

tice, Volume 14, Issue 3, March 2019, Pages 223–229

4. Pix of Am., Inc., 225 USPQ 691 (TTAB 1985)
5. Seven Factors For Identifying Trademark Likelihood of Confusion, CORSEARCH BLOG , Also available at https://corsearch.com/content-library/blog/seven-factors-for-identifying-trademark-likelihood-of-confusion/
6. Trade Marks Act, No. 47 of 1999, § 11 (India), No. 47 of 1999.
7. Trade Marks Act, 1999, No. 47 of 1999, § 29 (India).
8. Johnson, P. Enhanced Distinctiveness and Why "Strong Marks" Are Causing Us All Confusion. IIC 55, 185–212 (2024).
9. AIR 1960 SC 142
10. *Hearst Holdings Inc & Anor v A.V.E.L.A. Inc & Ors* [2014] EWHC 439 (Ch), [150]– [162
11. Anushka Saha, *How Does the Indian Judiciary Interpret "Likelihood of Confusion" in Trademark Cases?*, 6 Indian J. L. & Legal Rsch. 1207 (2024).
12. Rosati, Eleonora. "Nature, scope, and application of the confusion test in European trade mark law: from (an undue) confusion to clarity." Journal of Intellectual Property Law & Practice 15 (2020): 139-140.
13. Nedim Malovic, EU General Court says that there is no likelihood of confusion between EU collective trade mark 'HALLOUMI' and 'BBQLOUMI', Journal of Intellectual Property Law & Practice, Volume 16, Issue 4-5, April-May 2021, Pages 291–292
14. David V. Radack, Likelihood of Confusion—The Basis for Trademark Infringement, Also available at https://www.tms.org/pubs/journals/jom/matters/matters-0212.html
15. Deborah Sewagudde, How likely is a 'likelihood of confusion'?, Journal of Intellectual Property Law & Practice, Volume 6, Issue 6, June 2011, Pages 359– 361
16. Janet Strath, Jog on: General Court finds no likelihood of confusion between DECATHLON and ATHLON, Journal of Intellectual Property Law & Practice, Volume 16, Issue 8, August 2021, Pages 765– 767
17. Kearney, Í., & Vincent-Wayne Mitchell, *Measuring Consumer Brand Confusion to Comply with Legal Guidelines*, 43 *Int'l J. Market Res.* 85, 85-91 (2001).
18. Kent RO Systems Ltd. v. Amit Kotak, 2017 SCC OnLine Del 7201
19. *Stone Brewing Co. v. Millercoors LLC*, 3:18-cv-00331-BEN-MDD (S.D. Cal. Jul. 26, 2022)
20. *Jack Daniel's Properties, Inc. v. VIP Products LLC*, 599 U.S. 140 (2023)
21. Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd., (2001) 5 SCC 73