

Latest Trademark Cases – 2021 | Part 1

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This running post provides a summary of the latest Indian Trademark cases in 2021, decided by various Courts and tribunals in the country.

El Baik Food Systems Co. S.A vs Arsalan Wahid Gilkar & Anr

In a recent decision, the Delhi High Court granted an Ex-parte Injunction against use of the trademark 'Albaik' for restaurants and related services. The plaintiff in the case was the Albaik Group based out of Saudi Arabia, which started its business in 1986. The plaintiff briefly operated under the mark, Albaik, in India between 2017 and 2020, and had to shut down its operations due to the COVID lock downs. It also has several trademark registrations over the mark, Albaik, in word and logo forms.

The Defendants in the case were offering franchises over the plaintiff's mark by charging a franchise fee of five (5) percent, and details of the same were placed on the defendants' websites and social media pages. Convinced with the prima facie case of the plaintiff, the Court granted the Ex-parte injunction in favour of the plaintiff.

Citation: El Baik Food Systems Co. S.A vs Arsalan Wahid Gilkar & Anr, Decided by the Delhi High Court on 4th June, 2021, available at: <https://indiankanoon.org/doc/99016397/>

United Spirits Limited vs Som Fragrances Private Limited and Others.

In this case, United Spirits filed an application for an interim injunction with respect to use of its well known trademark, SIGNATURE, by the Defendants for Gutka. The parties had earlier entered into a settlement agreement pertaining to use of the said mark for tobacco and related products by the Defendants, and United Spirits argued that the Defendants had breached the settlement agreement and related undertaking, which made the settlement invalid. The Court disagreed and stated that actions were taken by parties with respect to the trademark applications filed after the settlement, which made the agreement valid. Acknowledging that well known marks get broader protection, the Court asked the Defendants to use the trademark, Signature, in line with the settlement agreement. It did not injunct the Defendants from using the mark for Gutka.

Citation: United Spirits Limited vs Som Fragrances Private Limited and Others., Decided by Delhi High Court on 28th April, 2021, available at: <https://indiankanoon.org/doc/155080630/>.

Kaira District Cooperative Milk Producers Union Ltd and Anr. V/S. Maa Tara Trading Co. and Ors.

In this case, the Calcutta High Court passed an interim order against the Defendants, restraining them from using the trademark 'Amul' in connection with their products. The case was instituted by Kaira District Cooperative Milk Producers Union Ltd., who are the proprietors of the trademark 'Amul'.

It was contended in the Plaintiff, that the Defendants were incorporating the 'Amul' trademark with a deceptively similar font in the labels of candles marketed by them, which was alleged to be an act of trademark infringement. The counsel appearing for the Plaintiff also pointed out that the 'Amul' trademark was recognised as a well-known mark by the Trademark Registry, and as the Defendant's products were being sold at cake shops and confectionaries, there exists a high likelihood that consumers would associate such infringing products with the Plaintiff. The Calcutta High Court duly passed an order of temporary injunction restraining the Defendants from using the 'Amul' mark until the disposal of the suit.

Citation: Kaira District Cooperative Milk Producers Union Ltd and Anr. V/S. Maa Tara Trading Co. and Ors. [G.A./1/2020 in CS./107/2020], Decided by the Calcutta High Court on 22nd March, 2021,, available at: <https://indiankanoon.org/doc/148365026/>