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## TRADEMARK DILUTION AND BRAND IDENTITY: LEGAL SAFEGUARDS IN THE GLOBAL MARKETPLACE

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### ABSTRACT

Trademark is not only for identifying the origin and place of goods and services, it is very important for increasing the brand value and recognition. The dilution argument challenges idea that a trademark's sole function is to indicate the origin of goods or services. It says that trademark also carries a creative aspect, going beyond mere figurative representation. The most debatable question in trademark law over the decade has been how to prove weakening or dilution. Dilution of trademark occurs when an iconic mark's distinctiveness is compromised by unauthorized use, particularly in the absence of direct competition or confusion of consumers. This essay focuses on two forms of dilution: blurring, which makes it more difficult to link to the goods or services it represents, and tarnishment, which affects a brand's reputation by associating it with Inappropriate or inferior products.

The notion of dilution continuous to be highly elusive inn nature. Dilution law's main loophole is that it provides a remedy without a valid theory of the harm or damage. There has been very minimal discussion on this dilution, even though it has recently been acknowledged in both national and international jurisdictions, placing a great deal of duty on domestic jurisdiction to protect trademarks against dilution. Such uncertainty made it easier for this study to compare the notion of dilution from various perspectives in various jurisdictions to provide some insight on it. And this paper helps firms to handle the global marketplace by interpreting the complexities of trademark dilution and the regulatory frameworks designed to lessen its consequences. Furthermore, this paper highlighting the court's interpretation process of the dilution provision, and it tries to address the idea further using significant U.S. legal cases and European rulings in relation to the dilution laws. It also compares the efficacy of the legal systems in India and the USA.

**Keywords:** Trademark dilution, Global marketplace, Blurring, Tarnishment, TDRA.

## **I. INTRODUCTION**

The importance of brand identification in the networked global marketplace of today cannot be emphasized enough. Brands represent not only goods and services but also reputation, values, and customer trust, making them potent symbols. Maintaining a brand's distinction and uniqueness in the face of a sea of competitors is a constant problem in the highly competitive world of commerce. Dilution of trademarks is one of the most serious risks to brand integrity. The term "trademark dilution" describes how the unapproved use of similar or identical marks by third parties weakens a brand's originality or uniqueness. Dilution happens when a well-known mark's power or distinctiveness is diminished by association with unrelated goods or services, damaging its reputation and commercial worth.<sup>1</sup> This is different from typical trademark infringement, where consumer misunderstanding is the main problem. In the modern era, it is safe to say that a trademark is an intangible asset that, like any tangible property, may develop into a vital resource for any business or organisation engaged in the production of items to sell. A trademark that recognizes original and created words, names, or symbols can serve as a building block for a brand or label in addition to serving as a means of identifying the manufacturer's origin. Customers are influenced in such a way that a well-known trademark can have such an effect on people's perceptions that when it is linked to a confusingly similar or dissimilar product, people may assume that the original mark's manufacturer is providing the quality and standard.<sup>2</sup>

Since a trademark serves as an efficient means of communication between the maker and the customer, it can significantly boost a company's earnings from an economic standpoint. With just one brand or symbol, trademarks can readily convey the essential intellectual elements and details about the company, its reputation, goods, and facilities.

## **II. TRADEMARK DILUTION**

A trademark turns into a producer's identity. Such an identity becomes a brand and is classified as a well-known mark when it becomes worldwide and universally recognized. A well-known mark is violated, it loses its exclusivity, which is known as dilution. As a result, the mark deteriorates and loses its unique characteristics and capacity to stand out among the many other

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<sup>1</sup> Arpit Gupta, "Trademark dilution: protecting the distinctiveness of brands in a global market" Legal Vidhya (2024).

<sup>2</sup> Anuttama Ghose, Saniya Aamir, "Dynamics of Trademark Dilution: Issues and Challenges in India and USA" (2022). 8, legal Vidhya,16, (2020).

trademarks in the worldwide market. It is completely unnecessary to demonstrate the existence of confusion or deception, or the fact that the mark should be used on competitive goods, in order to establish a cause of action in a dilution case.<sup>3</sup> When it comes to the famous mark, dilution frequently becomes a barrier that prevents consumers from having a single association in their minds. We can claim that this type of infringement readily destroys the goodwill, reputation, and fame that the owner of the well-known mark has built up in the universal market via consistent time, money, and labour investment.

Dilution falls into one of two primary forms of infringement. First one is dilution through blurring of the reputable mark and other is tarnishing of the same. Both eliminate the distinctiveness of the well-known mark and aid in its waning. There are differences between the two ideas even though they both belong to the domain of dilution.

### **A. DILUTION BY BLURRING**

According to Schechter, blurring is the fundamental form that justifies the definition of dilution, which refers to the “gradual fade away”<sup>4</sup> of the well-known brand.<sup>5</sup> When we talk about “blur,” we imply something that is difficult to define or distinguish. A fictional example can be used to understand this idea. As everyone is aware, the well-known brand “DELL” is linked to laptops but consider DELL shampoos or DELL beds. In these situations, the well-known brand “DELL” is being linked to products that aren’t directly competing with laptops. However, when the same mark is used to identify the origin of products other than the original, it eliminates the mark’s one association factor with the original owner’s goods. Although the customer may not have a mental conundrum as a result, this does establish a mental connection. Now, when someone thinks of Dell, they will not only see the image of laptops, but also other products that have been linked to this mark as a source recognizer.

### **B. DILUTION BY TARNISHMENT**

A mark is considered tarnished when it is utilized on items by a third party without permission, which could lead to a bad perception of the mark among consumers and harm its reputation

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<sup>3</sup> Courtland L. Reichman, ‘State and Federal Trademark Dilution’, 17 *Franchise Law Journal*, 111, (1998).

<sup>4</sup> Frank I. Schechter, ‘The Rational Basis of Trademark Protection’, 40 *Harvard Law Review*, 813 & 833 (1927).

<sup>5</sup> Terry Ahearn, ‘Dilution by Blurring under The Federal Trademark Dilution Act of 1995: What Is It and How Is It Shown’, 40, *Santa Clara Law Review*, 890, (2001).

and standing.<sup>6</sup> What distinguishes tarnishment from blurring? In order to answer this question, we must recognise that in order to establish tarnishment, it is necessary to demonstrate that the original mark has been applied to products that are of lower quality than those of the original mark, or that the mark has been applied to products that may not be regarded as dignified, or that the products have objectionable images or ideas. People form a negative opinion as a result of this. For the owner who built a worldwide name on the quality that was promised and delivered for years, this unfavourable association proves to be fatal.

In a Landmark case, the well-known company Victoria's Secret<sup>7</sup> filed a dilution lawsuit against Victor's Little Secret, a small store that sold a range of goods, including lingerie, pornographic movies, and sexual novelty items. This is a classic example of both dilution and tarnishment due to blurring. The original mark is being degraded and tarnished when it is used on adult products and profane coffee cups. When the mark is simply linked to the defendant's products, it loses its distinct identification and creates a blurring effect in people's minds.

### III EVOLUTION OF DILUTION IN US

The existence of direct competition was regarded as one of the primary grounds for action to establish trademark infringement during the first half of the twentieth century. The concept of deception was not as widely accepted as it is today, which includes confusion that is not limited to source but also includes association, connection, or validation. By 1920, there was a significant change in the then-current trademark law, and a breach in the legal protection of trademarks in the United States was discovered. The entrance of the twentieth century saw a dramatic transition in business relations. It was subsequent to the "Eastman Company Kodak Case."<sup>8</sup> The traditional idea of trademark protection that is available in the United States has undergone a significant shift in England. In this case, the company, Kodak Cycle, was successfully barred from using the trademark "KODAK" on their bikes on the basis of the lawsuit, which was launched by the company, Eastman, which manufactured Kodak cameras. A comprehensive grasp of the Court's position that confusion can emerge even in the absence of express competition of commodities is provided by a study of the ruling. In actuality, the court did not provide an explanation for confusion or deceit. Instead, it emphasized the

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<sup>6</sup> Britt N. Lovejoy, 'Tarnishing the Dilution by Tarnishment Cause of Action: Starbucks Corp.v. Wolfe's Borough Coffee, Inc. and V Secret Catalogue, v. Moseley, Compared', 26 *Berkeley Tech. Law Journal* ,619, (2011)

<sup>7</sup> V Secret Catalogue, Inc. v. Moseley, 2001, 6<sup>th</sup> Circuit, 259 F.3d 464, p.466

<sup>8</sup> Eastman Photographic Materials Co. v. John Griffiths Cycle Corp., [1898] 15 RPC 105 (Eng.).

significance and uniqueness of the KODAK mark and how it should be safeguarded to preserve its distinctiveness. However, in making such a ruling, the Court worded it in a way that would continue to be consistent with the direct competition principle with regard to products.

This can also be seen in *Wall V. Rolls-Royce*.<sup>9</sup> As per the Third Circuit Court of Appeals, the idea of infringement did not only extend to similar or competing goods. Radio tubes were marked with this mark, ROLLS ROYCE. In order to defend the infringement, the court expanded its line of reasoning and categorized cars and radio tubes as directly competitive goods. This has been done because it was assumed that the corporation had expanded its product line to include new electric vehicles using radio tubes, and energy was a critical component in the case of automobiles and airplanes. The Court's attempt to apply the traditional infringement method to unusual situations resulted in the element "fame" becoming a ground for dilution.

In 1932, attempts were made to create a Federal Dilution Statute, but they were unsuccessful because of the Department of Justice's dissatisfaction with the development of property rights in trademarks. In this case, the State Legislature proved to be more approachable, and since 1994, nearly 25 states have successfully established diluting statutes.

#### **a) FEDERAL TRADEMARK DILUTION ACT (FTDA)**

Only those trademarks that were deemed well-known even before the contested mark was used in trade and commerce for the first time were protected under the Federal Trademark Dilution Act (FTDA).<sup>10</sup> The FTDA's goal was to prevent the well-known trademarks from losing their ability "to recognize and differentiate goods or services regardless of the presence or lack of competition among the proprietor of the other well-known trademark and the unauthorized parties, or any possibility of misinterpretation, error, or deception." Upon examining the FTDA, it is evident that there was a clear lack of clarity on the extent and subject matter of protection.

The famous mark eligibility was mentioned in the act, but it was unclear what was meant by "famous" and what level of fame was required to be deemed famous and protected under the aforementioned anti-dilution statute. As a result of the ambiguity that existed, several courts in

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<sup>9</sup> Wall v. Rolls-Royce of America, Inc., 1925, 3<sup>rd</sup> Circuit 4 F.2d ,333-335.

<sup>10</sup> Federal Trademark Dilution Act, 2006, United States of America, s.1125(c)(1).

the United States developed different enforcement rules. Some courts adopted a more restrictive stance than others, which frequently resulted in disagreements with one another.

The courts in the United States were frequently found to be at odds with one another because the FTDA was unable to successfully define the term “famous” with distinction. One of the main questions that came up during this time was whether the anti-dilution statute’s protections only applied to naturally distinctive marks or if they could also be applied to marks that became distinctive using commercial products over a specific amount of time. Regarding “*New York Stock Exchange Inc. v. New York New York Hotel LLC*,”<sup>11</sup> However, in the case of “*Thane Intern., Inc. v. Trek Bicycle Corp.*,”<sup>12</sup> it was noted that the second circuit believed that only marks with naturally acquired uniqueness may afford the protection under the FTDA. The ninth circuit held the other viewpoint and was entirely at variance with such an opinion.

In the first case, the court believed that NYSE’s marks lacked inherent distinctiveness. As a result, even though NYSE is well-known, its dilution claims were dismissed because the Lanham Act’s anti-dilution shield only applies to marks that are essentially distinctive and not to those that have succeeded in gaining distinctiveness from ancillary meaning. It was not determined whether the Act would apply to those marks that are not fundamentally distinctive, despite the NYSE’s assertion that the mark is distinctive if not fundamentally but via acquired consequential meaning.

In the case of “*TCPIP Holding Co. v. Haar Communications Inc.*,”<sup>13</sup> the court upheld a similar stance and placed weight on a mark's established distinctiveness. Another dispute under the Act arose from the question of whether trade dress and packaging would be covered by the FTDA and whether the provided protection would be available.<sup>30</sup> Divergent views on this matter were also observed in the rulings of other U.S. courts.<sup>14</sup> Although the Act did not establish a precise definition of “famous,” it did manage to provide a number of variables that can be used to determine renown under the Federal Trademark Dilution Act, 2006, USA, 1125(c)(1).

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<sup>11</sup> *New York Stock Exchange, Inc. v. N.Y., N.Y. Hotel LLC*, 2002, 2<sup>nd</sup> Circuit, 293 F.3d 550.

<sup>12</sup> *Thane Intern., Inc. v. Trek Bicycle Corp.*, 2002, 9<sup>th</sup> Circuit, 305 F.3d 894-895.

<sup>13</sup> *TCPIP Holding Co. v. Haar Communications Inc.*, 2001, 2<sup>nd</sup> Circuit, 244 F.3d 894-98

<sup>14</sup> *Abisco, Inc. v. PF Brands, Inc.*, 1999, 2<sup>nd</sup> Circuit, 191 F.3d 208. *Lund Trading ApS v. Kohler Co.*, 1998, 1<sup>st</sup> Circuit 163 F.3d 27,50

## b) TRADEMARK DILUTION REVISION ACT(TDRA)

The Revision Act was codified with the intention of filling in the gaps that existed after the ruling in the *Moseley v. V Secret Catalog, Inc.*<sup>15</sup> case made it evident that the Federal Statute needed to be changed immediately. Significant modifications were made to the Federal Trademark Dilution Act of 1996 by the Trademark Dilution Revision Act of 2006. Since this Act's inception, the owner of well-known marks has had their rights expanded, and their chances of winning dilution lawsuits have improved.

Significant changes were made to the anti-dilution statute's scope and subject matter with the passage of the Trademark Dilution Revision Act. The TDRA established a very higher bar for what qualifies a "famous mark". The recognition and inclusion of marks that have achieved distinctiveness rather than being essentially distinctive under the Act's purview, including trade dress, upon the satisfaction of specific requirements, was another trend observed under the revision Act. Despite these modifications, the court continued to adhere to these guidelines and standards, much as the FTDA.<sup>16</sup>

The long-running argument over whether a mark that has achieved distinctiveness and trade dress under the anti-dilution statute can still enjoy protection against dilution ended with the passage of the Trademark Dilution Amendment Act. Along with the aforementioned marks, the new law specifically includes protection for trade dress.<sup>17</sup> According to the Act, a trade dress must be well-known regardless of any registered marks it contains and regardless of the repute of those marks.<sup>18</sup>

This Act not only establishes a clear primary requirement for renown, but it also calls for national recognition rather than recognition that is limited to a single region. In this sense, it raised the standard for what constituted a famous mark above the prior legislation. A famous mark, according to the TDRA, is one that is "widely recognized by the usually consuming people."<sup>19</sup> A recurring similarity between the TDRA and FTDA is that the mark

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<sup>15</sup> *Moseley v. V Secret Catalogue Inc.*, 2003, 537 U.S. 418, p. 420.

<sup>16</sup> Roopal Singh, Trademark Dilution and Brand Protection: Legal Challenges and Global Perspectives, *International Journal of Research Publication and Reviews*, 79888(2024).

<sup>17</sup> Trademark Dilution Revision Act, 2006, United States of America, s. 1125(c) (1) (4).

<sup>18</sup> Trademark Dilution Revision Act, 2006, United States of America, s. (c) (4) (B).

<sup>19</sup> Trademark Dilution Revision Act, 2006, United States of America, s. 1125(c) (2) (A)

must be well-known prior to the offender using it on his goods or services.<sup>20</sup>

A recurring similarity between the TDRA and FTDA is that the mark must be well-known prior to the offender using it on his goods or services. According to the TDRA, well-known identifying markings that have acquired uniqueness are eligible for security. In the TCPIP<sup>21</sup> case, the Second Circuit ruled that descriptive marks would not be protected under the FTDA.

Because the new Act claims to be “extensively known among the common people,” it has raised the bar for celebrity. An examination of the phrase indicates that recognition and reputation within the specialized trade area are insufficient unless and until they are additionally generally recognized by customers. It suggests that even if a company doing business with a certain organisation is highly well-known in that industry or commerce sector, it won’t meet the TDRA’s criterion of renown unless the company is well-known to the broader public. Therefore, compared to retail labels, these corporations are more likely to encounter obstacles when attempting to obtain protection under the anti-dilution regulations.

It is explained in illustration of the aforementioned. One of the top businesses that sells telecommunications products is “Qualcomm.” However, they primarily work with the top companies that sell wireless electronics, such as mobile devices, rather than directly with customers. Even though it is a very well-known brand in the business in question, it is not protected by anti-dilution regulations unless the typical customer recognizes and recognizes it.

The courts adhered to the eight variables to be taken into consideration with regard to renown when implementing the TDRA. However, the aspect of regional fame could not be applied under the new Act, hence the mark “WAWA”<sup>22</sup> could no longer be regarded as a famous mark. Similar to this, the mark “NAILTIQUES”<sup>23</sup> did not satisfy the TDRA’s threshold of fame, even though some judges had deemed it to be a famous mark under the FTDA. Conversely, trademarks such as “NIKE”<sup>24</sup> and “LOUIS VUITTON”<sup>25</sup> were able to satisfy the TDRA’s famous requirement.

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<sup>20</sup> *Id.*

<sup>21</sup> TCPIP Holding Company, Inc. v. Haar Communications Inc., 2001, 244 F.3d 88, 90.

<sup>22</sup> Wawa Dairy Farms v. Haaf, 1996, 40 U.S.P.Q.2d 1629-1630.

<sup>23</sup> Nailtiques Cosmetic Corp. v. Salon Sciences Corp., 1997, 41 U.S.P.Q.2d 1995.

<sup>24</sup> Nike, Inc. v. Nikepal Intern., Inc., 2007, 84 U.S.P.Q.2d 1820.

<sup>25</sup> Louis Vuitton Malletier v. Haute Diggity Dog, 2007, 507 F.3d 252-253.



#### IV. THE EUROPEAN UNION'S HARMONIZED REGIME

The European Union has an advanced and cohesive framework for trademark protection, chiefly via the European Union Trademark Regulation and the TradeMarks Directive. The EUTMR establishes a unified EU-wide trademark, whilst the Directive guarantees the harmonisation of national legislation among member states. The anti-dilution regulations closely resemble those of India, however they are integrated within a well-established corpus of case law from the Court of Justice of the European Union.<sup>26</sup>

The foundation for avoiding dilution is established in Article 9(2)(c) of the EUTMR (pertaining to infringement) and Article 8(5) (regarding the refusal of future registration). These articles confer upon the holder of an EUTM with a “reputation” the authority to prevent third parties from utilising an identical or similar mark on dissimilar goods/services when such use, without justifiable reason, exploits or undermines the distinctive nature or reputation of the EUTM.

The CJEU has offered intricate interpretations that delineate the EU's methodology as discussed below. Firstly, in the case of reputation the mark must be recognised by a substantial segment of the public in the jurisdiction where protection is requested. An EUTM does not need reputation in every member state, but rather in a “substantial part” of the EU, which may consist of a single big member state or many smaller ones. Then the matter of unfair advantage idea was clearly articulated in *L'Oréal v. Bellure*,<sup>27</sup> where the CJEU determined that it arises when a party attempts to “ride on the coat-tails” of a renowned mark to exploit its allure, notoriety, and prestige without providing remuneration. It is an exploitation of the brand owner's marketing efforts. The harm to distinctive character is explained in the landmark decision *Intel Corporation Inc. v. CPM United Kingdom Ltd.*,<sup>28</sup> the Court set a rigorous standard, requiring evidence of a “change in the economic behavior” of the typical customer. There must be a significant probability that the mark's capacity to indicate the source will be diminished. The evaluation examines the extent of resemblance between the marks, the prestige and distinctive nature of the prior mark, and the characteristics of the products. Detriment to repute was established when the later mark's use in connection with its goods would negatively impact the image of the famous mark. Associating a prestigious mark with

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<sup>26</sup> Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trademark, OJ L 154.

<sup>27</sup> (2009) E.C.R. I-5185.

<sup>28</sup> (2008) E.C.R. I-8823.

inferior, cheap, or unseemly products is a typical example. Additionally, the criterion for a mark to own a reputation was delineated in *General Motors v Yplon*,<sup>29</sup> which determined that acknowledgement in a significant portion of the EU, such as a major member state, is enough.

## V. THE INDIAN LEGAL FRAMEWORK: THE TRADEMARKS ACT, 1999

India's trademark dilution policy is regulated by the Trade Marks Act, 1999, which significantly updated the nation's intellectual property laws. Before this legislation, protection was mostly limited to situations when misunderstanding was probable. The 1999 Act clearly established dilution-based protection, chiefly under Section 29(4).<sup>30</sup> This crucial clause indicates that a registered trademark is violated if an individual employs a mark that is same or like a registered trademark having a "reputation in India," on dissimilar products or services, and such use occurs "without due cause." The violation is confirmed if this usage is determined to:

- i. Exploit the unique nature or reputation of the registered brand unfairly; or
- ii. Adversely affect the unique identity of the registered brand (blurring); or
- iii. Adversely affect the reputation of the registered brand (tarnishment).

The Indian judiciary has been crucial in interpreting this legislation. The courts have established that the plaintiff is not needed to demonstrate actual harm; the mere possibility of dilution is enough. The "likelihood of confusion" test serves to determine whether a new user's mark, or a reproduction of an existing mark, generates confusion among consumers, thereby undermining the rights of the established user. The customer is consequently influenced by the principles underlying dilution. While the act does not explicitly mention the term "dilution," section 29(4) empowers parliament to deduce that a plaintiff may establish dilution of their trademark concerning dissimilar goods or products.

Section 29 of the trademark legislation enacted in 1999, which came into force in 2003, pertains to the issue of trademark infringement. Provisions 2(1)(zg)<sup>31</sup>, 11(2)<sup>32</sup>, 11(6)<sup>33</sup>, 11(7)<sup>34</sup> and

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<sup>29</sup> ECLI:EU:C: 1999:434, para. 27.

<sup>30</sup> The Trademarks Act, No. 47 of 1999, § 29(4).

<sup>31</sup> The Trademarks Act, No. 47 of 1999, § 2(1) (zg).

<sup>32</sup> The Trademarks Act, No. 47 of 1999, § 11(2).

<sup>33</sup> The Trademarks Act, No. 47 of 1999, § 11(6).

<sup>34</sup> The Trademarks Act, No. 47 of 1999, § 11(7).

11(9)<sup>35</sup>20 make reference to the concept of a "well-known mark." It is essential to examine the nature, intent, and application of section 29(4) of the act to understand the progress achieved by Indian courts regarding the theory of dilution.

### **Protection of Renowned Trademark in India under Section 29 of the Trademark Act**

As discussed about while section 29(4)<sup>36</sup> elucidates the statutory implication that "a standard can be determined by the plaintiff in determining dilution of its trademark, in relation to dissimilar goods or products," the existing legislation does not encompass the theory of dilution. The "likelihood test" does not inherently confer any rights concerning "dilution" nor does it consider any provisions outlined in section 29(4)<sup>22</sup><sup>37</sup>. The mark in question must bear a confusing resemblance to or be identical to the registered trademark to establish a breach of Section 29(1)(2) of the Trademark Act. Consequently, attention is directed towards the resemblance of the mark.

A further approach that has been established to enable the Registrar to designate a particular trademark as "well known" is the recently implemented Trade Mark Rules 2017. The recent regulation permits a trademark proprietor to file a request, utilizing form TM-M, with the Registrar to ascertain the pronunciation of a "well known" mark. The remarkable security and trademark protections afforded to such trademarks have been guaranteed for a trademark. In India, renowned trademarks are assessed based on their standing at national, international, and cross-border dimensions.

With "The incorporation of the new Trademark Rules 2017" in place, famous trademark owners may now apply directly to the Registrar. The application in question must be accompanied by a detailed statement of the case, relevant supporting documents, proof, and the established fee of Rs. 1,000,000. Furthermore, it is imperative that the application be submitted electronically utilizing comprehensive trademark e-filing systems. Upon receipt, the application shall undergo evaluation considering the accompanying documentation.

## **VI. CHALLENGES IN ENFORCING TRADEMARK DILUTION IN INDIA**

In the modern era of global trade and commerce, new avenues have emerged for manufacturers

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<sup>35</sup> The Trademarks Act, No. 47 of 1999, § 11(9).

<sup>36</sup> The Trademarks Act, No. 47 of 1999, § 29(4)

<sup>37</sup> *Id.*

and companies to establish a worldwide reputation and gain recognition for their products. This presents avenues for the proprietors to establish an international standing and attain acknowledgment for their offerings. Nonetheless, due to their extensive acknowledgment, proprietors of trademarks are required to inhibit the unauthorized utilization of their renowned marks by unidentified third parties. The uniqueness linked to such a mark is what transforms it into a global brand that consumers can readily recognise.<sup>38</sup> The issue highlighted in the new era is about “well known”.<sup>39</sup> The Trademarks Act, 1999, specifically Section 2(1)(zg)<sup>40</sup> in conjunction with Section 11<sup>41</sup>, mandates that the mark must be significantly acknowledged by the pertinent public, necessitating a thorough examination that requires substantial evidence of sales, advertising, and recognition, thereby imposing a considerable burden on the plaintiff was decided in *Daimler Benz Aktiengesellschaft v. Hybo Hindustan*<sup>42</sup>. Secondly, the vagueness in defining “dilution” and its variants (blurring and tarnishment) within the Act presents interpretation difficulties for the judiciary. Although Section 29(4) of the Act delineates the notion, the absence of explicit legislative definitions sometimes results in conflicting judicial results, since courts must depend on principles developed in other countries. Thirdly, demonstrating the “unfair advantage” or “detriment to distinctive character” is profoundly subjective. Proving that the use of a junior mark would progressively dilute the distinctiveness of a renowned mark (blurring) or damage its reputation (tarnishment) entails intricate psychological and economic reasoning that is challenging to validate with concrete proof.

Moreover, the absence of specialised intellectual property benches or judges with profound experience in intricate issues such as dilution results in uneven legal applications. Numerous judges are better acquainted with the conventional confusion based infringement framework, making it difficult to convincingly advocate for a dilution case that relies on more abstract economic and reputational damages. The limited awareness and comprehension of dilution among small and medium enterprises and the general public exacerbate the issue, as they may inadvertently utilise a renowned mark in a non-competing domain, mistakenly believing it to be acceptable, thus heightening the occurrences of dilution and necessitating enforcement

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<sup>38</sup> Chhavi Singh & Arpita Tripathy, Doctrine of Trademark Dilution: Indian Approach, 4(4) *Indian Journal of Legal Review*, 770 (2024).

<sup>39</sup> Anuttama Ghose & S M Aamir Ali, Dynamics of Trademark Dilution: Issues and Challenges in India and USA., 8 *KSLR*, 30-31(2020).

<sup>40</sup> The Trademarks Act, 1999, No. 47 of 1999, Acts of Parliament, 1999 (India), §§ 2(1) (zg), 11, 29(4).

<sup>41</sup> *Id.*

<sup>42</sup> AIR 1994 Del 239.

actions.

The enforcement environment is ultimately influenced by overarching structural and commercial realities. A significant obstacle is the need of comprehensive evidence gathering and related expenses.<sup>43</sup> To effectively demonstrate that a mark is well-known and experiencing dilution, a plaintiff must allocate considerable resources to collect consumer surveys, expert testimonies, and extensive documentation regarding the mark's renown and the defendant's usage, rendering it an excessively costly remedy, particularly for entities with limited financial means. Furthermore, the business impetus to reach settlements often compromises the establishment of strong legal precedents. Confronted with substantial litigation expenses and unpredictability, some prominent trademark proprietors may choose to settle out of court instead of pursuing a matter to its definitive resolution, therefore denying the courts the chance to elucidate and reinforce the tenets of dilution law. The interplay of substantial evidence requirements, administrative delays, and economic considerations persistently hampers the effective enforcement of trademark dilution in India.

After having a comparative research we understood that the U S possesses a robust trademark dilution framework established by the Lanham Act, which safeguards renowned marks from blurring and tarnishment by assessing the likelihood of dilution, without the necessity of demonstrating actual harm. The established criteria for recognition, comprehensive legal standards, and a wealth of case law offer robust and reliable safeguards. The European Union safeguards well-known trademarks against dilution; however, it necessitates evidence of association and actual harm, which complicates the enforcement process. India's legal framework offers protection for well-known marks against dilution. And it does not possess the comprehensive statutory structure found in the United States and instead depends significantly on judicial interpretation, resulting in a comparatively less robust system.

## VII. CONCLUSION AND SUGGESTIONS

The legal framework governing intellectual property in India is adequately sufficient, however, there exists an opportunity for improvement by more transparent protocols, elevated standards of evidence, and focused legislative measures revisions to consider digital applications and the

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<sup>43</sup>Rajasthan High Court: Speedy disposal of Trademark application a Fundamental Right under Article 21. <https://www.scconline.com/blog/post/2025/08/21/rajasthan-high-court-speedy-disposal-of-trademark-application-fundamental-right/> 20 Aug 2025 accessed on 20 Sep 2025.

concept of trademark dilution. Gradual reforms, underpinned by clear guidelines and empirical data, have the potential to enhance legal processes and ensure that outcomes are in harmony with the changing dynamics of contemporary commerce. The Trademark Act of 1999 serves as a fundamental element of India's intellectual property rights framework, establishing a thorough legal structure for the registration, protection, and enforcement of trademarks. Notwithstanding its solid framework, the Act faces numerous obstacles that impede its efficacy in the contemporary business landscape. The challenges as already mentioned above encompass enforcement difficulties stemming from judicial delays, ambiguities surrounding the protection of well-known trademarks, a lack of specific provisions addressing cybersquatting, and complexities associated with cross border trademark enforcement. Moreover, the absence of clear directives regarding trademark dilution, coupled with inefficiencies in the registration process, poses significant challenges for enterprises seeking to safeguard their brands in an ever-evolving marketplace.

Notable case laws, including *Amritdhara Pharmacy v. Satya Deo Gupta*<sup>44</sup>, *Tata Sons Ltd. v. Manu Kosur*<sup>45</sup>, and *Time Incorporated v. Lokesh Srivastava*<sup>46</sup>, have elucidated specific elements of the Act and set important precedents in the interpretation of trademark law. To adequately confront the challenges of our time, it is essential that the Trademark Act undergoes revisions to close these existing gaps. The increasing significance of the digital economy and international trade demands the establishment of more comprehensive and exact regulations addressing matters such as cybersquatting, cross border enforcement, and trademark dilution. Furthermore, enhancing the efficiency of the legal process is essential to alleviate the delays that often hinder the prompt safeguarding of trademark rights. In conclusion, although the Trademark Act of 1999 functions as a crucial legal framework for trademark protection in India, it is imperative that it adapts to the requirements of an ever changing, globalised marketplace. Through the introduction of specific reforms, the Act can be strengthened to enhance the safeguarding of brand identities and foster business development within the contemporary Indian economy.

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<sup>44</sup> AIR 1963 SC 449.

<sup>45</sup> 2001 PTC 432(Del).

<sup>46</sup> 2005(30) PTC 3 (Del).