

ROLE OF TRADEMARKS IN PROTECTING CONSUMER RIGHTS IN THE LIGHT OF UNCTAD

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Raghav Purohit, Law Student, Savitribai Phule Pune University, Pune.

Abstract

Trademarks play a crucial role in modern commerce, acting as identifiers of the origin and quality of goods and services. The protection of consumers' rights is vital for ensuring fair and transparent trade practices, promoting consumer trust, and fostering economic development. This paper examines the role of trademarks in safeguarding consumers' rights, focusing on the perspective of the United Nations Conference on Trade and Development (UNCTAD).

The paper delves into the various aspects of trademarks in relation to consumer's rights, including their significance in preventing confusion and deception, ensuring product safety and quality, and fostering brand loyalty. It analyzes the role of UNCTAD in formulating policies and guidelines that promote consumer protection through effective trademark laws and enforcement mechanisms.

This author explores the critical role that trademarks play in protecting consumer's rights within the framework of the United Nations Conference on Trade and Development (UNCTAD). Trademarks are crucial intellectual property assets that enable consumers to identify and distinguish products or services of specific origin, ensuring quality assurance and brand loyalty. Through the examination of UNCTAD's policies and initiatives, this study elucidates the significance of trademarks in promoting consumer trust, combating counterfeit products, and fostering fair competition. The discussion emphasizes on UNCTAD's efforts to contribute to the establishment of effective trademark systems that empower consumers to make informed choices and safeguard their rights in the global marketplace. This study delves into the significance of

trademarks in ensuring product quality, safety, and authenticity, which directly impacts consumers' welfare.

Keywords: *Brand Loyalty, Consumer's Rights, Consumer Protection, Trademarks, Trade Practices, Quality.*

LEGAL UPANISHAD JOURNAL

1. INTRODUCTION

Property unlike earlier times is now owned individually, and property rights have been a major issue in society. But unlike previous times, the property has transformed itself from a tangible asset to an intangible form. If we ask a prudent person, what is property, they will naturally answer, a piece of land, an accommodative or commercial building, or some kind of movable property too. But over the years some properties which cannot be seen, but still exist have appeared on the face of the law. These properties are categorized as Intellectual Properties.

Intellectual Properties are intangible in nature and originates from the mind of the owner. There are various properties under this kind: Copyright, Patents, Geographical Indications, Trade Secrets and Trademarks. Now what is a Trademark?

As per the World Intellectual Property Organization (WIPO), “A trademark is a sign capable of distinguishing the goods and services of one enterprise from those of other enterprises. Trademarks are protected by intellectual Property Rights.¹” A trademark is an intellectual property that sets apart a product or service of a particular enterprise or venture from that of others in the same field of work.

2. UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD)

UNCTAD stands for the United Nations Conference on Trade and Development. It is a permanent intergovernmental body established by the United Nations General Assembly in 1964. UNCTAD’s mandate is to promote trade, investment, and development in developing countries with the ultimate goal of fostering economic growth, reducing poverty, and achieving sustainable development².

¹ Trademarks, WORLD INTELLECTUAL PROPERTY ORGANIZATION (July 21, 2023, 5:00 PM) <https://www.wipo.int/trademarks/en/#:~:text=What%20is%20a%20trademark%3F,protected%20by%20intellectual%20property%20rights>

² UNCTAD, THE UNITED NATIONS OFFICE OF GENEVA (July 21, 2023, 6:45 PM) <https://www.ungeneva.org/en/about/organizations/unctad>

2.1 Functions of UNCTAD include:

- **Research and Analysis:** UNCTAD conducts research and analysis on various aspects of international trade, investment, finance, and development. It produces reports, statistical data, and policy recommendations to help member countries make informed decisions.
- **Policy Advice:** Based on its research and analysis, UNCTAD provides policy advice and technical assistance to developing countries. It helps them formulate and implement policies that can enhance their participation in the global economy and promote development.
- **Conferences and Meetings:** UNCTAD organizes conferences, forums, and meetings where government officials, experts, and stakeholders from different countries can come together to discuss trade and development-related issues.
- **Capacity Building:** UNCTAD offers capacity-building programs and training to policymakers and government officials in developing countries. This helps to enhance their understanding of trade and development issues and build their skills in negotiating and implementing trade agreements.
- **Assistance to Least Developed Countries (LDCs):** UNCTAD pays special attention to the needs of the least developed countries (LDCs) and provides targeted support to help them integrate into the global economy and achieve sustainable development.
- **Investment Promotion:** UNCTAD works to promote investment in developing countries by providing investment policy advice, facilitating investment projects, and fostering partnerships between investors and host countries.

Overall, UNCTAD plays a crucial role in addressing the development challenges faced by many countries, especially in the context of globalization and international trade. It aims to create a more equitable and inclusive global economic system and to contribute to the achievement of the United Nations Sustainable Development Goals (SDGs).

3. TRADEMARKS: ROLE AND PURPOSE

A trademark identifies the source of the goods or services. In **Laxmikant Patel v. Chetanbhai Shah**³, the Supreme Court of India ruled that it is prohibited for anyone to conduct his business in such a way that consumers believe the goods or services belonging to someone else are his or are linked with him. The grounds for honesty and fair play are and should be essential policies in the world of business. When a person adopts or intends to adopt a name in connection with his business or services, which already belong to someone else, it results in confusion and has a probability of diverting the consumers and clients of someone else to himself, thereby resulting in an injury to the former. Further, the trademark also indicates the quality of the goods and services. It has been held in the case of **Sumant Prasad Jain v. Sheoanam Prasad**⁴ trademark not only identifies itself with its proprietor but also helps the consumer to identify the qualities of the goods with which it is associated. Therefore, the regulation of trademarks will have to be seen as a measure to protect the interest of consumers. The main purpose of the trademark is to serve as a bridge between the producers and the consumers. The trademark should be effective enough to identify it separately from the other products.

Trademarks play a crucial role in protecting consumer's rights by ensuring that they can make informed choices and purchase products or services with confidence. The United Nations Conference on Trade and Development (UNCTAD) recognizes the significance of trademarks in promoting consumer welfare and supporting fair and transparent trade practices. UNCTAD, as a United Nations body, has been actively involved in shaping international trade policies, including intellectual property rights, to benefit consumers and foster economic development.

3.1 Role of Trademarks with Respect to Consumer Rights

The role of trademarks with respect to consumers' rights, as seen in the light of UNCTAD, can be summarized as follows:

³ Laxmikant V. Patel v. Chetanbhai Shah & Anr, 2002 (24) PTC 1 (SC)

⁴ Sheoanam Prasad And Anr. vs Sumant Prasad Jain and Ors, AIR 1971 Pat 124

- **Distinctive Identification:** Trademarks serve as distinctive signs that help consumers easily identify and distinguish products or services of one proprietor for another. By having recognizable trademarks, consumers can make informed choices based on their preferences and past experiences with the brand's reputation, quality, and reliability⁵.
- **Consumer Protection:** Trademarks help protect consumers from counterfeit and imitation products. By having registered trademarks, companies can take legal action against counterfeiters, preventing consumers from purchasing potentially unsafe or inferior quality goods.
- **Quality Assurance:** Trademarks can be seen as a form of quality assurance⁶. Companies often build their brand reputation over time, and a registered trademark signifies that the company is accountable for the quality of its products or services. This provides consumers with confidence in their purchases.
- **Information and Advertising:** Trademarks often convey valuable information about the product or service, such as its origin, attributes, or endorsements. This allows consumers to make informed decisions based on the brand's image and reputation.
- **Competition and Innovation:** Trademarks encourage competition among businesses. As companies strive to create unique and recognizable trademarks, they are incentivized to innovate and offer better products or services to attract consumers.
- **Consumer Trust:** Consumers tend to develop trust and loyalty towards certain trademarks they are familiar with. This trust is built on the consistent quality and positive experiences associated with the brand, leading to repeat purchases and long-term relationships.
- **Legal Recourse:** Trademarks provide consumers with legal recourse in case they encounter issues with a product or service. If a registered trademark is misused or associated with substandard goods, consumers can seek legal remedies against the infringing party.

⁵ John P Spitals, The UNCTAD Report on the Role of Trademarks in Developing Countries: An Analysis, 2 NYLS J INT'L & COMP L (1981)

⁶ Trademarks, WORLD INTELLECTUAL PROPERTY ORGANIZATION (July 21, 2023, 5:00 PM) <https://www.wipo.int/trademarks/en/#:~:text=What%20is%20a%20trademark%3F,protected%20by%20intellectual%20property%20rights>

4. CONCLUSION

UNCTAD's involvement in trademark-related matters focuses on ensuring that intellectual property rights, including trademarks, are balanced and fair. It encourages countries to adopt intellectual property protection mechanisms that safeguard consumer's interests without stifling competition or hindering access to essential goods and services⁷. UNCTAD promotes policies that discourage abusive practices, such as trademark squatting or monopolistic behavior that can harm consumers and undermine fair competition.

In conclusion, trademarks play a crucial role in protecting consumers' rights by providing them with valuable information, ensuring product quality, and fostering competition and innovation. UNCTAD's efforts in shaping international trade policies strive to strike a balance between intellectual property protection and consumer welfare, thereby promoting fair and transparent trade practices worldwide.

LEGAL UPANISHAD JOURNAL

⁷ John P Spitals, The UNCTAD Report on the Role of Trademarks in Developing Countries: An Analysis, 2 NYLS J INT'L & COMPL (1981)