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Bans and Brands: A Comment on TikTok Ltd. v. Registrar of Trademarks

Siddhant Singh · Monday, June 16th, 2025

In a [recent judgement passed by the Hon'ble High Court of Bombay](#), the social media giant-TikTok was denied recognition as a “well-known” trademark. TikTok filed an application under [Rule 124 of the Trade Mark Rules, 2017](#) for inclusion of their trademark “TikTok” in the list of well-known trademarks maintained by the registrar of trademarks. This application was denied despite TikTok’s worldwide popularity on the basis of a ban on TikTok for being “prejudicial to the sovereignty and integrity of India” under the Information Technology Act.

TikTok argued that the order rejecting the recognition of TikTok as a well-known trademark was erroneous. In particular they argued that the cited order relates to [Section 9 of the Trademarks Act](#) (pertaining to absolute grounds for refusal of registration) while only [Section 11](#) was relevant in regard to the determination of recognition of well-known marks. There was also a lack of discussion in regard to the factors outlined under [Section 11\(6\)](#) of the aforementioned act which talks about the considerations to be taken into account while determining whether a mark is well-known, such as recognition of the mark.

The registrar asserted that the government ban under the Information Technology Act was a relevant factor under [section 11\(6\)](#) of the act, which allows in its wording for the registrar to consider “any fact which he considers relevant”. Any list of considerations enumerated in the section was simply *illustrative* and *not exhaustive*.

Justice Manish Pitale (High Court) upheld the point of view put forth by the registrar in this matter while acknowledging the registrar’s erroneous reliance on [section 9](#). The court stated that while this reliance was wrongful, it was not enough to set aside the impugned order. Most importantly, the court was of the view that under [section 11\(6\)](#), the registrar has the power to “take into account any fact which he deems relevant.” Going on to state that issues of data privacy, national security and allegations of cyberbullying may be deemed relevant facts which the registrar may consider.

This expansive reading of the term “any fact” mentioned in [section 11\(6\)](#) raises legal and practical concerns. If [Section 11\(6\)](#) is read with [rule 124](#) it suggests that the recognition of mark as well known is key and factors like “national security” and foreign policy considerations are not relevant. Moreover [section 11\(9\)\(i\)](#), states that a lack of use in India cannot be a bar to the recognition of a mark. This judgement finds its grounds in subjective morality and national policy rather than an objective analysis of public recognition setting a precedent which is problematic. In fact, courts have protected trademarks which have been banned or are unavailable for use in India

such as [Playboy Enterprises v. Bharat Malik](#), (mark recognized despite a ban in India) and [Kamal Trading Co. and Ors. v. Gillette U.K. Ltd.](#) (where the mark was protected despite no use in India). It was perception of the consumer that was regarded as key in these cases.

In this particular matter, the Trade Mark Office and the Bombay High Court should have applied the logic laid down in the aforementioned judgements since TikTok is a household name with considerable recognition across India since both before and after its ban. Legal status or bans should not be weighed as consideration while considering the status of mark as well-known. Such a ban may be temporary and applying the law will have major practical implications including dilution of the well-recognised mark. Orders such as the ban on TikTok are not judicial considerations but transient executive orders.

Conclusion

The judgment provided by the high court in [TikTok Ltd. v. Registrar of Trademarks](#) stretches the language of [section 11\(6\)](#) beyond its basis of recognition of marks on the basis of their consumer perception. It sets a troubling precedent which is contradictory to the judgement passed by the High Courts of Delhi and Bombay in the [Playboy](#) and [Gillette](#) cases, laying down that trademark protection by courts and the registrar is overridden by executive bans and national policy. Brand owners may need to take this into account when making applications for well-known status.

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