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RKD News





Intellectual property rights (IPR) protection is crucial in the Ayush (Ayurveda, Yoga, Unani, Siddha, Homeopathy, and Naturopathy) sector, as it fosters innovation and encourages the development of traditional knowledge and practices that form the

foundation of alternative medicine in India. By safeguarding inventions, trademarks, and copyrights, IPR not only protects the unique contributions of practitioners but also promotes research and investment in holistic health solutions. Effective IPR protection helps prevent misuse and unauthorized replication of traditional remedies, thereby preserving the authenticity and integrity of Ayush practices. Moreover, a strong IPR framework enhances consumer trust and marketability, allowing practitioners and businesses to thrive while contributing to the overall growth of the Ayush industry. As global demand for natural and alternative health solutions increases, robust IPR protection becomes essential for sustaining a competitive edge and ensuring the continued evolution of Ayush as a vital component of the healthcare landscape.

On September 21, 2024, Dr. Mohan Dewan, Advocate, Patent & Trademark Attorney, Principal and the team R K Dewan & Co., were honoured for their significant contributions to intellectual property rights (IPR) and legal services at Ayush TV's National Health Awards 2024, held at the Royal Senate Palace Grounds in Bengaluru. This recognition underscores the firm's pivotal role in advancing the Ayush industry and reflects its commitment to protecting and enforcing intellectual property rights that foster innovation and creativity. Founded in 1942, R K Dewan & Co. has established a formidable legacy in intellectual property law in India, serving as a trusted partner for numerous Fortune 500 companies.

The firm was represented by a talented team, including Advocate Dinesh Mohanan Nair, Patent and Trademark Attorney and Head of International Trademark in Mumbai; Shri Amar Prakash, Senior Legal Advisor in Mumbai; Advocate A.K. Balaji, IP Attorney in Chennai; Advocate Nithya S., Litigator and Indian Patent Agent in Chennai; Advocate Isha Gandhi, Senior Legal Associate in Delhi; and Prof. (Dr.) Amit Kumar Tiwari, Senior Patent Associate and Indian Patent Agent in Pune.

This accolade serves as a testament to R K Dewan & Co.'s enduring impact on the industry, inspiring a continued commitment to excellence in protecting and promoting intellectual property rights across India. As R K Dewan & Co. continues to navigate the complexities of intellectual property law, this recognition highlights the firm's lasting influence on the industry and the community. The award not only honours the achievements of the past but also inspires a commitment to future excellence in protecting and promoting intellectual property rights in India. The RKD team look forward to further advancing the Ayush industry, ensuring that innovation and creativity thrive in a secure and supportive environment.

What are some great short jokes?

- Provided by my good friend, Philip Furgang.

1. I told my wife she should embrace her mistakes. She gave me a hug.
2. Parallel lines have so much in common. It's a shame they'll never meet.
3. I'm reading a book on anti-gravity. It's impossible to put down!
4. Why don't skeletons fight each other? They don't have the guts.
5. I used to play piano by ear, but now I use my hands.
6. I'm reading a book about anti-gravity. It's really uplifting!
7. Why did the scarecrow win an award? Because he was outstanding in his field!
8. I told my computer I needed a break and now it won't stop giving me Kit Kats.
9. Why was the math book sad? Because it had too many problems.
10. I used to be a baker, but I couldn't make enough dough.

General IP

Pantone's Palette: How Colour Shapes Brands and IP



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Pantone LLC, established in 1962, is a name synonymous with colour accuracy and innovation. It transformed the design industry with its pioneering colour communication system, forever changing how colours are identified, communicated, and protected. As a beacon of precision and creativity, Pantone's journey from revolutionizing colour language to becoming a key player in intellectual property (IP) law is a testament to its enduring influence.

The Evolution of Pantone:

Pantone's game-changing innovation arrived in 1963 with the **Pantone Matching System (PMS)**, a standardized colour reproduction system that debuted with 500 colours. Designers and manufacturers across industries gained a common language for colour, ensuring brand integrity across varied platforms. Over the decades, Pantone's influence only deepened.

By partnering with tech giants such as **Adobe** and **Microsoft** in the 1980s, Pantone integrated its colour standards into digital tools, streamlining colour selection in creative industries. The establishment of the **Pantone Colour Institute** in 1986 further cemented Pantone's role in colour consulting and trend forecasting. The institute became a key player in colour strategy, aiding brands in developing palettes that tied colour psychology to brand identity.

Pantone's ability to evolve with the times was exemplified with the launch of the **Pantone Plus Series** in 2010, an enhanced version of its flagship system. In 2016, it reinvented the "myPantone" app as **Pantone Studio**, an advanced platform for colour exploration. Apart from this a notable milestone includes the introduction of the annual **Pantone Colour of the Year** campaign, launched in 1999, has become a significant event for design trends.

This year's choice, **Peach Fuzz** (13-1023), a warm, playful pastel hue in the red-orange spectrum, encapsulates Pantone's mastery in shaping global colour trends. It's warm pastel conjures chic suede-finished upholstery and the velvety skin of its namesake fruit.



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Pantone's Colour Standards: The Foundation of Design

Pantone's impact spans industries such as **textiles, fashion, interior design, and graphic design**. The **Pantone Plus Series** contains over 10,000 standardized colours organized by a proprietary numbering system, ensuring accurate communication

across materials and platforms. For brands, this precision is critical to maintaining consistency and brand recognition, especially in a world where colour can make or break a product.

Pantone's influence transcends professional industries, extending to everyday life through its **Pantone Lifestyle** brand. Collaborations with leading brands in **home furnishings, fashion,** and even **technology** have brought Pantone colours into consumer products. Noteworthy partnerships include Pantone's collaboration with **Cariuma** to create sustainable sneakers in the **2024 Colour of the Year**, and with **Motorola** to incorporate Peach Fuzz into their latest smartphone models.

Additionally, Pantone's partnership with Tiffany & Co. brought the iconic Pantone colours to their luxury jewellery line, and Pantone's partnership with Kate Spade New York (a fashion Company) has featured Pantone hues in their vibrant accessories. These collaborations illustrate how Pantone has become an integral part of modern design and consumer culture.

Pantone Colour Institute and Intellectual Property

One of Pantone's vital role is its impact on intellectual property, particularly in the realm of colour trademarks. The Pantone Colour Institute provides expert advice on colour strategy, branding, and product identity, recognizing the powerful link between colour and consumer engagement. Research has shown that colour influences up to 85% of product purchases, making it a crucial asset for companies seeking brand distinction.

Colour trademarks have become a contentious area within intellectual property law, with several high-profile legal battles highlighting their importance. Pantone's system is often cited in legal disputes over single-colour trademarks, providing a clear reference point in cases where colour plays a critical role in brand identity.

In India, under the Trade Marks Act, 1999, ("Act"), as per section 2(1)(zb), "trade mark" means a mark capable of being represented graphically and which is capable

of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours and as per section 2(1)(m), "mark" includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging or combination of colors or any combination thereof. Hence, a combination of colors may be considered distinctive for the purposes of trademark protection only when it can be demonstrated that the combination of colors is so closely associated with a product or brand that the product or brand can be recognized by the particular combination of colors only.

Legal Challenges and Case Studies:

One of the most notable cases involving colour trademarks is *Cadbury UK Limited v. The Comptroller General of Patents Designs and Trademarks & Société Des Produits Nestlé S.A. (Case No. A3/2016/3082)*. Cadbury sought to protect its use of **Pantone 2865C**, a distinctive shade of purple on its chocolate wrappers. The Court sided with Cadbury, acknowledging that the shade had acquired distinctiveness through extensive use and consumer recognition.

In the case of **Colgate Palmolive Company v. Anchor Health & Beauty Care Pvt. Ltd. 2003 (27) PTC 478 Del**, Colgate sought ad interim injunction against the use of trade dress and color combination of one third red and two third white, in that order, on the container of its product viz. Tooth Powder as by adopting the similar trade-dress particularly the color combination of "red and white" Anchor was "passing off" the goods of Colgate as its own. The Court held that it is the overall impression that a customer gets as to the source and origin of the goods from visual impression of color combination, shape of the container, packaging etc. If illiterate, unwary and gullible customers get confused as to the source and origin of the goods which they have been using for longer periods by way of getting the goods in a container having particular shape, color combination and getup, it amounts to passing off. In other words, if the first glance of the article without going into the minute details of the color combination, getup or lay out appearing on the container and packaging gives the

impression as to deceptive or near similarities in respect of these ingredients, it is a case of confusion and amounts to passing off one's own goods as those of the other with a view to encash upon the goodwill and reputation of the latter. In the said case the Indian judiciary acknowledged color as a part of trade dress and provided protection to it in the present case by injuncting Anchor from using the color combination of red and white in that order as trade dress on the container and packaging.

Another important case is **Christian Louboutin SAS v. Mr. Pawan Kumar** (2016), where Louboutin's iconic **red sole** was declared a well-known trademark by the Delhi High Court under **Section 11(6)** of the Trade Marks Act, 1999. Louboutin's distinctive red sole became synonymous with luxury footwear, further solidifying the importance of colour in branding. However, in the case of **Christian Louboutin v. Abu Baker CS (COMM) No. 890/2018**, the Delhi High Court refused to grant registration to a single colour trademark. The Court in its *ratio decidendi* stated that the mark was just consisting of a single colour red which is invalid as per the definition of a mark under Section 2 (1) (m) of the Trademarks Act, 1999. The section requires a mark to constitute a "combination of colours". The interpretation of the words "combination of colours" lay down the intention of the legislature to not allow single colour trademarks. Finally, in **Christian Louboutin v. Ashish Bansal CS(COMM) 503/2016**, the Delhi High Court ordered in favour of Christian Louboutin, holding that they were successful in establishing that the Defendants' use of the red sole amounted to an infringement, and thereby free-riding on Louboutin's goodwill and reputation. In reaching this decision, the Court relied on factors indicating that Louboutin red-sole shoes had acquired distinctiveness due to their long and continuous use.

In **Marico Limited vs Mr. Mukesh Kumar & Ors.**, the Delhi High Court ruled in favour of Marico, protecting the blue **Pantone 285C** bottle used for its popular **Parachute** hair oil. The Court was of the view that Marico was not claiming monopoly over the single colour but the cumulative effect of the packaging, which is inclusive of

the blue coloured bottle and the packaging. The Court found the combination of the colour and packaging to be novel, distinctive thereby acting as a source identifier.

Similarly, in the case of **Deere & Co. & Anr vs. Mr. Malkit Singh & Ors.**, the Delhi High Court granted protection to the Plaintiff's green and yellow color combination used uniquely on its tractors manufactured for agricultural use on the basis of reputation, distinctiveness and instant source of identification of plaintiff's products, more so as such color combination was in use for 100 years and the public at large had come to associate the yellow wheels and green body with Deere tractors.

Protecting Single Colour Trademarks:

Colour is more than just an aesthetic choice; it is a powerful tool for brand identity and consumer recognition. Companies must choose colours that align with their brand identity and ensure consistent use across all platforms. Pantone's rise as the global authority on colour highlights how critical it is to maintain consistency across platforms, whether through digital or physical media. Brands must strategically select and safeguard colours that resonate with their audience, ensuring that these choices reinforce their values and ethos. For brands seeking to protect single-colour trademarks, careful strategic planning is crucial. However, protecting single-colour trademarks requires demonstrating either inherent distinctiveness or acquired distinctiveness. **Inherent distinctiveness** arises when a colour is naturally unique to the industry, whereas **acquired distinctiveness** develops through long-term use and consumer association.

Some essential steps include:

1. **Establishing Inherent Distinctiveness:** To demonstrate that the colour is not commonly used in the relevant market and is inherently distinctive.
2. **Indicating Acquired Distinctiveness:** To provide evidence of extensive and continuous use, including surveys, sales figures, and advertising.
3. **Graphic Representation Requirements:** To include a clear description and internationally recognized identification code (e.g., Pantone Matching System)

in the trademark application. Utilizing Pantone's colour standards when filing for trademarks can provide clarity and avoid disputes.

4. **Avoiding Functional Colours:** A key principle in trademark law is the exclusion of **functional colours**—those which serve a utilitarian purpose, such as improving visibility or indicating a product's quality. To ensure the colour is not functional or directly related to the product's quality. Functional colours are less likely to receive protection, as they serve a practical role that other brands should not be barred from using.
5. **Strategic Considerations for Complex Marks:** If the colour is part of a complex mark, to show that it plays a significant role in brand recognition.
6. **Legal and Market Considerations:** To be aware of local legal requirements and potential conflicts with existing marks.

Pantone's impact on the design world and Intellectual Property is profound. By providing a universal language for colour and influencing trends, Pantone has become a cornerstone of colour communication and branding. The challenges associated with protecting single-color trademarks highlight the complex intersection of design and law, where Pantone's standards and colour expertise continue to play a vital role. As colour remains a powerful element of brand identity, understanding and navigating these Intellectual Property issues as highlighted in the case law above will be crucial for companies aiming to leverage colour as a strategic asset.

The Importance of Verification Clauses in Evidence Affidavits: A Legal Perspective with Insights

Verification clauses in pleadings and evidence affidavits are not only critical components in court proceedings but are equally necessary during hearings and proceedings before various **Intellectual Property (IP) registries**, such as the Trademark Registry, Copyright Registry, Patent Office, Designs Registry and the Geographical Indications Registry. Serving as a crucial tool for maintaining the credibility of information placed on record, verification clauses ensure that statements made are not only accurate but are grounded in personal knowledge or substantiated by proper records. Under the provisions of the Code of Civil Procedure (CPC) and the Commercial Courts Act, 2015, which provide stringent guidelines to ensure that the evidence submitted to Courts as well as adjudicating authorities is credible, accurate, and reflective of the deponent's personal knowledge or legally substantiated information, the role of verification goes beyond mere formality, acting as a safeguard against false or misleading claims. This article explores the legal framework governing verification clauses, their essential function in legal proceedings, and the consequences of non-compliance, shedding light on how both individuals and corporate entities can uphold the integrity of their case through adherence to these legal mandates.

Legal Framework Governing Verification Clauses

Order VI of the CPC deals with pleadings, while Order XIX governs the use of affidavits in evidence. Both require that the deponent clearly state, in the verification clause, which portions of the affidavit are based on personal knowledge and which are derived from information or belief. Specifically, under Order XIX Rule 3(1), affidavits must be confined to facts within the deponent's personal knowledge, unless they are interlocutory applications where statements of belief may be admitted, provided the source of such belief is disclosed.

It means the deponent is required to mention, in verification that which part of his evidence affidavit is, based on information and which part is based on belief. So also, he is required to divulge the source of his information, as well of his belief. Whether the matter deposed is not based, on personal knowledge but on information the source of such information should be clearly disclosed.

Order VI Rule 15(A) sub clause 2 states that, *an affidavit shall be signed by the party or by one of the parties to the proceedings, or by any other person on behalf of such party or parties who is proved to the satisfaction of the Court to be acquainted with the facts of the case and who is duly authorised by such party or parties.* This is in line with the principle that a person may only provide evidence on matters within their personal knowledge.

Order XI, Rule 5 of the Supreme Court Rules contains provision similar to Order 19 Rule 3 (1) of CPC, which has been explained in the case of **Smt. Savitramma v. Cicil Naronha and anr, AIR 1988 SCC 1987**. The Court held, in para 2 at page 1988, as follows: *“...In the case of statements based on information the deponent shall disclose the source of his information... Affidavit is a mode of placing evidence before the Court. A party may prove a fact or facts by means of affidavit before this Court but such affidavit should be in accordance with Order XI, Rules 5 and 13 of the Supreme Court Rules...”*

The purpose underlying this provision is to enable an adjudicating authority to determine as to whether it would be safe to act on such evidence and to enable the Court to know as to what facts are based in the affidavit on the basis of personal knowledge, information and belief as this helps distinguish between first-hand information and secondary data, thereby ensuring transparency and credibility and is relevant for the purpose of appreciating the evidence placed before the Court, in the form of affidavit.

Under the **Trade Marks Act, 1999**, the requirement of a verification clause is integral to the submission of affidavits and other pleadings. Section 145 of the Act mandates that affidavits used in proceedings before the Registrar of Trademarks must be properly verified, ensuring the accuracy and credibility of the statements made.

Section 127 of the Act, which governs the filing of affidavits in trademark proceedings, mandates that affidavits must be verified to confirm that the statements made are either based on personal knowledge or derived from credible sources such as company records.

Additionally, Rule 121 of the **Trade Marks Rules, 2017** emphasizes the need for a **statement of truth affidavit**, where the deponent attests that the contents of the affidavit are true to their knowledge and belief, making them accountable for any falsehood or misrepresentation.

“Statement of Truth”

There is a variation in respect of leading evidence under the **Commercial Courts Act, 2015**, particularly pertaining to IP matters. The Commercial Courts Act, 2015 introduced several amendments to the Civil Procedure Code (CPC), 1908 concerning commercial disputes, including provisions related to the verification of pleadings for which Order VI Rule 15A CPC was added. Order VI Rule 15A of CPC mandates the verification of pleadings by way of a Statement of Truth in place of an affidavit.

For artificial entities like companies, it is common for an authorized representative to verify pleadings and affidavits based on corporate records, since these entities cannot have personal knowledge of facts themselves. In such cases, representatives are expected to verify the information based on records and documents that are contemporaneously maintained by the company, ensuring that the evidence is both reliable and admissible. Pleadings and evidence affidavits must be verified in accordance with the provisions of the Code of Civil Procedure (CPC) and the Commercial Courts Act, 2015 as amended. Pleadings and affidavits which are not in compliance with the abovementioned mandate, can be amended by obtaining the leave of the Hon’ble Court in which case the technical lacunas or deficiencies can be overcome by the parties.

There are several judicial precedents wherein Courts have permitted amendments even up to the stage when the matter is reserved for judgment.

Failure to comply with the verification requirement can have legal consequences, as the Court may reject the pleading or require the party to rectify the defect. This underscores the importance of strict compliance with the verification mandate.

Legal Challenges to Verification

The importance of following proper verification procedures when submitting evidence affidavits in Court was an important aspect which was considered by the Pune District Court in the recent case of *Burger King Corporation V. Proprietors of a Pune Eatery with the brand name 'Burger King' (Anahita and Shapoor Irani)* and shed light on the importance of adhering to these requirements.

In *Burger King* case, the defendants argued that merely mentioning in verification of Burger King's evidence affidavit, that the contents of evidence affidavit are true, and correct to the best of his or her knowledge and on based, information of plaintiff was not proper and legal verification of evidence affidavit, was not in accordance with Order, 19 Rule 3 (1) of the Civil Procedure Code. Hence, due to non-verification of the evidence affidavit in proper form, it could be admitted in evidence nor could it be, treated as evidence of the deponent concerned. They relied on precedents like *Miraj Marketing Corporation v. Vishaka Engineering & Anr* and *AKK Nambiar v. Union of India (UOI)*, which underscore the importance of clearly distinguishing between facts based on personal knowledge and those based on belief or information.

In the *Miraj Marketing Corporation* case, the Delhi High Court, following the observations of the Hon'ble Supreme Court of India in *AKK Nambiar* case, emphasized that an affidavit lacking proper verification could not be admitted as evidence. This principle was echoed in the *Burger King* case, where the Pune District Court scrutinized the verification clause of Burger King's witness.

Burger King Corporation countered stating that their affidavit complied with the legal requirements, relying on the decision in *Central Bank of India v. Tarseema Compress Wood Manufacturing Company*. In that case, the Court held that anyone acquainted with the facts of the case could give evidence, even if they were not personally involved in the

events being discussed. Burger King Corporation contended that the deponent's affidavit was based on records and documents supporting the facts pleaded in the complaint, thereby fulfilling the verification requirements.

Observations and Ruling

The Court meticulously analyzed the verification clause of the affidavit submitted by Burger King Corporation's witness. It noted that the affidavit merely stated, "Whatever above written is true and correct to the best of my knowledge, information and belief." The Court held that this generalized verification failed to meet the requirements of Order XIX Rule 3(1), which mandates that the deponent specify which parts of the affidavit are based on personal knowledge, which are based on information, and which are based on belief.

Moreover, the Court pointed out that the witness had no personal knowledge of the events or facts detailed in the affidavit. The witness was neither an employee of Burger King Corporation nor of its Indian subsidiary at the time of the events described in the suit. The Court observed that the witness's entire testimony was hearsay, and as such, the affidavit could not be considered admissible evidence. The Court ruled:

"It is apparent that the witness has no personal knowledge about any events, facts, cause of action, or averments made in the evidence affidavit of examination-in-chief. His entire evidence is of hearsay nature and further, as per legal requirement, he ought to have disclosed the source of his information which he referred/deposed in affidavit. Therefore, whatever mentioned in the evidence affidavit of PW-1 could not be proved and, therefore, the evidence affidavit of PW-1 is required to be treated as no evidence." As a result, the Court observed that Burger King Corporation failed to provide cogent evidence to support its claims.

Implications for Future Litigation

Failure to comply with the mandates of Order XIX Rule 3(1) can result in affidavits being excluded from evidence, as seen in this case. While Courts may allow

amendments to rectify defective verification, as demonstrated in previous judgments, it is essential for parties to ensure that affidavits are verified correctly from the outset to avoid jeopardizing their case.

Verification clauses serve as an essential safeguard to maintain the integrity of the judicial process. By clearly delineating which portions of an affidavit are based on personal knowledge and which are based on information or belief, the Courts are better equipped to assess the credibility of the evidence. Incorporating these principles into everyday legal practice ensures that evidence affidavits remain a reliable tool for upholding justice, particularly in commercial litigation where accuracy and legal precision are paramount.

Trademarks

FMI Limited Secures Victory in Major Trademark Infringement Case

On August 29, 2024, the Hon'ble Delhi High Court delivered a significant ruling in favor of **FMI Limited**, a leading name in the industrial safety and personal protective equipment sector, in a pivotal trademark infringement case against a reseller of infringing goods. **FMI Limited was represented by R K Dewan & Co. in this case.**

It is often perceived that litigation in India can be a lengthy and drawn-out process. However, this judgment, stands out not only for its outcome but also for the expedited legal proceedings, with the final decision being reached in just five months. The Court's reliance on **Order XII Rule 6 of the Civil Procedure Code, 1908**, was pivotal, allowing the matter to be resolved based on the admissions of the defendant without a full-fledged trial, saving considerable time and resources. This legal provision continues to play a crucial role in streamlining the resolution of intellectual property disputes where the facts are undisputed.

At the core of the dispute was FMI Limited's well-established trademark, '**FREEMANS**', registered for use on various protective and safety equipment, including gloves. The defendant, a reseller operating both physical retail outlets and an online marketplace, was found to be selling counterfeit protective gloves under the infringing brand '**FREEMANS PROFESSIONAL**'. FMI Limited promptly took legal action, filing a suit for **trademark infringement** and sought a **permanent injunction** to protect its intellectual property rights and prevent further brand dilution and unauthorized use of its trademark by the defendant.

Legal Strategy and Key Issues in the Case

The success of FMI Limited in this case was largely attributable to the strategic deployment of **Order XII Rule 6**, a provision within the Civil Procedure Code, 1908,

that permits Courts to pass judgments based on admissions of fact. This rule is designed to:

- **Expedite Case Resolution:** By avoiding the need for prolonged litigation when facts are uncontested, Order XII Rule 6 allows for an accelerated judgment, avoiding unnecessary delays.
- **Improve Judicial Efficiency:** Courts are able to dedicate more time to complex cases by swiftly resolving those where clear admissions of fact exist.
- **Provide Legal Clarity:** When a party admits to certain facts, it simplifies the legal process, narrowing down the points in dispute and focusing solely on the relevant legal issues.

In the present case, the defendant's admissions concerning the sale of infringing products, coupled with the evidence presented by FMI Limited, paved the way for a favourable ruling without the need for a full trial.

The case progressed rapidly due to a series of decisive developments:

1. Filing for Permanent Injunction

FMI Limited sought a **permanent injunction** to restrain the defendant and any associated entities from using the infringing mark '**FREEMANS PROFESSIONAL**' on protective gloves, which bore striking resemblance to FMI Limited's registered trademark, '**FREEMANS**'. This request aimed to protect FMI's brand from further erosion and market confusion.

2. Restraining Order Issued by the Court

The Hon'ble High Court acted promptly, issuing an **interim restraining order** on **April 10, 2024**, which prevented the defendant from continuing to sell or distribute gloves bearing the '**FREEMANS PROFESSIONAL**' mark. This early victory was

instrumental in limiting the immediate harm to FMI Limited's brand and market position.

3. Defendant's Admissions and Arguments

- **Plaintiff's Position:** Adv. Neeraj Bhardwaj, of R K Dewan & Co., contended on behalf of FMI Limited that the defendant had admitted to selling products under the infringing trademark, thereby supporting the claim of **trademark infringement**. This admission played a key role in invoking **Order XII Rule 6**, as the facts relating to the defendant's actions were largely uncontested.
- **Defendant's Response:** On the other hand, the defendant countered stating that they were merely a reseller and had no knowledge that the products in question were infringing. They claimed to have purchased the infringing products from a third-party supplier under the belief that the products were non-infringing. Furthermore, the defendant emphasized their limited control over online product listings and the absence of any malicious intent to infringe FMI Limited's trademark rights. Upon receiving notification from FMI Limited, the defendant claimed to have ceased all sales of the infringing gloves.

The Court's Findings and Judgment

After carefully examining the admissions and evidence, the Court ruled in favour of FMI Limited. **The Court** acknowledged that while the defendant may not have intentionally infringed the plaintiff's trademark, the act of selling infringing goods was undeniable. The defendant's failure to exercise due diligence before marketing products under the infringing brand resulted in a clear case of trademark infringement.

Consequently, the Court granted a **permanent injunction** and restrained the defendant and related parties from using the mark '**FREEMANS PROFESSIONAL**' or any other mark deceptively similar to '**FREEMANS**'.

In addition to the injunctive relief, the Court ordered the defendant to pay damages of ₹50,000/- to FMI Limited as compensation for legal costs incurred during the proceedings. The Court also awarded FMI Limited a **full refund of Court fees**, acknowledging that the case was resolved early in the litigation process due to the defendant's admissions and the application of **Order XII Rule 6**.

The ruling in this case serves as an important precedent in the enforcement of trademark rights. It underscores several key points for businesses and legal professionals alike:

- **Due Diligence in Commercial Transactions:** Resellers and distributors must ensure that the products they sell are free from trademark infringement. Ignorance of a product's infringing nature does not absolve liability.
- **Swift Legal Remedies:** The invoking of **Order XII Rule 6** highlights the judiciary's commitment to providing timely justice and ensuring that cases with clear admissions are resolved efficiently.
- **Reaffirmation of Trademark Protections:** The decision reinforces the fundamental principle that trademarks are critical business assets, and their unauthorized use will not be tolerated.

This case is a reminder that trademark owners must remain vigilant in monitoring the market for infringing goods and take prompt legal action to protect their rights. This decision also serves as a warning against squatters attempting to capitalize on established names and brands, emphasizing the need for vigilance in protecting one's brand identity and taking the necessary legal recourse.

Stories behind Brands: IBM

From Timekeeping to Technological Supremacy

Brands are more than just a name or a logo; they embody a story and a legacy that has been built over time. Behind every brand, there is a rich history and a unique set of circumstances that have shaped its identity and contributed to its success. These background stories have become an integral part of the brand, and they serve as an essential tool for building brand loyalty and connecting with customers. There are various brands that you think you know about, but do you really know them? In this series of articles, we will be telling you unknown stories behind the known brands.



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Contrary to its modern-day image, IBM's foundation was built on products far removed from computers. The company initially produced industrial time recorders, commercial scales, and the pioneering technology of punched card tabulating machines

“This is the story of IBM’s remarkable transformation from a manufacturer of industrial equipment to a global technology leader.”

International Business Machines (IBM) aka The “Big Blue” traces its roots to the late 19th century, when a confluence of technological advancements and industrial needs

converged. The company's origins lie in the mechanization of business operations, specifically in the realm of timekeeping and data processing.

The precursor to IBM, the Computing-Tabulating-Recording Company (CTR), was formed in 1911 through the amalgamation of several smaller companies. This conglomerate specialized in manufacturing industrial time recorders, commercial scales, and most significantly, punched card tabulating machines. The latter technology, pioneered by Herman Hollerith, had been instrumental in processing the data for the 1890 U.S. Census.

The acquisition of CTR by visionary businessman Thomas J. Watson Sr. in 1914 marked a turning point. Watson's emphasis on salesmanship, customer service, and a strong corporate culture transformed the company. By 1924, CTR was rebranded as International Business Machines (IBM), signaling a broader scope and ambition.

IBM's role during World War II is a complex and controversial chapter in its history. The company's involvement extended beyond its domestic operations in the United States to its European subsidiaries, particularly in Germany.

Wartime Production and Technological Advancements

Within the United States, IBM played a crucial role in supporting the war effort. The company shifted its production to manufacture essential war materials, including parts for aircraft, bombs, and other military equipment. IBM's technological expertise was also instrumental in developing tools for the war. The company collaborated with the U.S. Navy to build the Harvard Mark I, a ground-breaking electromechanical computer that made significant contributions to the war effort.

Additionally, IBM's tabulating machines were employed in various military and scientific applications, including the Manhattan Project. The ability to process vast

amounts of data quickly was essential for the complex calculations involved in developing the atomic bomb.

From Tabulation to Computation



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IBM's roots in data processing, particularly through the use of punched cards, provided a solid foundation for its entry into computing. The company's expertise in handling large volumes of data and its extensive sales network proved invaluable as the industry shifted towards electronic computation.

A pivotal moment came with the development of the Harvard Mark I, a large-scale electromechanical computer built in collaboration with Harvard University. This machine, completed in 1944, marked a significant step forward in computing technology. It incorporated many of the principles that would become standard in later electronic computers.

Following World War II, IBM continued to push the boundaries of computing. The company introduced the IBM 701 in 1952, one of the first commercially available

electronic computers. This machine was a critical step in establishing IBM's dominance in the emerging computer industry.

The 1960s witnessed a quantum leap with the introduction of the IBM System/360. This revolutionary computer system, which encompassed a range of models with varying capabilities, became the industry standard. The System/360 offered unparalleled compatibility, allowing businesses to upgrade their systems without rewriting software. It solidified IBM's position as the leading computer manufacturer and cemented its reputation as a technological innovator.

The Mainframe Era and Beyond



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The mainframe era was a period of unprecedented growth and profitability for IBM. The company's ability to provide comprehensive hardware, software, and services solutions created a strong ecosystem that locked in customers. However, the landscape began to shift in the 1970s and 1980s with the emergence of smaller, more affordable computers.

It is during this period that it got nicknamed the "Big Blue" because of its signature blue logo and color scheme, and its blue-colored computer displays and cases in the 1960s and 1980s. The nickname has been used by the financial and popular press since the 1980s.

IBM faced significant challenges as the industry moved towards personal computers and client-server architectures. The company's reliance on mainframes hindered its ability to compete effectively in the new market. Despite these challenges, IBM managed to adapt and survive through strategic acquisitions, divestitures, and a renewed focus on software and services.

While IBM's initial focus was on mechanical devices, the seeds of its future as a computing giant were being sown. The company's expertise in data processing and its vast sales network provided a solid foundation for the transition to electronic computing.

The post-World War II era witnessed significant advancements in technology, and IBM was at the forefront of these developments. The company began experimenting with electronic computing, building upon its experience with punched card systems. This culminated in the 1950s with the introduction of the IBM 701, one of the first commercially available electronic computers.

A watershed moment arrived in the 1960s with the launch of the IBM System/360. This ground-breaking mainframe computer system offered a comprehensive range of hardware, software, and services, establishing a new industry standard. The System/360 solidified IBM's dominance in the computing market and earned the company the moniker "Big Blue."

IBM's Entry into the PC Market



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In the late 1970s, the personal computer market began to emerge, led by companies like Apple. Initially, IBM was hesitant to enter this space, viewing it as a niche market. However, as the PC market grew, the company realized the potential threat and decided to take action.

In 1981, IBM introduced the IBM PC, a personal computer based on open architecture. This decision was a departure from IBM's traditional closed systems approach. By using off-the-shelf components, IBM aimed to accelerate product development and reduce costs. The IBM PC quickly became an industry standard, and its open architecture fostered the development of a thriving ecosystem of compatible hardware and software.

Challenges and Opportunities

While the IBM PC was a commercial success, the company faced challenges in maintaining its dominance. The open architecture of the PC allowed other companies to quickly replicate and improve upon IBM's design. This led to the emergence of clone manufacturers who offered lower-priced alternatives.

Despite these challenges, IBM continued to innovate and expand its presence in the personal computer market. The company introduced a range of PC models, including laptops and workstations. Additionally, IBM invested heavily in software development, creating applications that complemented its hardware offerings.

The latter part of the 20th century posed significant challenges for IBM. While the company had been a dominant force in the mainframe market, the rise of personal computers and the shift towards open systems disrupted this model.

The Decline of the Mainframe Era

The 1980s and 1990s marked a period of intense competition for IBM. The introduction of personal computers by companies like Apple and the subsequent proliferation of PC clones eroded the dominance of mainframes. This shift, combined with the increasing commoditization of hardware, put significant pressure on IBM's profit margins.

A Strategic Pivot

Recognizing the changing landscape, IBM embarked on a strategic transformation. The company shifted its focus from hardware to software, services, and consulting. This pivot was essential for survival and growth in the evolving IT industry.

Key initiatives included:

- **Acquisitions:** IBM made strategic acquisitions, such as Lotus Development Corporation, to strengthen its software portfolio.
- **Research and Development:** The company invested heavily in research and development, particularly in areas like artificial intelligence and data management.
- **Global Expansion:** IBM expanded its global footprint to tap into new markets and diversify its revenue streams.

- **Outsourcing and Offshoring:** To reduce costs and improve efficiency, IBM outsourced certain operations and established offshore development centers.

The Rise of IBM as a Services Leader

Through these efforts, IBM successfully transformed itself into a leading provider of IT services. The company's deep industry knowledge, coupled with its global reach, enabled it to offer comprehensive solutions to complex business challenges.

The services business became a major revenue driver for IBM, helping to offset the decline in hardware sales. This pivot allowed the company to maintain its position as a dominant player in the IT industry.

Challenges and Opportunities in the 21st Century

While IBM's transformation was successful, the company continues to face challenges in a rapidly evolving technological landscape. The rise of cloud computing and the increasing commoditization of IT services have put pressure on margins.

To address these challenges, IBM has focused on high-value services such as consulting, analytics, and artificial intelligence. The company has also made significant investments in hybrid cloud and quantum computing, positioning itself for future growth.

Despite the challenges, IBM remains a global technology leader with a rich history of innovation. The company's ability to adapt and transform has been instrumental in its continued success.

Hence, IBM's experience demonstrates that the key to enduring success lies not in the starting point, but in the ability to adapt and reinvent oneself.

SNIPS & SPECS

IPR Quiz

- A. What is the term for the practice of registering domain names that are identical or confusingly similar to well-known Trademarks, with the intent of profiting from the Trademark owner's brand reputation?
1. Cybersquatting
 2. Typo squatting
 3. Trespassing
 4. Domain hijacking
- B. Which international agreement provides a standardized system for the protection of geographical indications, especially for agricultural products and foodstuffs?
1. Paris Convention
 2. TRIPS Agreement
 3. Lisbon Agreement
 4. Berne Convention
- C. Under Indian Patent law, what is the criteria for determining "inventive step" when assessing the Patentability of an invention?
1. It must be entirely new and never disclosed before.
 2. It must have a clear commercial application.
 3. It should be unrelated to any existing Patents.
 4. It should involve a non-obvious technical advance over existing knowledge.
- D. In the context of Indian Trademark Law, what does the term "passing off" refer to?
1. Misleading the public into believing that goods or services are associated with a particular brand
 2. The act of selling counterfeit goods
 3. Unauthorized use of a registered Trademark
 4. Violating trade secret rights

(Answers at the end of the Newsletter)

Decoding Delicious Delicacies: Ghevar

When it comes to food, the name of a dish holds meaning beyond just identification. The name of a dish can give insight into the history behind it, the ingredients used, or even the cultural significance it holds. In this series of blogs, we will explore the history behind famous Indian dishes.

In the realm of Indian sweets, some names evoke a sense of both tradition and celebration. One such name is “Ghevar,” a unique and delectable dessert that stands out in the diverse pantheon of Indian sweets. This honeycomb-like confection, with its delicate texture and rich flavours, is particularly associated with the festive season of Teej and Raksha Bandhan. But behind its crispy layers and honeyed essence lies a story steeped in history and regional flavours.

The etymology of the word “ghevar” is as intricate as the sweet itself. The term is derived from the Hindi word "ghevar," which refers to a specific type of disc-shaped dessert. The name has no direct translation, but it captures the essence of this unique treat. Ghevar’s distinctive appearance and texture sets it apart, reflecting both its traditional roots and its regional significance.



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Historical Origins and Regional Influences

Ghevar's origins are rich that are woven with threads of royal kitchens and regional traditions. This dessert is believed to have originated in the state of Rajasthan, where it was traditionally prepared for special occasions and festivals. Historically ghevar was a royal indulgence, enjoyed by the Rajasthani nobility during festivals and weddings.

One of the most popular legends about ghevar's creation attributes it to the Marwar region of Rajasthan. According to the story, a royal chef invented the sweet by experimenting with a new way of making a honeycomb-like structure using a batter of flour and ghee while pouring it into a mould and frying it to achieve a distinctive honeycomb structure. This process specifically involves meticulous adjustments to the batter's consistency and the frying temperature, resulting in a dessert with a crispy, airy texture and a golden hue. The dessert quickly became popular for its unique texture and rich taste, and over time, it spread to other regions of India, each adding its own local twist.

As ghevar spread from the Marwar region, it adapted to the tastes and traditions of various regions across India. In Rajasthan, ghevar continued to be a luxurious treat, often adorned with an array of nuts and dried fruits, reflecting the local preference for rich, flavourful sweets. In neighbouring regions, variations of ghevar emerged, incorporating local ingredients and flavours. For instance, in parts of Delhi and Uttar Pradesh, the traditional ghevar might be layered with a rich rabri (condensed milk) and garnished with rose petals, adding a new dimension of sweetness and floral aroma to the dessert. In Gujarat, variations of ghevar with added spices or flavourings became popular, blending the traditional recipe with regional tastes. Each region contributed its unique twist, ensuring that ghevar remained a versatile and cherished treat across the subcontinent.



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Crafting the Perfect Ghevar

Creating a perfect ghevar requires both skill and precision. The preparation begins with a batter made from a mixture of flour, ghee, and water, which is poured into a special mould to achieve its characteristic shape. The batter is fried in ghee, and as it cooks, it forms a crispy, honeycomb structure.

The art of making ghevar lies in achieving the right consistency of the batter and the precise temperature of the ghee. If the batter is too thick, the ghevar will be dense; if too thin, it will lack the proper structure. The frying process must be carefully monitored to ensure that the ghevar achieves the desired texture—crisp and light with a golden hue. Once fried, ghevar is soaked in a sugar syrup flavoured with cardamom and saffron. This step is crucial for adding sweetness and enhancing the dessert's aroma. The ghevar absorbs the syrup, becoming slightly soft yet retaining its crispy texture. The final touch often involves garnishing the ghevar with nuts and dried fruits, adding a rich flavour and visual appeal.

Global Presence and Modern Adaptations

Ghevar's influence extends beyond its regional origins, finding a place on dessert menus around the world. Its unique texture and flavour have captured the imagination of chefs and food enthusiasts globally. From traditional Indian

restaurants to innovative fusion kitchens, ghevar has become a beloved treat in various culinary settings.

Modern pastry chefs have embraced ghevar's charm, incorporating its flavours into a range of contemporary desserts. Ghevar-inspired ice creams, donuts, and even cocktails showcase the dessert's versatility and appeal. These innovative creations blend traditional elements with modern culinary techniques, offering new ways to enjoy ghevar's distinct taste.



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The global presence of ghevar reflects its enduring popularity and the fascination it holds for those who experience it. Whether enjoyed in its traditional form or as part of a modern dessert, ghevar continues to be a testament to the rich culinary heritage of India and the creative spirit of contemporary cuisine.

A Sweet Tradition

Ghevar is more than just a dessert; it is a symbol of celebration and festivity. Its preparation and consumption are often associated with joyous occasions, making it a beloved treat during festivals. The sweet's intricate preparation process and distinctive flavour profile make it a true testament to the rich culinary heritage of India.

As ghevar continues to be cherished in its traditional form and explored in innovative ways, it stands as a testament to the enduring appeal of Indian sweets. Its journey from royal kitchens to contemporary dessert menus showcases its ability to evolve while retaining its essential charm. In every bite of ghevar, one can savour not just a delicious treat but also a piece of India's rich cultural tapestry, a reminder of how sweet indulgences can bridge the past with the present.

From India to The World: Tie-Dye Textile Bandhani

Ancient India has made significant contributions to the world in various fields, including mathematics, science, philosophy, and spirituality. Many of these contributions have had a profound impact on the world. For example, the concepts of zero and the decimal system, which were developed in ancient India, are now used in mathematics and accounting around the world. The practice of yoga, which originated in ancient India, has become a popular form of exercise and stress relief in the Western world. While concepts of Zero, Yoga and Ayurveda are perhaps better known contributions from India, there are some lesser known contributions from India that have gained global recognition. In this series of articles, we will be telling you about these lesser known contributions of India to the world.

India's rich textile industry comprises of the exquisite world of Tie-Dye Textile "Bandhani". This traditional craft, originating from the vibrant regions of Gujarat and Rajasthan, is a testament to the artistry and cultural depth of Indian artisans. Bandhani, which translates to "bound" or "tied," involves a meticulous process of tying fabric before dyeing, resulting in stunning, intricate patterns that capture the essence of the regions' vibrant traditions.

In this article, we will uncover the historical significance, the laborious techniques involved, and the modern-day revival of this exquisite craft, offering a deeper understanding of how Bandhani continues to weave its magic across generations.



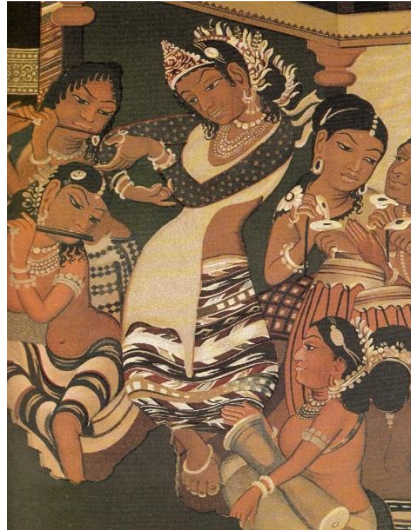
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Historical Origins and Cultural Significance

Bandhani, a stunning form of tie-dye, stands out as a quintessential expression of India's cultural heritage and artistic ingenuity. The craft's origins can be traced to the Indus Valley Civilization around 4000 B.C., where early evidence of dyeing techniques has been discovered. This ancient tradition continues to thrive in Gujarat, Rajasthan, and other regions such as Punjab, and Tamil Nadu, where it is known as *Sungudi*. In Gujarat, cities such as Ahmedabad, Bhuj, Jamnagar, and Rajkot are renowned for their Bandhani work. Jamnagar, in particular, is known for its bright red Bandhani, a result of the city's unique water quality that enhances colour brightness. In Rajasthan, Bandhani is equally cherished but features distinct colours and patterns. Cities like Jaipur, Udaipur, and Bikaner have long been centres for Bandhani production, with each region adding its local peculiarities to the craft.

Historical evidence shows that the distinctive dotted designs of Bandhani can be seen in the 6th century Ajanta Caves murals, depicting scenes from the life of Buddha. This highlights the deep-rooted historical and cultural significance of Bandhani in Indian art and textile traditions.

The term "Bandhani" is derived from the Sanskrit word "bandh," meaning "to bind," which reflects the core technique of this textile art wherein small sections of fabric are bound tightly before being dyed, creating a mosaic of intricate patterns. Over centuries, Bandhani has come to symbolize various cultural values, with different colours conveying specific meanings. For instance, red signifies marriage and good fortune, while yellow represents spring and childbirth.



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The Bandhani Technique: A Study in Precision

Creating Bandhani textiles is a labour-intensive process that showcases the artisan's skill and patience. The technique involves tying small portions of fabric with threads to create elaborate patterns. This process is executed by pinching and binding the fabric, often with the help of fingernails or, in some regions, metal rings with pointy nails. The fabric is then dyed in multiple stages, with each stage introducing a different colour thereby contributing to the overall design.

Artisans, particularly in Gujarat's Khatri community from Kutch and Saurashtra, are renowned for their expertise in this technique. A single meter of fabric can feature thousands of tiny knots, known as '*Bheendi*' in Gujarati. These knots form intricate

designs once the fabric is opened after dyeing. Common patterns include 'Chandrakala' (moon patterns), 'Bavan Baug' (fifty-two gardens), and 'Shikari' (hunter patterns), each reflecting a different binding and dyeing technique.

The colours used in Bandhani are predominantly derived from natural sources. Red dyes are often made from lac and madder, while yellow is sourced from turmeric. The use of these natural dyes not only ensures vibrant and enduring colours but also reflects a profound association with nature.



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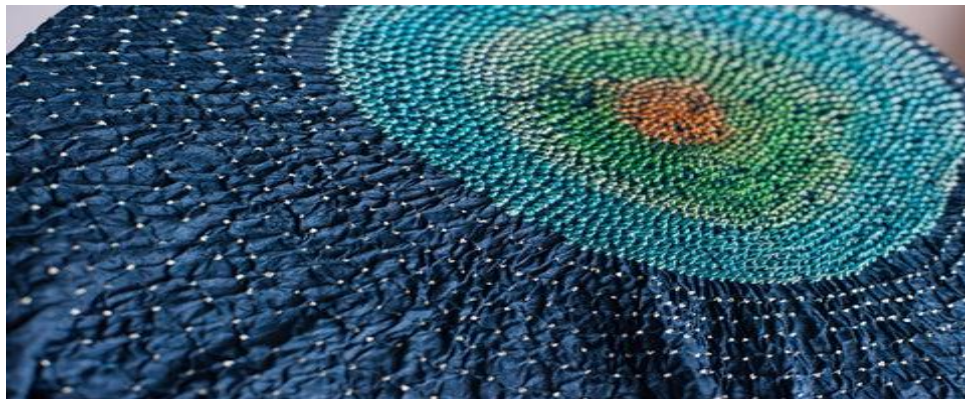
Types of Bandhani Sarees

While Bandhani fabric is often used for making a variety of garments including suits, dupattas, skirts, blouses, turbans, and bags, the saree remains the most celebrated form. Bandhani sarees are considered especially auspicious for weddings, often gifted by mothers to their daughters on their marriage. In many cases, the bride's mother will wear a traditional Bandhani saree for the wedding ceremony.

Several distinct variants of Bandhani sarees include:

- **Jhankaar Bandhani:** Known for its vibrant and colourful patterns, Jhankaar Bandhani features exceptionally fine designs. Unlike other Bandhani styles, Jhankaar Bandhani does not use light or white dots; instead, it often showcases contrasting colours, such as red or maroon dots on an all-green base.

- **BorJaal:** This variant is highly intricate, typically used for wedding occasions. BorJaal Bandhani sarees are characterized by their extensive *jal work* (net-like patterns) and are especially popular within Marwari communities. The sarees display a complex interplay of colours and patterns, creating an elaborate maze effect on the fabric.
- **Colour Discharge Bandhani:** Contrary to the traditional method of applying darker colours over lighter ones, the colour discharge technique features lighter colours on a darker base. For example, you might find deep red dots on a pale yellow background in this style.
- **Banarasi Bandhani:** An innovative blend of Bandhani and Banarasi traditions, this saree combines Bandhani dyeing techniques with a Banarasi brocade border. Typically crafted from high-quality fabric, these sarees feature fine Bandhani work and are often included in the traditional bridal trousseau because of their elegance and opulence.



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The Geographical Indication (GI) Tag

In recognition of its cultural and historical significance, Bandhani received a Geographical Indication (GI) tag in 2016 specifically for the Gujarat region. This prestigious certification helps protect the traditional craft from imitation and ensures

that artisans are acknowledged for their skill and heritage. The GI tag has also boosted Bandhani's status in both domestic and international markets, affirming its importance as a key element of India's textile heritage.

Modern Applications and Market Trends

Bandhani remains a sought-after textile, its appeal extends beyond traditional use, finding a place in contemporary fashion as well. Historically, Bandhani sarees were crafted exclusively from cotton and muslin fabrics however, as times evolved and the demand for innovation grew, artisans began applying Bandhani techniques to a wider range of fabrics, including silk, cotton-silk blends, viscose, and various other cotton derivatives. Each fabric possesses distinct characteristics, which influence how the Bandhani art manifests and interacts with the fabric.

The demand for Bandhani has surged in recent decades, reflecting its enduring popularity and relevance. Its vibrant colours and intricate designs make it a preferred choice for bridal wear and ceremonial garments. Modern designers have embraced Bandhani, incorporating its traditional patterns into contemporary fashion pieces, thereby ensuring the craft's continued relevance and appeal.

Preserving and Promoting Bandhani

Efforts to preserve and promote Bandhani include initiatives by various Non-Governmental Organizations and Government bodies. Workshops and exhibitions are organized to educate new generations about Bandhani's history and techniques. Moreover, the rise of e-commerce platforms has provided artisans with global exposure, helping them reach new markets and gain recognition for their craft.



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The appeal of Bandhani is rooted in its seamless integration of age-old techniques with contemporary style, solidifying its status as a treasured component of India's textile heritage. Bandhani represents more than just a form of textile art; it embodies a profound blend of history, culture, and craftsmanship. As Bandhani persists in its capacity to fascinate and inspire, it stands as a dynamic symbol of India's artistic tradition, showcasing centuries of heritage and expertise.

IPR Quiz Answers

A. 1

B. 3

C. 4

D. 1