



was a parody of the well known Jack Daniels whiskey. Jack Daniels's contention was that this toy misleads customers, causes confusion and tarnishes the hard earned goodwill of the said brand. Jack Daniels got a ruling in its favour sending across a message as to how important it is to protect Trademarks and balance intellectual property with respect to freedom of expression and creativity. The U.S. Supreme Court, in a unanimous decision sided with Jack Daniel's Tennessee Whiskey in its legal fight with VIP Products, a dog toy maker whose "Bad Spaniels" toy parodies the storied whiskey brand.

A lower court's ruling, had thrown out the Jack Daniel's challenge citing it violated First Amendment's protections for satire. The high court overturned the ruling.

The Bad Spaniels toy mimics the Jack Daniel's bottle but features a drawing of a spaniel, and instead of the words on Jack's bottle--promising 40% alcohol by volume — Bad Spaniels promises 43% poo by volume, 100% smelly.”

In this case, the Hon'ble judge said, the Bad Spaniels toymaker is selling its product by using Jack Daniel's trademark. So the question is whether consumers think Jack Daniel's

authorized the use. Or as Jack Daniel's put it in its brief: "Jack Daniel's appreciates a good joke as much as anyone. But Jack Daniel's likes its customers even more and doesn't want them to be confused or associating its fine whiskey with dog poop."

No.22-148, slip op at 20 (US June 8, 2023)

Google makes universal Trademark Policy Development

In order to provide clarity and transparency to its advertisers, Google has decided to consider complaints against specific advertisers and advertisements. Its new ads Trademark policy has effected changes to all those ads which can be restricted from using Trademarked material. This has resulted in industry wise blocks causing major problems for the advertisers. The new Google Ads Trademark Policy, announced on June 8, will go into effect on July 24, 2023.

Under the new policy, brand owners will have to report violations each time they learn of one, and so, it will be incumbent on companies to monitor sponsored advertising in Google search results and to act quickly so as to minimize the resulting harm. Under its current policy, Google has been taking certain steps to



restrict unauthorized trademark use proactively for those brand owners who submitted a standing complaint. Now, it appears, brand owners will not have the benefit of any ongoing monitoring and instead will have to submit a specific complaint for each new Google ad that the brand owner believes violates its trademark rights. For those who have already filed complaints with Google against all advertisers, Google will gradually (over the next one to one and a half year period) phase out its policing and enforcement based on these complaints.

Under its new policy, not much has changed about the basis on which Google will restrict an ad in response to a complaint. Google will consider where in the ad the trademark is used and how the term is employed. Google will act only if the trademark is used in the title and/or the copy of the ad. If the mark appears merely in the ad's landing page, as a keyword, or in certain portions of the display URL, then Google will allow the ad.

Forbidden fruit - Apple wants 111-year-old company to change its logo

In all likelihood, the Tech giant "Apple" is likely to force Fruit Union Suisse, a 111-year-old fruit farmers' organisation, to change its logo of a red

apple with a white cross on it. The farmers' organization is of the opinion that Apple is not only contesting its logo but wants to have exclusive rights to all kinds of depictions of the actual fruit. The logo of Fruit Union Suisse is a full red apple with a white cross on it. Just the image is very different when compared to bitten Apple design of the iPhone maker. Hence, it is highly unlikely that it can be mistaken as Apple logo. Way back in 2017, Apple had filed an application for a black-and-white depiction of a Granny Smith apple in Switzerland. Apple got partial rights granted by the Swiss Institute of Intellectual Property (IPI). In 2022, Swiss Institute of Intellectual Property (IPI) clarified that Apple could have the right to only certain of the submitted categories. Having got a partial win, the company is now trying to win the rest of the rights.

In 2020, a startup by the name Prepear, in to meal preparing activity had to face a case from Apple challenging its pear shaped logo on the ground that it resembled the half bitten apple logo of Apple.

Prepear immediately had to change its logo. According to World Intellectual Property (WIPO) reports, Apple targets startups in particular for their logos.



Kantara Varaha Roopam Controversy

The song Varaha Roopam from the movie 'Kantara' has thrown up an Intellectual Property dispute concerning Copyright infringement as it is a copied version of another song 'Navarasam'. Based on the allegations, separate injunctions were granted by different courts restraining the release of the movie on

OTT platform. The courts even directed taking down of the infringing song music apps. But after the initial rounds of interim injunctions, citing Copyright violations, because of lack of jurisdiction, the courts returned the plaints, two in number thus bringing an end to the entire dispute.

High Court of Kerala, FAO No. 36 of 2023

Indian Patent Office – Recruitment Notification

With the awareness levels about Intellectual Property Rights increasing manifold during the last few years, thanks to the accelerated efforts by the Government of India through the Office of the Controller General of Patents, Designs & Trademarks and training institutions affiliated to it, a marked increase in the number of IP registrations is visible. To augment the future growth, the Indian Patent Office has been proactively and constantly taking steps in this direction. One such step is to equip itself with the requisite qualified manpower. The IPO has issued a notification for recruitment, the details of which are as under :-

The Office of the Controller General of Patents, Designs & Trademarks, Department for Promotion of Industry and Internal Trade, Ministry of Commerce & Industry, Government of India has issued a Recruitment Notification for 553 posts of Examiner of Patents & Designs, Group – A (Gaxetted). The recruitment will be conducted by Quality Council of India under the Ministry of Commerce & Industry, Government of India. For further information, details and registration click here <https://qcin.org/recruitment-notification-2023-for-the-posts-of-examiner-of-patents-designs/>

HK[®] H K ACHARYA & COMPANY
India Advocates • Patent & Trade Marks Attorneys

YOUR INTELLECTUAL PROPERTY
is Protected with us

HK Avenue 19, Swastik Society, Navrangpura, Ahmedabad 380 009 INDIA
Tel : 91 79 2642 5258 / 5259 Fax : 91 79 2642 5262 / 5263
info@hkindia.com • www.HKINDIA.com

