

LOST IN TRANSLATION: A SOCIOLINGUISTIC ANALYSIS OF LANDMARK INDIAN TRADEMARK CASES

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ABSTRACT

India's linguistic plurality presents unique challenges for trademark law, where the meaning, sound and script of marks interact in complex ways. The present paper examines landmark Indian trademark cases through a sociolinguistic lens, analyzing how courts navigate questions of deceptive similarity, translation, transliteration and cultural sensitivity in a multilingual marketplace. Based on disputes such as Anshul Vaish vs. Hari Om and Bhatia Plastics vs. Peacock Industries, as well as cases involving controversial applications like 'Chutiyaram', the present paper argues that Indian trademark law has developed a nuanced framework that distinguishes between translation (similarity of meaning), transliteration (similarity of pronunciation) and mere conceptual association. Analysis reveals a persistent tension between protecting commercial goodwill and upholding linguistic freedom. In a society characterized by vast disparities in literacy, language proficiency, and the ability to comprehend scripts, courts are increasingly focusing on consumer perception. The present paper concludes that socio-linguistic awareness has become essential for resolving trademark-related disputes in India. However, challenges remain in maintaining uniformity in legal principles while accounting for linguistic diversity.

KEYWORDS: Trademark Law, Sociolinguistics, Deceptive Similarity, Translation Principle, Transliteration, Trade Marks Act 1999

1. INTRODUCTION

"What's in a name? That which we call a rose / By any other name would smell as sweet." (William Shakespeare's play *Romeo and Juliet*) While these famous lines by Shakespeare may be poetic, they create a peculiar situation in trademark law, where the legal and commercial significance of names far outweighs their linguistic form. This question becomes particularly significant in India. In India, 22 languages have been recognized under the *Eighth Schedule of the Constitution* [1]. The country is home to hundreds of living languages [2] and thousands of dialects [3], making it one of the most linguistically diverse nations in the world. A brand name originally written in English can be rendered in the Hindi script, translated into Tamil or adapted phonetically for Bengali; with each such variation, the question arises: *is this the same mark or a different one?* The paper examines Indian trademark cases from a sociolinguistic perspective and analyzes how courts address linguistic diversity when adjudicating issues related to trademark infringement, 'passing off' and registrability. The sociolinguistic perspective sheds light on questions that might be overlooked in an analysis based solely on legal principles: for instance, how do courts in multilingual societies view the relationships between languages? What assumptions do judges make regarding the literacy, linguistic comprehension and script-recognition abilities of litigants? How does the balance of power between languages and particularly the dominance of English influence trademark-related rulings?

2. Theoretical Framework: The Intersection of Sociolinguistics and Trademark Law

2.1 Language, Meaning and Consumer Perception

Trademark law operates on a *deceptively* (Section 2(1)(h) of *The Trade Marks Act, 1999*, defines "deceptively similar" as 'A mark shall be deemed to be deceptively similar to another mark if it so nearly resembles that other mark as to be likely to deceive or cause confusion') [4] simple premise: a mark distinguishes the goods of one trader from those of another. However, this difference depends on how consumers perceive and interpret signals, which is fundamentally a sociolinguistic question. In India, consumer mindset is influenced by several interconnected factors:

i. Literacy and knowledge of scripts: A large segment of consumers may be literate in one script but not another, or they might rely on verbal communication and visual recognition rather than reading. The courts have acknowledged that '*the people using the plaintiff's and defendant's buses generally belonged to a less educated or illiterate class,*' and they were confused by the '*overall similar appearance of the buses*' rather than by the differences in the words written on them [5].

ii. Multilingual competence: Many Indians speak two or more languages and can recognize similarities between words from different languages. As a court has observed, '*Many people in India speak both English and another local language* [6].'

iii. Phonetic vs. semantic processing: Depending on context, literacy and product type, consumers may perceive brand marks based on their sound or their meaning/concept [7, 8, 9].

2.2 Key Concepts of Sociolinguistics

Three sociolinguistic concepts are particularly relevant to the analysis of trademarks:

- i. **Translation** means conveying the same meaning of something in another language. When the Hindi word ‘राजधानी’ /rɑːjəɖʱɑːniː/ (capital city) is translated into English as ‘Capital,’ the meaning remains the same, but the form changes. Courts have to determine whether this similarity in meaning could create a likelihood of confusion (*Section 11(1) & 29(2)*) [4].
- ii. In **transliteration**, the sounds of one language are written using the script of another. When the Hindi word ‘रोटी’ /roːtiː/ is written as ‘ROTI’ in the Roman script, its visual form changes, but its phonetic identity remains the same.
- iii. **Thematic association** goes far beyond translation: even if words have different meanings, they can still evoke the same concept or domain (for example, ‘Fauji’ and ‘Officer’s Choice’, both evoke the army).

2.3 Doctrine of Deceptive Similarity

Indian trademark law examines similarity based on three aspects: visual, phonetic and conceptual (based on meaning or idea). In the case of *Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd* [8], the Supreme Court ruled that a trademark should be evaluated from the perspective of a consumer with ‘average intelligence and imperfect recollection’. This consumer-centric test creates space for sociolinguistic analysis: the court must determine how an ordinary consumer, with particular linguistic capabilities, would perceive the competing marks.

3. Landmark Cases: A Sociolinguistic Analysis

3.1 Translation and Conceptual Similarity

The question of whether translation creates legal equivalence has given rise to some of the most significant rulings in Indian trademark law.

i. The Falaxar Case

One of the early cases involving translation was the ‘Falaxar’ case [10]. The plaintiff’s ‘effervescent saline’ product was quite popular in India, and consumers generally asked for it by the name ‘Fruit Salt.’ The defendant began selling a similar product under the name ‘Falaxar’ – a name created by combining the Marathi words ‘फल’ /pʰəl/ (fruit) and ‘क्षार’ /kʂɑːrə/ (salt). The court held that the plaintiff had acquired the exclusive right to use the term ‘Fruit Salt’ for its product, and that ‘no one in India had the right to use those words in any language in relation to similar goods.’

The court’s reasoning is noteworthy for its sociolinguistic insight:

“If a trader is permitted to use words that, through long-standing usage, have become associated with another trader’s goods in a different language, it would provide unscrupulous traders an opportunity to mislead and deceive customers who speak only one language.” The ruling acknowledges that linguistic translation can be used for ‘passing off [4]’ (i.e., selling another’s product as one’s own), and that this specifically targets consumers who lack a good understanding of the original language.”

ii. The Peacock–Mayur Case

A similar argument was raised in the ‘Peacock–Mayur’ case [11]. The plaintiff was the registered owner of the ‘MAYUR’ word mark, which had been used for plastic goods for nearly two decades. Due to extensive sales and advertising, the plaintiff’s goods had come to be identified by the Hindi word ‘Mayur,’ its Punjabi equivalent ‘Mor,’ and its English equivalent ‘Peacock.’ The court restrained the defendant from using the name ‘Peacock’ for plastic goods. The court stated that:

“No person may use a trademark containing a word from another language if the meaning of that word is the same as the meaning of a trademark that already exists in another language”

This case establishes the principle of translation: conceptual similarity across different languages can give rise to deceptive similarity. This principle was also affirmed in the case of *Surya Roshni Limited v. Electronic Sound Components Company (AIR 1995 Delhi 92)* [12], wherein the court held that:

“Bhaskar’ (a translation of ‘Surya’, meaning ‘Sun’) was similar to, and likely to be confused with, the plaintiff’s ‘SURYA’ mark, particularly when accompanied by a sun device.”

iii. The Rajdhani–Capital Dispute [13]

In a recent case, the Delhi High Court stated that the English word ‘Capital’ has the same meaning as the Hindi word ‘Rajdhani.’ The Court held that the use of the word ‘Capital’ for similar goods could, prima facie, impact the ‘conceptual identity’ of a pre-existing mark. This is a straightforward example of the principle of translation: where one mark is a direct translation of another, there can be conceptual equivalence despite differences in sound and script. The court argues that a bilingual customer, upon seeing the word ‘Capital,’ would immediately understand that it is equivalent to ‘Rajdhani.’

3.2 Limits of Conceptual Similarity: Translation vs. Association

Similarity in subject matter or theme does not always equate to legal identity. The Delhi High Court’s ruling in the cases involving ‘Fauji’ and ‘Officer’s Choice’ (*Allied Blenders and Distillers (P) Ltd. v. Govind Yadav*) [14] illustrates the limits of similarity regarding concepts or ideas. The plaintiff argued that both names evoke the army and, therefore, share the same underlying concept. The court rejected this argument, stating that:

“The word “Fauji” means a soldier, whereas “Officer” refers to a person holding a position of authority. Although both terms evoke the armed forces, they do not share the same meaning. The court concluded that the two names are distinct at the conceptual level”

The distinction between translation and association explains the differing outcomes. ‘Rajdhani’ and ‘Capital’ mean the same thing (they both refer to the same concept). The relationship between ‘soldier’ and ‘officer’ is merely one of subject matter (both are associated with the army but perform different roles). As a commentator notes, *‘A shared subject matter is not enough for concepts to be considered identical; a similarity in meaning is also essential.’*

From the sociolinguistics perspective, this distinction is significant. It recognizes that language operates not merely through dictionary definitions but also through networks of associations. A word like ‘Officer’ conveys not just a definition but also a social context, encompassing authority, hierarchy, military service and professionalism. Yet, trademark law cannot grant a monopoly over entire semantic fields. The ‘Fauji’ ruling prevents the scope of trademark protection from extending to an ‘entire conceptual domain.’

3.3 Transliteration and Script Variation

If translation relates to meaning, then transliteration relates to sound and script. Issues surrounding transliteration highlight the complexities of linguistic diversity.

i.Rohit Wrappers v. Hari Om

In the case of Anshul Vaish v. Hari Om (2025) [15], the Delhi High Court’s judgment analyzed the use of different variations of the ‘ROHIT’ mark- specifically, the petitioner was using the English script. In contrast, the respondent was using the Hindi transliteration (‘रोहित’ /ro:hiṭ/). The court held that the two marks were similar to the extent of causing confusion. The court emphasized that:

“in a multilingual country like India, if a mark is translated into another language- even if that language is widely spoken- it does not affect the rights regarding the protection of that mark.”

From a socio-linguistic perspective, the court’s arguments are profound and insightful. The court holds that: “if the translation or transliteration of a trademark creates the same “source association” (i.e., identifying which company the product belongs to) in the mind of the average consumer, then a difference in language or script offers no defense against a claim of trademark infringement; this is because the average consumer often does not retain every minute detail.” Despite the difference in scripts, the Hindi transliteration of ‘रोहित’ /ro:hiṭ/ was deemed deceptively similar, as its phonetic resemblance and commercial association remained intact.

Significantly, the court emphasized that:

"in a multilingual society like India, phonetic and linguistic translations can lead to confusion."

The judgment acknowledged that consumers may encounter marks in various scripts and languages, and that commercial goodwill is linked to the brand's identity rather than any specific linguistic form.

3.4 Phonetic Similarity Across Scripts

The Shrinath case [16] demonstrates how phonetic similarity can be more significant than visual differences. The plaintiff held a registration for the word ‘SHRINATH’ and had been using it in the tour and travel business since 1978. The defendant used ‘SHREENATH’ and ‘SHRINATH’ in various forms. The court held this to constitute trademark infringement based on phonetic similarity. The court observed that the defendant’s use of ‘SHRINATH’ and/or ‘SHREENATH’ was identical, particularly in terms of pronunciation, to the plaintiff’s registered trademark. The court stated that:

“the registration of the word mark was particularly significant: because the plaintiff held the word mark, the ‘likelihood of confusion was further heightened’.”

This case demonstrates that phonetic similarity sounding alike can constitute an infringement, even if there are slight differences in writing or spelling. In a country where consumers make purchases verbally, asking for products by name rather than reading the packaging text, auditory similarity is a crucial factor.

3.5 Language, Culture and Morality: The Chutiaram Controversy

The ‘Chutiaram’ [17] trademark application highlights a specific aspect of sociolinguistic analysis: the interconnection of language, religion and public morality. The applicant had applied for the registration of the name ‘Chutiaram’ for food products; this name comprised the words ‘Chutiya’ (an offensive term in Hindi) and ‘Ram’ (a revered Hindu deity) [18]. This matter raises serious questions concerning language and society. The petitioner argued that the original meaning of the word ‘chutiya’ is not derogatory; rather, it is derived from ‘choti’ (a sacred tuft of hair in Hinduism) and symbolizes ‘spirituality and cultural heritage.’ Critics argued that the word is generally considered offensive and that its association with ‘Ram’ was culturally insensitive.

The applicant also expressed concern regarding the system: the registry’s digital filing system lacked a proper module for entering marks in Hindi or regional languages, forcing applicants to convert their marks into English. He attributed this to a ‘colonial mindset’ that prioritizes English and overlooks India’s linguistic diversity. This criticism highlights how digital infrastructure can perpetuate linguistic hierarchies. This matter pertains to Section 9 of the Trade Marks Act, 1999 [4], which prohibits the registration of marks that are ‘offensive or obscene.’ However, determining what constitutes ‘offensive’ requires a socio-linguistic understanding: who decides the meaning of a word? Whose interpretation should take precedence- dictionary definitions, common parlance or the spiritual meaning attributed by the applicant? This dispute highlights the ongoing debate regarding linguistic meaning in a diverse society.

4. Analysis: Patterns and Tensions in Judicial Reasoning

4.1 Consumer Perspective

In many instances, courts consistently emphasize the perspective of the ordinary consumer. The Cadila test- which takes into account the ‘consumer of average intelligence and imperfect recollection’- bases trademark analysis on the consumer’s mindset rather than on linguistic or theoretical considerations. To adopt a consumer-centric approach, courts will have to make decisions involving sociolinguistics, such as determining what the average consumer knows, which languages they speak and which scripts they can read. In the Shrinath case, the court specifically noted that bus service customers ‘generally belong to a less educated or illiterate class’ and would be unable to distinguish between the terms ‘SHRINATH’ and ‘SHREENATH’. It is precisely this disparity in education and literacy levels that determines the basis for examining infringement.

4.2 The Translation-Association Distinction

The distinction between translation (semantic equivalence) and association (thematic relatedness) provides a clear basis for analyzing conceptual similarity. ‘Rajdhani’ and ‘Capital’ are translations: they convey the same meaning. ‘Fauji’ (soldier) and ‘Officer’ are associations: they are linked to the same domain but represent distinct concepts. From a sociolinguistic perspective, this distinction is valid. It recognizes that language operates on multiple levels: denotation (dictionary meaning), connotation (associated meanings) and social field (the broader scope of context). Trademark law can provide appropriate protection against similarity based on denotation without extending the scope of protection to the entire social field.

4.3 The Problem of Linguistic Hierarchy

These cases illustrate the ongoing tension between linguistic diversity and the practical requirements of trademark administration. English dominates the trademark register: applications must be submitted in either English or Hindi and transliteration into the Roman script is often required. This creates a situation described by one commentator as a ‘colonial hangover’ in which local languages are marginalized. Nevertheless, courts have shown readiness to protect marks existing in local languages and to acknowledge similarities across different languages. In the Flexer, Peacock and Rohit cases, protection was granted to marks in languages other than English; meanwhile, the criticism regarding systemic discrimination raised by the applicant in the Chutiaram case highlights the need for reform.

5. CONCLUSION AND RECOMMENDATIONS

Indian trademark law has established a robust framework to address linguistic diversity. The principle of translation, under which a mark cannot be adopted or used in another language if it conveys the same meaning, protects business goodwill across linguistic boundaries. The principle of transliteration, under which phonetic similarity across different scripts can constitute trademark infringement, acknowledges the realities of oral communication and the diversity of scripts. The distinction between translation and association prevents overreach and ensures that exclusive trademark rights do not extend to the full conceptual scope. Nevertheless, challenges remain. The dominance of English in trademark administration creates obstacles for marks in local languages. While the distinction between translation and transliteration may be theoretically useful, it requires careful application in cases where the meaning is disputed. The ‘Chutiaram’ controversy illustrates just how difficult it is to determine what constitutes ‘offensive’ content in a linguistically and culturally diverse society.

5.1 Recommendations

Clear guidelines should be formulated for the analysis of translation and transliteration. Courts should establish clear criteria to determine when marks in different languages are confusingly similar; furthermore, they should clarify the distinctions between translation (similarity of meaning), transliteration (similarity of pronunciation) and mere association. Enhance the linguistic capabilities of the Trademark Registry. To address the concerns raised in the ‘Chutiaram case’, the Registry should develop robust systems for searching and examining marks in local languages. Conduct empirical research on consumer perception. Currently, courts rely on their own legal understanding of consumer behavior. Empirical research can help understand how consumers who speak different languages and are familiar with different scripts perceive ‘marks’; this could facilitate evidence-based decision-making. Seek the assistance of sociolinguistics experts. In India, expert opinions regarding language, literacy and consumer behavior in specific markets can prove beneficial in resolving trademark-related matters.

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