



# ICLG

The International Comparative Legal Guide to:

## Trade Marks 2017

**6th Edition**

A practical cross-border insight into trade mark work

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**Published by**  
Global Legal Group Ltd.  
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# Pakistan

Saira Osman Bhatti



Bharucha &amp; Co.

Farzana Rustom



## 1 Relevant Authorities and Legislation

### 1.1 What is the relevant trade mark authority in your jurisdiction?

The relevant Pakistan trade mark authority is the Trade Mark Registry which operates under the Intellectual Property Organisation of Pakistan.

### 1.2 What is the relevant trade mark legislation in your jurisdiction?

The relevant legislation is the Trade Marks Ordinance, 2001 (“the Ordinance”).

## 2 Application for a Trade Mark

### 2.1 What can be registered as a trade mark?

A trade mark is any mark capable of being represented graphically which is capable of distinguishing goods or services of one undertaking from those of other undertakings. It may be, in particular, a device, brand, heading, label, ticket, name including person name, signature, word, letter, numeral, figurative elements, colour, sound or any combination thereof.

### 2.2 What cannot be registered as a trade mark?

A trade mark that falls under the mischief of absolute and relative grounds for registration, which is discussed in answer to questions 3.1 and 4.1, below, cannot be registered. National emblems of convention countries and emblems of certain international organisations also cannot be registered.

### 2.3 What information is needed to register a trade mark?

The following information is required:

- Full name, nationality, trading style (if any) and full business address of applicant.
- List of goods or services in respect of which registration is sought. Separate applications have to be filed for goods or services falling in different classes.

- Transliteration and translation of non-English words if appearing in the mark.
- Prints of the mark in case of device/label mark.
- First date of use of the mark in Pakistan, if used.
- Power of Attorney duly signed by an authorised signatory of the applicant in at least two places before a Notary Public.

In case of claiming priority, application can be filed by a person who has made “convention application”, within six months from the date on which the convention application was made. Priority document can be filed either with the application or within three months from the date of application in Pakistan.

### 2.4 What is the general procedure for trade mark registration?

General procedure for trade mark registration is to file an application on the prescribed form along with a notarised Power of Attorney. After filing of the application, it takes about a year for examination of an application. Upon examination, if no objection is raised against the trade mark, it is ordered to be advertised and proceeds to advertisement in the Trade Marks Journal. In case there is any objection, the Registry issues an examination report to which the applicant is required to file a reply. After submission of the reply if it is found satisfactory, the mark is ordered to be advertised. If it is not or any further clarification/explanation is required, which is usually the case, the application is fixed for hearing before a Tribunal. In case of satisfactory arguments during the hearing, the order for advertisement of the mark is issued. The purpose of advertisement is to invite opposition by third parties within the statutory period of two months (which is extendable for a further period of two months by filing a request on prescribed form). In case the mark is opposed, the application will remain pending until the decision of the opposition. In case no opposition is filed, the Registry will issue a Demand Note for payment of registration fees, and after the payment of fees, the mark proceeds to registration.

### 2.5 How can a trade mark be adequately graphically represented?

A trade mark can be adequately graphically represented when the representation is clear and easily accessible. It may be a computer or photographic print. Where a colour or combination is claimed, it is necessary to specify the colour or colours.

### 2.6 How are goods and services described?

Goods and services are required to be described in accordance with the International Classification of Goods and Services.

### 2.7 What territories (including dependents, colonies, etc.) are or can be covered by a trade mark in your jurisdiction?

Statutory rights in a trade mark extend only within the territory of Pakistan.

### 2.8 Who can own a trade mark in your jurisdiction?

Any person (natural or legal person) may own a trade mark.

### 2.9 Can a trade mark acquire distinctive character through use?

Yes, distinctiveness can be acquired by way of use.

### 2.10 How long on average does registration take?

On average, registration takes two to three years but it depends upon the work load of the Trade Marks Registry.

### 2.11 What is the average cost of obtaining a trade mark in your jurisdiction?

In a straightforward case, if there is no objection, no hearing and no opposition, the approximate official fee from filing till registration would be US\$ 80.

### 2.12 Is there more than one route to obtaining a registration in your jurisdiction?

No. A trade mark can be registered in Pakistan by filing an application in the Trade Marks Registry only.

### 2.13 Is a Power of Attorney needed?

Yes, it is needed.

### 2.14 If so, does a Power of Attorney require notarisation and/or legalisation?

Power of Attorney requires notarisation.

### 2.15 How is priority claimed?

Application on the prescribed form may be filed by a person who has made a "convention application", within six months from the date on which the convention application was made. A certified copy of the priority document should be filed either with the application or within three months from the date of application in Pakistan.

### 2.16 Does your jurisdiction recognise Collective or Certification marks?

Yes, it does.

## 3 Absolute Grounds for Refusal

### 3.1 What are the absolute grounds for refusal of registration?

The following are absolute grounds for refusal of registration:

- (1) a mark not capable of being represented graphically which is capable of distinguishing goods or services of one undertaking from those of other undertakings;
- (2) trade marks which are devoid of any distinctive character, or consist exclusively of marks or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, time of production of goods or of rendering of services, or other characteristics of goods or services, or consist exclusively of marks or indications which have become customary in the language or in the *bona fide* established practices of the trade:
  - NB a trade mark shall not be refused registration by virtue of grounds falling in (2) if, before the date of application for registration it has, in fact, acquired a distinctive character as a result of the use made of it, or is a well known trade mark;
- (3) a mark shall not be registered as a trade mark if it consists exclusively of the shape which results from the nature of the goods themselves or the shape of goods which is necessary to obtain a technical result, or the shape which gives substantial value to the goods;
- (4) no trade mark nor any part thereof in respect of any goods or services shall be registered which consists of, or contains, any scandalous design, or any matter the use of which would, by reason of it being likely to deceive or to cause confusion or otherwise, be disentitled to protection in a High Court or District Court or be likely to hurt the religious susceptibilities of any class of citizens of Pakistan *per se* or in terms of goods or services it is intended to be so registered; or be contrary to any law, for the time being in force or morality; and
- (5) a trade mark shall not be registered if, or to the extent that, the application is made in bad faith.

### 3.2 What are the ways to overcome an absolute grounds objection?

Absolute grounds of refusal may be overcome by establishing that the trade mark in question has acquired distinctiveness through use or it is a well-known mark. Evidence of use is usually in the form of an affidavit accompanied by supporting documents.

### 3.3 What is the right of appeal from a decision of refusal of registration from the Intellectual Property Office?

Appeal is to be filed in the High Court.

### 3.4 What is the route of appeal?

Appeal is to be filed in the High Court and a decision of such an appeal may be challenged in the Supreme Court.

## 4 Relative Grounds for Refusal

### 4.1 What are the relative grounds for refusal of registration?

The following are relative grounds for refusal of registration:

- (1) a trade mark shall not be registered if it is identical with an earlier trade mark and the goods or services for which the trade mark is applied are identical with the goods or services for which the earlier trade mark is registered;
- (2) a trade mark shall not be registered because it is identical with an earlier trade mark and is to be registered for goods or services similar to those for which the earlier trade mark is registered, or it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is registered, and there exists a likelihood of confusion on the part of the public which includes the likelihood of association with the earlier trade mark;
- (3) a trade mark which is identical with or similar to an earlier trade mark and is to be registered for goods or services which are not similar to those for which the earlier trade mark is registered shall not be registered if, or to the extent that, the earlier trade mark has a reputation in Pakistan and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark;
- (4) a trade mark shall not be registered if, or to the extent that, its use in Pakistan is liable to be prevented by virtue of any law, in particular, the law of passing off, protecting an unregistered trade mark or other mark used in the course of trade or by virtue of an earlier right other than those referred in (1), (2) and (3) or, in particular, by virtue of the law of copyright design right or registered designs;
- (5) the registration of a trade mark is not prevented where the proprietor of the earlier trade mark or other earlier consents to the registration; or
- (6) where separate applications are made by different persons to be registered as proprietor respectively of trade marks which are identical or nearly resemble each other in respect of the same goods or description of goods, the Registrar, if he thinks fit, may refuse to register any of them until their rights have been determined by the High Court or District Court.

#### 4.2 Are there ways to overcome a relative grounds objection?

By proving dis-similarity between the marks or by establishing prior use of the mark or establishing the mark in question is not likely to cause confusion or deception in the course of trade, or proving co-existence of the trade mark with cited marks in Pakistan or other countries.

#### 4.3 What is the right of appeal from a decision of refusal of registration from the Intellectual Property Office?

The right of appeal from a decision of refusal of registration is to file an appeal in the High Court.

#### 4.4 What is the route of appeal?

Appeal is to be filed in the High Court and decision of such an appeal may be challenged in the Supreme Court.

## 5 Opposition

### 5.1 On what grounds can a trade mark be opposed?

Registration of a trade mark may be opposed on any of the grounds on which an application for the registration of a trade mark may be

rejected under the Ordinance except the ground that the trade mark cannot be represented graphically.

Registration of a trade mark may be opposed on the ground that the applicant does not intend to use or authorise the use of the trade mark in Pakistan or to assign the trade mark to a body corporate for use by the body corporate in Pakistan, in relation to goods, services or both specified in the application.

Registration of a trade mark may be opposed on any of the following grounds as well:

- The applicant is not the proprietor of the trade mark.
- The application, or a document filed in support of the application, was amended contrary to the provisions of the Trade Marks Ordinance.
- The Registrar accepted the application for registration on the basis of evidence or representations that were false in material particulars; or the pre-acceptance advertisement of the application under exceptional circumstances is without sufficient cause or reason.
- The registration of a trade mark in respect of particular goods or services may be opposed on the grounds that it is substantially identical with, or deceptively similar to, a well-known trade mark or a trade mark that, before the priority date for the registration of the first-mentioned trade mark in respect of those goods or services, had acquired a reputation in Pakistan; and because of the reputation of that other trade mark, the use of the first-mentioned trade mark would cause dilution or would be likely to deceive or cause confusion.
- The registration of a trade mark in respect of particular goods may be opposed on the ground that the trade mark contains or consists of a mark that is a geographical indication for goods originating in a country or in a region or locality in a country, other than the country in which the relevant goods originated, or a region or locality in the country in which the relevant goods originated other than the region or locality in which the relevant goods originated.

### 5.2 Who can oppose the registration of a trade mark in your jurisdiction?

Any person (natural or legal) can oppose the trade mark.

### 5.3 What is the procedure for opposition?

An opposition ought to be filed within the prescribed time of two months from the date of publication of the trade mark in the Trade Marks Journal, which time is further extendable for two months by filing a request on the prescribed form and payment of a fee. On receipt of a copy of the Notice of Opposition, the applicant is required to file a Counter Statement within one month, which time is further extendable for a period of two months as above. Within one month from the date of receipt of a copy of the Counter Statement or within a further extended period of two months, the opponent may file a Rejoinder if so desired. Whereas, within two months of receipt of the Counter Statement or within such further period as the Registrar of Trade Marks may allow but not exceeding more than three months, the opponent has to file evidence in support of opposition, failing which, the opposition is treated as abandoned. Within two months of the receipt of copy of evidence filed by the opponent or within such further period as the Registrar may allow but not exceeding more than three months, the applicant has to file evidence in support of the Counter Statement. On receipt of a copy of evidence filed by the applicant, the opponent may within one month or within such further period as the Registrar may allow but not exceeding three months, file evidence in reply. After this, the

hearing is fixed and both parties are required to file requests on the prescribed form showing their intention to attend the hearing. Upon filing such requests the hearing is held; normally it takes several hearings before a case is decided. However, as soon as the hearings are concluded, the Registrar passes the order in the matter.

## 6 Registration

### 6.1 What happens when a trade mark is granted registration?

A trade mark is entered in the Trade Marks Register and becomes personal property. Registration gives exclusive right to use the trade mark.

### 6.2 From which date following application do an applicant's trade mark rights commence?

Upon registration, the rights are back-dated to the date of application.

### 6.3 What is the term of a trade mark?

The term of a trade mark is 10 years from the date of registration, which may be renewed for periods of 10 years consecutively.

### 6.4 How is a trade mark renewed?

A trade mark is renewed by filing an application for the renewal of the trade mark along with the prescribed fee.

## 7 Registrable Transactions

### 7.1 Can an individual register the assignment of a trade mark?

Yes, by submitting the prescribed form along with prescribed fee and supporting documents.

### 7.2 Are there different types of assignment?

Assignment may be with or without goodwill. Assignment may also be partial, limited to goods or services or limited to territory.

### 7.3 Can an individual register the licensing of a trade mark?

Yes, by submitting the prescribed form along with the prescribed fee and supporting documents.

### 7.4 Are there different types of licence?

There are exclusive and non-exclusive licences.

### 7.5 Can a trade mark licensee sue for infringement?

Yes, a trade mark licensee can sue for infringement, provided the licensee is registered as a registered licensee in the Register of Trade Marks.

### 7.6 Are quality control clauses necessary in a licence?

Quality control clauses are not mandatory, but entries to be made in the Register require such conditions to be incorporated.

### 7.7 Can an individual register a security interest under a trade mark?

Though under the law, there is a provision for recordal of security interest, it cannot be recorded as no procedure for its recordal is prescribed under the Rules.

### 7.8 Are there different types of security interest?

No, there is no variation in the types of security interest.

## 8 Revocation

### 8.1 What are the grounds for revocation of a trade mark?

A trade mark can be revoked if it has not been put to genuine use for five continuous years, either immediately following date of registration or any continuous five-year period, unless proper reasons for non-use can be demonstrated or use of the mark is commenced or resumed before the application for revocation has been made. However, any commencement or resumption of use within a period of three months before the application for revocation is made will be disregarded, unless preparations for the commencement or resumption began before the owner became aware that the application may be made.

Use of a trade mark can include use in a form differing in elements that do not alter the distinctive character of the mark as registered.

Revocation can also be claimed if, due to acts or inactivity of the owner, it has become a common name in the trade for the goods and services for which it is registered or due to the use made of it, by the owner or with their consent, it is liable to mislead the public particularly as to the nature, quality or geographical origin of those goods and services.

### 8.2 What is the procedure for revocation of a trade mark?

An application to the Registrar for revocation of the registration of a trade mark or for rectification of an error or omission in the Register shall be made in the prescribed form together with a statement of the grounds on which the application is made. Where the application is made by a person other than the proprietor of the registered trade mark, the application and the statement of the grounds aforesaid shall be left at the Registry, in duplicate. The duplicate copies shall be transmitted forthwith by the Registrar to the registered proprietor.

Upon an application being made and copies thereof being transmitted to the registered proprietor, if necessary, the provisions of procedure applied for opposition shall apply *mutatis mutandis* to further proceedings on the application, but the Registrar shall not rectify the Register merely because the registered proprietor has not filed a counter-statement, save that, in case of an application for revocation on the grounds of non-use that within the period of five years following the date of completion of registration procedure it has not been put to *bona fide* use in Pakistan by the proprietor or by an authorised user thereof, in relation to the goods or services for which it is registered and there are no proper reasons for its non-use

or that the *bona fide* use has been suspended for an uninterrupted period of five years and there are no proper reasons for its non-use, the application shall be granted.

### 8.3 Who can commence revocation proceedings?

Any interested party may commence revocation proceedings.

### 8.4 What grounds of defence can be raised to a revocation action?

Genuine use can be demonstrated through submission of evidence or arguing that the use of the mark has commenced or resumed before revocation action commenced. If the mark is not used by the owner, use by a licensee is sufficient to show genuine use (by giving proper reasons why the trade mark could not be used).

### 8.5 What is the route of appeal from a decision of revocation?

Appeal can be filed in the High Court and its decision may be challenged in the Supreme Court.

## 9 Invalidity

### 9.1 What are the grounds for invalidity of a trade mark?

A trade mark may be declared invalid if it was registered in breach of either absolute grounds for refusal of registration, which include bad faith, or relative grounds for refusal of registration (as stated in questions 3.1 and 4.1).

### 9.2 What is the procedure for invalidation of a trade mark?

The procedure is the same as given in the reply to question 8.2.

### 9.3 Who can commence invalidation proceedings?

Any interested party may commence invalidation proceedings.

### 9.4 What grounds of defence can be raised to an invalidation action?

By arguing that the trade mark application was made in good faith. An action based on absolute grounds may be overcome by demonstrating that the mark has acquired distinctive character through use. An action based on relative grounds can be overcome if the applicant fails to show a likelihood of confusion or deception or the owner of the earlier right has consented to registration of the mark in question.

### 9.5 What is the route of appeal from a decision of invalidity?

Appeal can be filed in the High Court and its decision may be challenged in the Supreme Court.

## 10 Trade Mark Enforcement

### 10.1 How and before what tribunals can a trade mark be enforced against an infringer?

Trade mark infringement and passing-off suits can be filed before an IP Tribunal under the IPO Act. However, in the provinces of Sindh and Baluchistan where IPO Tribunals are not operational, such suits can be filed before the High Court.

### 10.2 What are the pre-trial procedural stages and how long does it generally take for proceedings to reach trial from commencement?

At the first stage, after filing a case for infringement, the preliminary injunction may be granted, notice is issued to the defendant to file counter affidavit to the injunction application and written statement against the plaint – the defendant files the same. At the second stage, both parties advance their arguments against the application for injunction – the injunction is either granted or refused. This procedure takes about six to eight months.

### 10.3 Are (i) preliminary and (ii) final injunctions available and if so on what basis in each case?

Yes, preliminary and final injunctions are available.

- (i) Preliminary (interim) injunction is granted, if the plaintiff can prove a *prima facie* case of infringement and passing off, balance of convenience and irreparable loss in its favour.
- (ii) Final injunction is granted after hearing both parties on the merits of the case. Injunction is not only granted where infringement and passing off is proved but also where a threat has been established.

### 10.4 Can a party be compelled to provide disclosure of relevant documents or materials to its adversary and if so how?

Yes, the court can order relevant documents or materials to be provided to an adversary. It may be ordered upon the party filing an application, and the other side may file rebuttal in writing and after hearing both parties.

### 10.5 Are submissions or evidence presented in writing or orally and is there any potential for cross-examination of witnesses?

Submissions and evidence are presented in writing and cross-examination of witnesses takes place during the trial.

### 10.6 Can infringement proceedings be stayed pending resolution of validity in another court or the Intellectual Property Office?

Yes. However, it is granted after hearing both the parties.

### 10.7 After what period is a claim for trade mark infringement time-barred?

The period of limitation for instituting a suit for infringement is six years from the last committed act of infringement. In case of a continuing infringement, the limitation is not applicable.

### 10.8 Are there criminal liabilities for trade mark infringement?

Yes, there are.

### 10.9 If so, who can pursue a criminal prosecution?

A proprietor of a registered trade mark can pursue criminal prosecution.

### 10.10 What, if any, are the provisions for unauthorised threats of trade mark infringement?

There is a provision of remedy for groundless threats of infringement proceedings. Where a person threatens to bring an action against another person on the ground that the ordered person has infringed a registered trade mark or a trade mark alleged by the person to be registered, any person aggrieved by the threat may bring proceedings for relief against the person making the threat. The relief may be applied for a declaration that the threats are unjustifiable or an injunction against the continuance of the threats or damages in respect of any loss he has sustained by the threats. The plaintiff shall be entitled to any relief mentioned hereabove unless the defendant shows that the acts in respect of which proceedings were threatened constitute, or if done would constitute, an infringement of the registered trade mark concerned; if that is shown by the defendant, the plaintiff shall be entitled to any relief mentioned hereabove, if he shows that the registration of the trade mark is invalid or liable to be revoked in a relevant respect. The mere notification that a trade mark is registered, or that an application for registration has been made, shall not constitute a threat of proceedings for the purposes of this section.

## 11 Defences to Infringement

### 11.1 What grounds of defence can be raised by way of non-infringement to a claim of trade mark infringement?

A claim of infringement can be rebutted by virtue of the fact that the trade mark is used in good faith, e.g.: it is the person's name or the name of the person's place of business, so long as such use does not result in a likelihood of confusion or otherwise interfere with an existing trade mark or other property right or the name of the predecessor in business of the person or the name of the predecessor's place of business; the person uses a mark in good faith to indicate the kind, quality, quantity, intended purpose, value, geographical origin, or some other characteristic, of goods or services or the time of production of goods or of the rendering of services; the person uses the trade mark in good faith to indicate the intended purpose of goods, in particular as accessories or spare parts, or services; or the person uses the trade mark for the purposes of comparative advertising.

If the right to the use of a trade mark is subject to any conditions or limitations entered on the Register, such right shall not be deemed to be infringed by the use of any such trade mark in any mode, in relation to goods to be sold or otherwise traded in or in relation to services provided by, in any place, or in relation to goods or services to be exported to any market, or in any other circumstances to which, having regard to any such limitations, the registration does not extend.

Where registration of a trade mark is subject to a disclaimer, a person shall not infringe the trade mark by using a disclaimed part of the trade mark.

### 11.2 What grounds of defence can be raised in addition to non-infringement?

The defendant may raise grounds, i.e. prior use, dissimilarity of the trade marks, or that no confusion or deception will take place in the minds of the customers.

## 12 Relief

### 12.1 What remedies are available for trade mark infringement?

Remedies such as injunction, delivery of counterfeit goods, labels, publicity materials, other evidence, disposing of counterfeit goods, and damages are available to the plaintiff.

### 12.2 Are costs recoverable from the losing party and if so what proportion of the actual expense can be recovered?

Yes. Costs such as court fees are recoverable from the losing party. The courts do not grant any other cost.

## 13 Appeal

### 13.1 What is the right of appeal from a first instance judgment and is it only on a point of law?

Appeal is preferred from the first instance judgment of a District Court/IP Tribunal before the High Court. A further appeal lies before the Supreme Court on points of law.

### 13.2 In what circumstances can new evidence be added at the appeal stage?

New evidence may be added at the appeal stage if the Court/Tribunal refused to bring on record the same, or the evidence was not available at time of trial, or the appellate court requires the parties to submit the evidence which is necessary to decide the appeal.

## 14 Border Control Measures

### 14.1 What is the mechanism for seizing or preventing the importation of infringing goods or services and if so how quickly are such measures resolved?

The proprietor of the registered trade mark may give notice in writing to the Collector of Customs that he is the proprietor of the registered trade mark; at a time and place specified in the notice, goods which, in relation to that registered trade mark are infringing goods, material or article, or bear false indications as to their source or the identity of their manufacture are expected to arrive in Pakistan from outside Pakistan, and that they are subject to the control of the customs authorities under the Customs Act, 1969 (IV of 1969) and he requests the Collector of Customs to treat such goods as prohibited goods.



## 15 Other Related Rights

### 15.1 To what extent are unregistered trade mark rights enforceable in your jurisdiction?

Unregistered trade mark and well-known mark rights are enforceable under the common law and the law of passing off, which protect an unregistered trade mark if it has reputation in Pakistan or it is a well-known mark.

### 15.2 To what extent does a company name offer protection from use by a third party?

A trade name shall be protected without the obligation of filing or registration under the Ordinance, whether it forms part of a trade mark or not.

### 15.3 Are there any other rights that confer IP protection, for instance book title and film title rights?

There is no other special legislation conferring IP protection on particular categories of trade mark such as book titles or film titles.

## 16 Domain Names

### 16.1 Who can own a domain name?

An applicant offering goods or services via the internet using the domain name as a source identifier can own a domain name.

### 16.2 How is a domain name registered?

The provisions of the Ordinance for acceptance, registration and opposition, as applied to trade marks, also apply to the registration of domain names.

### 16.3 What protection does a domain name afford *per se*?

Domain name affords protection as a trade mark.

## 17 Current Developments

### 17.1 What have been the significant developments in relation to trade marks in the last year?

IP Tribunals have been established.

### 17.2 Please list three important judgments in the trade marks and brands sphere that have issued within the last 18 months.

#### 1) Suit for permanent injunction

**Plaintiffs:** JUBILEE LIFE INSURANCE COMPANY LIMITED through Zahid Barki.

**Defendant:** UNITED INSURANCE COMPANY OF PAKISTAN LTD. through Dy. Managing Director and another.

**Decision:** Application for interim injunction allowed.

The plaintiff filed a suit for permanent injunction along with application for interim injunction, contending that the defendants' trade mark 'Amaan' is violative of the Plaintiff's registered trade mark 'Amaan Plan' in respect of similar services.

#### 2) Complaint for Deceptive Marketing Practice

**Complainant:** Agritech Limited.

**Respondent:** Tara Crop Sciences (Private) Limited.

**Decision:** Deceptive marketing practices – penalty imposed.

The Complainant filed a complaint before the Competition Commission of Pakistan alleging that its brand 'Tara' was being used fraudulently and illegally by the Respondent. Furthermore, the Respondent had resorted to dissemination of misleading information which was capable of harming the business interests of the Complainant. After hearing both the parties, the Competition Commission imposed a penalty against the Respondent.

#### 3) Appeal against the order of the High Court

**Appellant:** ENGLISH BISCUIT MANUFACTURERS (PVT.) LTD.

**Respondent:** PAKISTANI DAIRY PRODUCTS (PVT.) LTD.

**Decision:** Appeal dismissed.

The Appellant challenged the order of the High Court of Sindh regarding its application for interim injunction against use of the word "PARTY" by the Respondent as its trade mark. The order passed by the learned Judge was upheld and the appeal was dismissed by the Supreme Court.

### 17.3 Are there any significant developments expected in the next year?

It is likely that the Bill relating to Geographical Indication may be presented in the National Assembly in the near future.

### 17.4 Are there any general practice or enforcement trends that have become apparent in your jurisdiction over the last year or so?

The Federal Investigation Agency (F.I.A.) is authorised to enforce IP rights in relation to copyright.



### Saira Osman Bhatti

Bharucha & Co.  
F-7/1, Block 8, Kehkashan  
Clifton  
Karachi 75600  
Pakistan

Tel: +92 21 3537 9544  
Fax: +92 21 3537 9557 58  
Email: [saira.bhatti@bharuchaco.com](mailto:saira.bhatti@bharuchaco.com)  
URL: [www.bharuchaco.com](http://www.bharuchaco.com)

Saira Osman Bhatti is an Associate Advocate at Bharucha & Co. and has been practising as an IP lawyer for almost two decades in the IP field, with a particular specialism in trade mark and copyright law. Her contentious work involves opposition, infringement, invalidity, revocation actions and litigation matters, focusing mainly on well-known and reputed trade marks. Her clientele includes large industrial groups and multinational corporations in diverse sectors and she has vast expertise in advising and rendering opinions to the clients on the protection of brand names and managing the IP values in competition business.

Saira holds both a Bachelor of Arts and a Bachelor of Laws degree. She is an enrolled Advocate of the Sindh High Court and a member of the Karachi District Bar Association. She is a member of APAA, AIPPI, IPBA and INTA and she regularly attends International IP Forums.



### Farzana Rustom

Bharucha & Co.  
F-7/1, Block 8, Kehkashan  
Clifton  
Karachi 75600  
Pakistan

Tel: +92 21 3537 9544  
Fax: +92 21 3537 9557 58  
Email: [farzana.rustom@bharuchaco.com](mailto:farzana.rustom@bharuchaco.com)  
URL: [www.bharuchaco.com](http://www.bharuchaco.com)

Farzana Rustom is an Associate Advocate at Bharucha & Co. since August 2001. She holds a Bachelor of Commerce (B.Com.) degree and a Master of Law (LL.M.) degree, and she has a broad practice covering most aspects of trade mark and copyright laws. Her background is in brand protection and management of clients' IP portfolios. She has extensive experience in foreign filing and dealing in complex trade mark opposition cases, acquisitions, mergers, disposals and domain names. Ms. Rustom strives to give clients practical and cost-effective advice for their trade marks and copyrights in business.

She is an advocate of the High Court and a member of Karachi District Bar Association, Sindh High Court Bar Association, APAA, AIPPI, IPBA, INTA and Marques. She regularly contributes to different national and international IP forums and is listed as one of the two recommended lawyers in *The Legal 500 Asia Pacific*, *TMT Pakistan* from Bharucha & Co.



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59 Tanner Street, London SE1 3PL, United Kingdom  
Tel: +44 20 7367 0720 / Fax: +44 20 7407 5255  
Email: [info@glgroup.co.uk](mailto:info@glgroup.co.uk)

[www.iclg.com](http://www.iclg.com)