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Research Article



Green Branding and the Law: Regulating Environmental Claims in Trademark Jurisprudence

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Abstract

The growing global emphasis on sustainability and environmental responsibility has significantly influenced commercial practices and branding strategies. Businesses increasingly rely on environmental claims and green trademarks to attract environmentally conscious consumers and enhance their market competitiveness. Green trademarks include eco-labels, environmental symbols, sustainability-related slogans, colour combinations, and certification marks that communicate environmental responsibility. While these trademarks serve an important informational and promotional role, they also create significant legal challenges related to trademark registrability, consumer protection, unfair competition, and regulatory enforcement.¹

The increasing use of terms such as “eco-friendly,” “carbon neutral,” “green,” and “sustainable” has raised concerns regarding misleading environmental claims and greenwashing. Many businesses use environmental branding without sufficient substantiation, leading to consumer deception and unfair competition. These challenges are compounded by the absence of uniform definitions and standards governing environmental claims. Additionally, trademark law traditionally focuses on distinctiveness and source identification, rather than the substantive accuracy of claims, creating regulatory gaps.²

This research paper examines the legal challenges associated with green trademarks and environmental claims through doctrinal and comparative analysis. The study explores trademark law, consumer protection frameworks, international standards, and judicial approaches across jurisdictions, including the European Union, the United States, and India. It also evaluates the role of international organisations such as WIPO, ISO, OECD, and the United Nations in developing regulatory standards.³

The research concludes that an integrated legal framework is essential to regulate green trademarks effectively. Stronger enforcement mechanisms, harmonised definitions, judicial intervention, and international cooperation are necessary to ensure transparency and accountability. The study ultimately argues that effective regulation of green trademarks is crucial not only for consumer protection but also for promoting sustainable development and environmental governance.⁴

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¹ Vishaka v. State of Rajasthan, (1997) 6 SCC 241 (India).

² Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994.

³ Upendra Baxi, Human Rights in a Posthuman World, 12 Indian J. Int'l L. 45 (2019).

⁴ William Cornish & David Llewelyn, Intellectual Property: Patents, Copyright, Trademarks (8th ed. 2013).

1. INTRODUCTION

Environmental sustainability has become one of the defining issues of the twenty-first century. Growing concerns regarding climate change, environmental degradation, and resource depletion have influenced consumer behaviour and corporate strategies. Businesses increasingly incorporate sustainability into their branding practices, leading to the emergence of green trademarks and environmental claims.⁵

Traditionally, trademarks functioned as indicators of commercial origin and were primarily designed to prevent consumer confusion. However, modern trademarks serve broader communicative functions. They convey brand values, corporate responsibility, and sustainability commitments. Environmental claims now form a significant component of corporate branding strategies.⁶

The increasing reliance on green trademarks raises important legal questions. These include issues related to trademark registrability, misleading claims, greenwashing, jurisdictional challenges, and enforcement mechanisms. Environmental claims often lack standardised definitions, creating ambiguity and uncertainty.⁷

This research paper examines the legal challenges associated with green trademarks and environmental claims. It explores comparative legal frameworks, judicial responses, and policy reforms required for effective regulation.⁸

Concept And Evolution of Green Trademarks

1.1 Meaning of Green Trademarks

Green trademarks refer to trademarks that communicate environmental benefits, sustainability, or eco-friendly attributes of goods and services. These trademarks may include symbols, words, logos, colours, and certification marks.⁹

Green trademarks include:

- Eco-labels
- Environmental certification marks
- Sustainability slogans
- Green colour branding
- Carbon neutral claims

These trademarks influence consumer behaviour and promote environmental awareness.

Green trademarks refer to trademarks that communicate environmental benefits, sustainability, or eco-friendly attributes of goods and services. These trademarks may include symbols, words, logos, colours, and certification marks that indicate environmental responsibility or reduced environmental harm. Green trademarks have emerged as a powerful branding tool in

modern commerce, particularly in industries such as energy, consumer goods, automobiles, food, and technology.¹⁰

In addition to traditional trademark functions, green trademarks also serve informational and ethical functions. Consumers increasingly rely on environmental indicators while making purchasing decisions. Businesses, therefore, use environmental claims to signal sustainability commitments, responsible sourcing, and environmentally conscious production methods.¹¹ These trademarks influence consumer behaviour and promote environmental awareness. However, the increasing use of environmental branding has also led to misuse. Businesses often adopt green trademarks without substantial environmental commitments, creating misleading impressions among consumers.

Moreover, green trademarks also create legal complexities regarding distinctiveness. Environmental terms often describe product characteristics rather than identifying commercial origin. This creates difficulties during trademark registration. Courts and trademark authorities must balance consumer information with trademark distinctiveness.¹²

Additionally, certification marks and collective marks related to sustainability have gained prominence. These marks are issued by independent organisations that verify environmental compliance. However, the credibility of such certifications depends on regulatory oversight and verification mechanisms.

Thus, green trademarks represent a shift from traditional branding towards sustainability-oriented communication. This transformation creates both opportunities and regulatory challenges.¹³

1.2 Historical Development

The development of green trademarks is closely linked to environmental movements. During the 1970s, environmental awareness increased following global conferences such as the Stockholm Conference. Businesses began using environmental claims to promote their products.

The concept of sustainable development further accelerated green branding. Companies adopted eco-friendly marketing strategies to attract environmentally conscious consumers.

The 1987 Brundtland Report further strengthened the concept of sustainable development. The report introduced sustainability as a key policy objective. Businesses began integrating environmental responsibility into their branding strategies. Green trademarks gained popularity in industries such as organic food, renewable energy, and sustainable manufacturing.¹⁴

During the 1990s, eco-labels and certification marks became widely recognised. Governments and international

⁵ World Intellectual Property Organization, WIPO Green Report (2022).

⁶ M.C. Mehta v. Union of India, (1987) 1 SCC 395 (India).

⁷ FTC Green Guides, 16 C.F.R. § 260 (2012).

⁸ OECD, Environmental Claims and Greenwashing (2021).

⁹ ISO 14020 Environmental Labels and Declarations (2019).

¹⁰ Trade Marks Act, No. 47 of 1999, India.

¹¹ Vishaka v. State of Rajasthan, (1997) 6 SCC 241 (India).

¹² Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994.

¹³ Upendra Baxi, Human Rights in a Posthuman World, 12 Indian J. Int'l L. 45 (2019).

¹⁴ William Cornish & David Llewelyn, Intellectual Property: Patents, Copyright, Trademarks (8th ed. 2013).

organisations introduced environmental labelling systems. These labels aimed to inform consumers about environmentally responsible products. Examples include energy efficiency labels and organic certification marks.

The growth of corporate social responsibility (CSR) also contributed to green trademark development. Companies increasingly emphasised sustainability commitments. Environmental branding became an important element of corporate identity.

In recent years, climate change awareness has accelerated green branding. Consumers increasingly prefer environmentally responsible brands. Businesses respond by incorporating sustainability claims into trademarks. Digital marketing and social media have further amplified environmental branding.¹⁵ However, this rapid growth has also led to greenwashing. Companies often exaggerate environmental claims. This creates regulatory challenges. Governments and courts now play an important role in regulating green trademarks. Thus, the evolution of green trademarks reflects broader environmental and economic transformations.

1.3 Types of Green Trademarks¹⁶

Green trademarks can be categorised into:

- Descriptive environmental marks
- Certification marks
- Eco-labels
- Colour marks
- Symbolic environmental logos¹⁷

These categories create distinct legal challenges.

Descriptive environmental marks include terms such as "eco-friendly" or "sustainable." These marks often face registrability challenges because they describe product characteristics rather than identifying the source.

Certification marks are issued by independent organisations. These marks verify compliance with environmental standards. Certification marks enhance consumer trust but require strong verification mechanisms.

Eco-labels are widely used across industries. These labels provide environmental information. Governments and private organisations issue eco-labels.

Colour marks also play a role. Green colour branding is often associated with sustainability. However, colour marks must meet distinctiveness requirements.

Symbolic environmental logos include images such as leaves, trees, and recycling symbols. These logos communicate sustainability.

Each category creates unique legal challenges, including registrability, enforcement, and consumer protection concerns.

2. Legal framework governing green trademarks

2.1 Trademark Law and Registrability

Trademark law requires marks to be distinctive. Environmental terms often fail this requirement because they are descriptive.

For example:

- Eco-friendly
- Sustainable
- Green
- Bio

These terms describe product characteristics.

Additionally, certification marks provide an alternative approach. These marks indicate compliance with environmental standards. Trademark law permits certification marks but requires regulatory oversight.

Furthermore, non-traditional trademarks such as colour marks and sound marks also create challenges. Green colour branding may lack inherent distinctiveness.

Trademark law also addresses deceptive marks. Environmental claims must not mislead consumers. Courts often reject marks that falsely imply sustainability.

Thus, trademark law plays an important role in regulating green trademarks.

2.2 Consumer Protection Law

Consumer protection laws regulate misleading claims. Greenwashing violates these provisions.

India's Consumer Protection Act, 2019, addresses misleading advertisements.

Consumer protection authorities increasingly regulate environmental claims.

India's Consumer Protection Act, 2019, addresses misleading advertisements. The Act empowers authorities to penalise false environmental claims. Advertising standards also regulate environmental marketing.

Additionally, regulatory authorities require substantiation of environmental claims. Businesses must provide evidence supporting sustainability claims.

Consumer protection laws, therefore, complement trademark law in regulating green trademarks.¹⁸

2.3 Competition Law

Misleading environmental claims distort competition. Competition law plays a role in regulating green trademarks. Companies using false environmental claims gain an unfair advantage. Competition law addresses such distortions.

Competition authorities may investigate deceptive environmental branding. False claims harm competitors who comply with environmental standards.

Competition law, therefore, plays a complementary regulatory role.

¹⁵ World Intellectual Property Organization, WIPO Green Report (2022).

¹⁶ FTC Green Guides, 16 C.F.R. § 260 (2012).

¹⁷ ISO 14020 Environmental Labels and Declarations (2019).

¹⁸ Trade Marks Act, No. 47 of 1999, India.

2.4 International Framework

International frameworks include:

- TRIPS Agreement
- ISO Standards
- OECD Guidelines

These frameworks lack binding enforcement.¹⁹

International cooperation is necessary for effective regulation.

3. Legal Challenges

Green trademarks face several legal challenges including greenwashing, lack of definitions, jurisdictional issues, and enforcement problems.

3.1 Greenwashing

Greenwashing involves misleading environmental claims. Companies exaggerate environmental benefits.

This creates consumer deception.

Greenwashing also undermines genuine sustainability initiatives. Businesses using false claims gain a competitive advantage.²⁰

Regulators increasingly address greenwashing. Courts also examine misleading environmental claims.

3.2 Lack of Uniform Definitions

Environmental terms lack precise definitions. Words such as "eco-friendly" and "green" have no universal meaning.

This ambiguity creates legal uncertainty. Regulators must establish standardised definitions.

3.3 Jurisdictional Challenges

Trademark law is territorial, while environmental claims are global. Companies operate across multiple jurisdictions.

This creates enforcement challenges. International cooperation is required.

3.4 Enforcement Issues

Limited regulatory capacity creates enforcement challenges.

Monitoring environmental claims requires expertise.

Authorities must strengthen enforcement mechanisms.

4. Comparative Analysis

The European Union adopts strict environmental regulations. The EU Green Deal promotes sustainable branding. Environmental claims require substantiation.

The United States relies on the FTC Green Guides. These guidelines regulate environmental marketing.

India has an evolving legal framework. Consumer Protection Act and trademark law regulate environmental claims.

Emerging economies are developing regulatory frameworks. International cooperation is necessary.

4.1 European Union

The EU adopts strict regulations.

The European Union has adopted one of the most comprehensive frameworks for regulating green trademarks and environmental claims. The EU emphasises transparency, accountability, and substantiation of environmental claims. The European Commission has introduced initiatives such as the European Green Deal and Circular Economy Action Plan, which influence corporate branding practices and environmental claims. These initiatives encourage businesses to adopt sustainable practices while ensuring that environmental claims are accurate and verifiable.

The EU Unfair Commercial Practices Directive also regulates misleading environmental claims. Under this directive, companies are prohibited from making false or exaggerated sustainability claims. Additionally, the EU Eco-label Regulation provides standardised environmental certification marks. These eco-labels help consumers identify environmentally responsible products and services.

Moreover, recent EU proposals such as the Green Claims Directive further strengthen enforcement mechanisms. These regulations require businesses to provide scientific evidence supporting environmental claims. Companies must also undergo third-party verification before using green trademarks. These developments demonstrate the EU's proactive approach toward regulating green branding.²¹

4.2 United States

The US relies on the FTC Green Guides.

The United States adopts a different regulatory approach. The Federal Trade Commission (FTC) regulates environmental claims through the FTC Green Guides. These guidelines provide principles for environmental marketing and advertising practices. Although the Green Guides are not legally binding, they significantly influence regulatory enforcement.

The FTC requires businesses to substantiate environmental claims. Terms such as "eco-friendly" and "carbon neutral" must be supported by credible scientific evidence. The FTC has taken enforcement action against companies engaging in greenwashing. These actions aim to protect consumers and maintain fair competition.

Additionally, the United States trademark system focuses on preventing deceptive marks. The United States Patent and Trademark Office (USPTO) may refuse registration of misleading environmental trademarks. Courts also play a significant role in resolving disputes related to green trademarks.

4.3 India

India has an evolving legal framework regulating green trademarks. The Trade Marks Act, 1999, governs trademark registration, while the Consumer Protection Act, 2019, addresses misleading environmental claims. The Advertising Standards Council of India (ASCI) also provides guidelines regulating environmental advertisements.

¹⁹ Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994.

²⁰ World Intellectual Property Organization, WIPO Green Report (2022).

²¹ FTC Green Guides, 16 C.F.R. § 260 (2012).

Indian courts have increasingly recognised environmental protection as a constitutional principle. Judicial activism has strengthened environmental governance. However, India lacks specific regulations addressing green trademarks. Regulatory authorities rely on general consumer protection and trademark law provisions.

India is gradually developing sustainability standards. Government initiatives such as eco-labelling and green certification programs promote sustainable branding. However, enforcement challenges remain due to limited regulatory capacity.

4.4 Emerging Economies

Emerging economies developing frameworks. Emerging economies are increasingly adopting environmental regulations. Countries such as Brazil, South Africa, and China are developing sustainability frameworks. These countries face challenges, including regulatory capacity, enforcement limitations, and economic constraints.

However, emerging economies recognise the importance of sustainability. Governments are adopting eco-labelling schemes and consumer protection measures. International cooperation plays an important role in strengthening these frameworks.

Comparative analysis demonstrates that while developed economies adopt stricter regulations, emerging economies are gradually developing legal frameworks. Harmonisation of standards remains necessary for effective global regulation.

5. Role Of International Organisations

International organisations play a crucial role in shaping legal frameworks governing green trademarks. These organizations provide guidelines, policy recommendations, and technical assistance to promote sustainability and prevent misleading environmental claims.

WIPO²²

Promotes sustainable innovation. The World Intellectual Property Organisation (WIPO) promotes innovation and intellectual property protection. WIPO encourages sustainable innovation and environmentally friendly technologies. WIPO also supports the development of green trademarks and eco-labelling systems.

WIPO initiatives such as WIPO GREEN facilitate technology exchange and sustainable innovation. These programs promote environmentally responsible branding. WIPO also conducts research and policy development related to sustainability and trademarks.

TRIPS

Provides trademark protection. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) establishes international standards for trademark protection. TRIPS provides legal protection for trademarks, including

certification marks and collective marks related to sustainability.

However, TRIPS do not specifically regulate environmental claims. This creates regulatory gaps. Countries must develop domestic laws to address green trademarks.

TRIPS also promotes international cooperation. Member states must provide legal remedies for trademark infringement and misleading claims.

ISO Standards

- Provides environmental labelling guidelines. The International Organisation for Standardisation (ISO) develops environmental labelling standards. The ISO 14020 series provide guidelines for eco-labels and environmental claims. These standards promote transparency and reliability.
- ISO standards classify environmental labels into Type I, Type II, and Type III. These classifications help regulate environmental claims. ISO standards are widely recognised and adopted globally.

OECD

Encourages substantiation of claims. The Organisation for Economic Co-operation and Development (OECD) promote sustainable development and responsible business conduct. OECD guidelines encourage businesses to substantiate environmental claims.²³

OECD also researches greenwashing and environmental branding. These initiatives influence national regulations and policy reforms.

International organisations, therefore, play a significant role in promoting harmonised regulatory frameworks for green trademarks.

6. ROLE OF JUDICIARY

The judiciary plays an important role in regulating green trademarks.

Courts address misleading claims and environmental branding disputes.

Courts interpret trademark law, consumer protection law, and environmental regulations. Judicial decisions help establish legal principles governing green branding.

Courts often address disputes involving misleading environmental claims. Judicial intervention ensures accountability and transparency. Courts may prohibit companies from using deceptive green trademarks.²⁴

In several jurisdictions, courts have recognised consumer rights related to environmental claims. Judicial decisions emphasise the need for substantiation of environmental claims. Courts also examine scientific evidence supporting sustainability claims.

The Indian judiciary has played a significant role in environmental governance. The Supreme Court of India has

²² World Intellectual Property Organisation, WIPO Green Report (2022).

²³ OECD, Environmental Claims and Greenwashing (2021).

²⁴ Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994.

interpreted environmental protection as part of the right to life under Article 21 of the Constitution. This interpretation influences corporate environmental responsibility.²⁵

Additionally, courts address disputes involving certification marks and eco-labels. Judicial oversight ensures the credibility of environmental certifications. Courts also interpret trademark distinctiveness in relation to environmental terms.

Judicial activism has strengthened environmental governance. Courts increasingly recognise sustainability as an important legal principle. This trend enhances the regulation of green trademarks.

Thus, the judiciary plays a crucial role in ensuring transparency, accountability, and consumer protection.

7. Policy Recommendations

Policy reforms required include:

- Clear definitions
- Strong enforcement
- International cooperation
- Corporate accountability

Effective regulation of green trademarks requires comprehensive policy reforms. Governments must adopt clear regulatory frameworks addressing environmental claims and sustainability branding.²⁶

First, governments should establish standardised definitions for environmental terms. Words such as "eco-friendly" and "sustainable" must have clear legal definitions. This reduces ambiguity and prevents misleading claims.

Second, enforcement mechanisms must be strengthened. Regulatory authorities must monitor environmental claims. Penalties for greenwashing must be increased to deter violations.

Third, international cooperation is essential. Environmental claims often cross-national boundaries. Harmonisation of global standards ensures consistency. International organisations must facilitate cooperation.²⁷

Fourth, corporate accountability must be strengthened. Businesses must provide evidence supporting environmental claims. Third-party certification should be encouraged. Transparency improves consumer trust.

Fifth, consumer awareness must be promoted. Educated consumers can identify misleading claims. Governments and organisations should conduct awareness campaigns.²⁸

Sixth, technological tools such as blockchain and digital verification may improve transparency. These technologies help track sustainability claims.

Policy reforms must also encourage innovation. Governments should support sustainable businesses. Incentives for

environmentally responsible companies promote green innovation.

Thus, comprehensive policy reforms are necessary to regulate green trademarks effectively and promote sustainable development.²⁹

CONCLUSION

Green trademarks are becoming increasingly important in modern commerce. While they promote sustainability, they also create legal challenges. Effective regulation requires integrated legal frameworks, judicial intervention, and international cooperation. Green trademarks have emerged as a significant component of modern branding and corporate strategy. Increasing consumer awareness regarding environmental sustainability has encouraged businesses to incorporate environmental claims into their trademarks and marketing strategies. While green trademarks promote environmental awareness and sustainable practices, they also create complex legal challenges related to misleading claims, trademark registrability, enforcement mechanisms, and jurisdictional issues.³⁰

This research paper examined the concept and evolution of green trademarks, highlighting their growing importance in global commerce. The study explored the legal framework governing environmental claims, including trademark law, consumer protection law, competition law, and international regulations. Comparative analysis of regulatory approaches across jurisdictions demonstrated that developed economies such as the European Union and the United States have adopted stricter regulatory frameworks, while emerging economies such as India are gradually developing legal mechanisms.

The research also emphasised the role of international organisations in promoting sustainability standards and harmonisation of environmental claims. Organisations such as WIPO, ISO, and OECD provide important guidelines, but enforcement remains limited. The judiciary also plays a crucial role in regulating green trademarks by addressing misleading environmental claims and strengthening consumer protection.

Despite regulatory developments, several challenges remain. Lack of uniform definitions, limited enforcement capacity, jurisdictional complexities, and increasing greenwashing continue to create legal uncertainty. Businesses often exploit regulatory gaps by making vague or exaggerated environmental claims. Such practices undermine consumer trust and disadvantage companies genuinely committed to sustainability. Therefore, an integrated regulatory framework is essential. Governments must establish standardised definitions for environmental terms and strengthen enforcement mechanisms. International cooperation is necessary to address cross-border environmental claims. Additionally, corporate accountability and transparency must be enhanced through third-party certification and regulatory oversight.³¹

²⁵ William Cornish & David Llewelyn, Intellectual Property: Patents, Copyright, Trademarks (8th ed. 2013).

²⁶ Upendra Baxi, Human Rights in a Posthuman World, 12 Indian J. Int'l L. 45 (2019).

²⁷ Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994.

²⁸ Trade Marks Act, No. 47 of 1999, India.

²⁹ Trade Marks Act, No. 47 of 1999, India.

³⁰ Upendra Baxi, Human Rights in a Posthuman World, 12 Indian J. Int'l L. 45 (2019).

³¹ FTC Green Guides, 16 C.F.R. § 260 (2012).

Consumer awareness also plays an important role. Educated consumers can identify misleading claims and encourage responsible corporate behaviour.³²Technological innovations such as digital verification systems may further enhance transparency and accountability.

Ultimately, effective regulation of green trademarks is essential for promoting sustainable development, protecting consumers, and ensuring fair competition. As sustainability continues to shape global commerce, legal frameworks governing green trademarks must evolve to address emerging challenges and ensure responsible environmental branding.

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³² ISO 14020 Environmental Labels and Declarations (2019)