

NAVIGATING THE ROLE OF IP LAW IN THE JEWELLERY INDUSTRY

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ABSTRACT

Intellectual property (IP) is pivotal in the jewellery industry from manufacturing to retailers. This intellectual property safeguards the innovation, design, and branding that characterize the industry. This paper examines the role of IP law in the jewellery sector by covering its historical evolution, current implications, and future expectations. Before the establishment of IP law, the jewellery sector lacks protection for the original designs leading to exploitation and reputation of the craftsmanship. As the jewellery industry has become more commercialized and competitive the need for effective structured IP law protection has grown significantly. This paper outlines the various types of IP laws applicable to the jewellery industry such as patents, trademarks, copyrights, designs, and trade secrets. Each type represents its distinct role patents safeguard innovation and originality, trademarks safeguard brand identity, copyright protects from unauthorized copies and trade secrets protect confidentiality. In this modern era, the IP law serves as an essential asset for this industry enabling them to protect technological innovation and identities. Furthermore, this paper analyses the usage of modern technologies such as blockchain and 3D printing for creating designs and authenticating the AI processes. This paper explores the implications of the Digital gold scheme and its process. By also examining these, this paper highlights the importance of IP law in protecting the creation, originality of designs, and rights of artists and future exhibitors in the jewellery industry.

Keywords: Jewellery Industry, IP Laws, Digital Gold, Technological Advancement, Protection.

INTRODUCTION

Intellectual property plays an essential role in the jewellery industry protecting the initial stage to the final stage. As the jewellery industry has evolved from traditional artistry works to a highly commercialized and competitive market the need for an IP law has intensified. This paper outlines the various types of IP laws applicable to the jewellery industry such as patents,

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trademarks, copyrights, designs, and trade secrets. Each type represents its distinct role patents safeguard innovation and originality, trademarks safeguard brand identity, copyright protects from unauthorized copies and trade secrets protect confidentiality. IP laws started to adopt emerging technologies such as 3D printing, blockchain, and AI supporting originality and innovation in the jewellery sector.

OVERVIEW OF THE JEWELLERY INDUSTRY IN INDIA

The jewellery industry plays a significant role in the Indian economy. India stands as the largest consumer of gold and the world's largest cutting and polishing centre for diamonds. It contributes 7 per cent of India's GDP and 15 per cent of India's total merchandise exports. Considered as the fastest growing sector, it employs 5 million workers with larger labour intensives. The Jewellery market covers rings, necklaces, bracelets, earrings, and other small decorative items that are worn for personal use.

As per the 2024 statistics (Statista, 2024), The revenue of the jewellery market in India is projected to reach the amount of \$88.12 billion. As the price of gold, silver, and diamonds increase dynamically the market is expected to reach annual growth of 6.01% from 2024 to 2029 according to CAGR. The goods and service tax (GST) on gold ornaments is 3% value of gold jewellery. According to the senses India is expected to reach US \$100 billion by 2027. Exports of gems and jewellery stood at US \$2074.85 billion in 2024.¹ The gems and jewellery industry seeks to meet consumer expectations as the consumers are demanding new designs, varieties, and quality of jewellery and the branded companies are aiming to fulfil the consumer needs and wants which increases the sales and leads to increased capita in the economy. Companies are planning to introduce virtual reality experiences to consumers.²

The union budget 2024 has provided key reforms and initiatives towards the jewellery sector as follows: The basic customs duty has been reduced to 6% on gold and silver and 6.4% on platinum. The cut and polished diamonds and coloured gemstones have been reduced from 7.5% to 5% or nil. The jewellery sector has now Authorized Economic Operator (AEO) status from the finance industry facilitating a smooth export-import process, faster cargo clearance, and reduced bank guarantees by 50%. Gold monetization scheme revamped, import duty on gold reduced, and hallmarking made mandatory for gold jewellery, with phased

¹ "Jewelry - India" (Statista)

² Globular Inc., "CCI INDIA" (CCI Councils)

implementation starting from June 15, 2021. Dealers in precious metals and stones are required to maintain records of cash transactions over Rs. 10 lakh (US\$ 13.61 thousand) cumulatively with a single customer.³

Hallmarking why is it necessary⁴: The precise assessment and formal recording of the proportional amount of precious metal in items is known as hallmarking. As a result, hallmarks are official markings that are employed as a guarantee of the purity or fineness of precious metal goods in several nations. Under this system, BIS grants jewellers registered status under the hallmarking scheme. Any of the BIS-approved Assaying and Hallmarking Centres can have their jewellery hallmarked by BIS-certified jewellers.

PROTECTION OF INTELLECTUAL PROPERTY LAW IN THE INDUSTRY

At the heart of the jewellery industry lies the artistry and innovation that IP law seeks to protect. Intellectual property (IP) in this industry plays a significant role in safeguarding creativity, originality, and brand value assets as well as enhancing competitiveness. Jewellery artists and companies spend valuable time and research in creating distinctive designs to meet today's customer's expectations. It also aims to build a brand identity which is vulnerable to counterfeiting. IP law seeks to protect these investments by legally protecting the design elements, and brand identity which fosters brand loyalty and trust. Through IP protection the industry can prevent unauthorized copying and counterfeiting of the original design allowing the companies to maintain reputation, quality, and exclusivity. IP law not only protects the artist but also helps the industry to have high standards, promoting fair competition and sustainability which benefits both the companies and customers.

In this framework, various forms of intellectual property can be evolved to protect the jewellery industry their creativity, originality, and brand identity. The choice of protection depends on the nature of creativeness, level of investment, and business strategy. With the expansion of businesses on e-commerce to reach a wider consumer base and additional sales, there is a greater need for the protection of various jewellery brands and designs, because of greater accessibility of the designs to the public at large. Intellectual property law provides such protection for various jewellery brands, their designs, and their ideas. Further, there is a greater need for protection on e-commerce platforms against cybercrimes. For luxury goods like

³ "India's Gems and Jewellery Industry and Its Market Size" (India Brand Equity Foundation)

⁴ Bhumika Indulia, "Protection of Jewellery under Law and Standardisations" (SCC Times, July 22, 2022)

jewellery, criminals are devising methods to hack the online security of consumers. Given the nature of goods and credibility requirements, the jewellery industry must follow certain compliances to safeguard the interests of consumers and to create uniform standards. The Bureau of Indian Standards plays a key role in enforcing and applying these compliances.⁵

⁶The various forms of Intellectual property that can be used to protect the jewellery sector include patents, trademarks, copyright, design, GI and trade secrets. Each type represents its distinct role patents safeguard the nation and originality, trademarks safeguard identity, copyright protects from unauthorized copies and trade secrets protect confidentiality. Each type has its legal act which was enforced by the Indian government to all the people in the world.

Trademarks Act 1999

Trademarks play a pivotal role in the jewellery industry to protect the brand identity from competitors and help the customers distinguish between the different creators and manufacturers. Trademarks symbolize exclusive protection of the brand name, logo, slogans, and specific design based on quality and style. Trademark protects the industry from counterfeiting, brand dilution, consumer confusion, and so on.

The Trademarks Act, 1999⁷ (Indian TM law) implies that the name, symbol, form, packaging, and colour combinations used in jewellery can all be protected under the law. There are three requirements for seeking trademark protection for jewellery which are as follows:

1. An appropriate mark for jewellery is required.
2. The mark for jewellery must be vividly displayed.
3. The jewellery mark must be distinct from other recognized jewellery marks.

To obtain a trademark for a jewellery name, form, logo, or colour, one must demonstrate originality. For the jewellery to have a distinct personality, it must have intrinsic traits that set it apart from other pieces of jewellery. Further, an issue that is a bone of contention in the case of the jewellery industry is the use of family names for example, Joy Alukkas or Kalyan Jewellers, one of India's biggest jewellers, is named after its founder. There are umpteen cases

⁵ Bhumika Indulia, "Protection of Jewellery under Law and Standardisations" (SCC Times, July 22, 2022)

⁶ Bhumika Indulia, "Protection of Jewellery under Law and Standardisations" (SCC Times, July 22, 2022)

⁷ Trademarks Act, 1999.

where an enterprise is named after the family or the founder. However, registration of such family names has become a tricky domain from a trademark perspective. The Indian TM law, unlike its predecessor law (Act, 1958) has no provision to allow or disallow the use of surnames or personal names. The definition of the “mark” doesn’t explicitly include or exclude surnames and personal names. Thus, it is assumed that such registration is allowed, and hence, even applied for. The renowned automobile brand Mahindra and Mahindra, in the past, has obtained a successful injunction against a party using the surname “Mahindra” as their trade name despite this surname being quite common in India. The rationale behind this is that Mahindra⁸ had acquired distinctiveness and secondary meaning of the word “Mahindra” with its continuous use and if such a mark is used by another party, it would result in confusing the public.⁹

Copyright Act 1957

The copyright act grants protection to the jewellery industry by shielding the original designs of the artist. Jewellery designs are termed as artistic works under section 2(c) enabling the designers to have exclusive rights to manufacture, produce, distribute, and license their creations. This act enables employers to hold ownership rights and claim protection for 60 years allowing the long-term benefits. This act protects from unauthorized selling or copying to a third party without the consent of the artist and imposes a penalty against them. Additionally, copyright registration is not mandatory.¹⁰ Putting together this act empowers jewellery creators to maintain their designs enhancing brand reputation and preventing counterfeiting. The term copyright protection is limited to the life of the owner of jewellery and fifty years after he dies in most countries. The limited duration of copyright protection is a compromise between those who argue that copyright should be permanent i.e., last if the work is used because it is appreciated and enjoyed by the public, and those who argue that it is a personal right and should terminate with the life of the author so that the public can enjoy its unrestricted use after his death.¹¹

⁸ *Mahendra And Mahendra Seeds Pvt. Ltd. Vs Mahindra & Mahindra Ltd (10 May 2022)*

⁹ *Bhumika Indulia, “Protection of Jewellery under Law and Standardisations” (SCC Times, July 22, 2022)*

¹⁰ *Copyright Act, 1957*

¹¹ *Diganth Raj Sehgal, “Protection of Jewellery: A Combination of Design, Copyright and Trademark Law” (iPleaders, June 6, 2021)*

Design Act 2000

The appearance (photographic depiction) and pattern of an individual product or a group of goods are protected under the design law. The design is protected for ten years, which can be extended by another five years (Indulia, 2022). Design act plays a vital role by enabling the designers to register their unique, aesthetic designs thus providing exclusive rights¹² to the creators. Once registered under this act, the designers have an exclusive right to sell and license their designs for up to 15 years creating a protective barrier against the limitation.

Geographical Indication (GI) Act 1999

GIs may be held in a group and protect indicators for an indefinite time. GI registration and protection are excessively helpful as only members of a community can produce those designs. It has been a practice in India to grant GIs for traditional jewellery designs, for instance, “Silver Filigree of Karimnagar” as Karimnagar has been producing unique jewellery for generations. Also, a GI for “Temple Jewellery of Nagercoil” was filed in 2007, and a logo was registered in 2016 in connection to the GI. The origins of temple jewellery may be traced back to Nagercoil in the 17th century, according to the GI’s journal copy. (Indulia, 2022).

Patents Act 1970

The Patents Act 1970 navigates the technological advancement in this industry by securing exclusive rights to the inventors over their new production methods or materials. The main role of this act is to encourage inventors to invent new design techniques in a way that attracts today’s generations. When the jewellery company develops an invention or technique they can file a patent in the Indian patent office. Once patented the innovators have an exclusive right to sell or license the technology for 20 years.¹³

Trade Secrets

Using trade secrets in the jewellery industry allows businesses to secure a competitive edge by safeguarding confidential information such as design methods, material sources, and customer lists. Through confidential agreements and IP clauses in the employment contract, companies

¹² *Designs Act, 2000*

¹³ *Patent Act, 1970*

can prevent unauthorized access to secret information.¹⁴

CHALLENGES IN IP ENFORCEMENT WITHIN THE JEWELLERY INDUSTRY

The jewellery industry faces severe counterfeiting where its replicas are well-known designs and are sold at very low prices weakening the brand value and revenue. Another challenge is that enforcing the IP laws internationally leads to complexity as the laws vary from one country to another. Jewellery companies face difficulty in acting against foreign infringers or counterfeiters leading to resource intensive. Furthermore, International treaties such as TRIPS agreements enhance frameworks for IP protection but limitations in the enforcement persist. These agreements ease global trademark registration and offer guidelines, but enforcement depends on the individual countries to uphold the standards which vary widely.

ROLE OF IP LAW IN THE DIGITAL GOLD

Technological advancement plays a crucial role in the jewellery industry by enforcing a new scheme called digital gold. This technology allows the customers to buy and sell the gold electronically. This dynamic shift of digital platforms introduces new IP challenges, particularly in software development and brand identities indulged with digital gold services. Trademark protection is very important as it highlights the brand's reputation and ensures consumer trust. Copyright safeguards the digital content from third-party businesses. Patents protect the techno-innovation in digital gold storage and blockchain applications. As the digital gold continues to evolve IP laws must emerge technologies like AI and blockchain applications. This advancement enforces transparency and enhances IP laws offering new protection to the digital gold services.

FUTURE TRENDS OF IP LAW IN THE JEWELLERY INDUSTRY

The future of IP law in the jewellery industry will be surrounded by technological advancements determining consumer preferences and the global market. As consumers are expecting new innovative designs 3D printing becomes more accessible leading to IP law challenges particularly copyright issues. Blockchain technology can be used to track and authenticate jewellery pieces preventing counterfeiting and enabling secured IP enforcement across the world. Artificial intelligence (AI) can be used for personalized and automated design processes. As the jewellery brands became eco-conscious IP laws may need to adapt to protect

¹⁴ <https://cibjo.org/wp-content/uploads/2023/08/CIBJO-Special-Report-2023-Ethics-Commission.pdf>

innovations in sustainable materials and ethical sourcing methods.

CONCLUSION

Intellectual property is crucial in the jewellery industry performing as a foundation for the protection of innovation, artistry, and brand identity that determines the global market. As this sector adopts the latest technologies such as 3D printing and blockchain IP laws must evolve new challenges and opportunities. Artificial intelligence raises questions about the ownership and AI-generated designs which is a challenge. Furthermore, as digital gold assets grow, IP law will be essential in establishing standards for trust, security, and traceability in digital markets. By ensuring robust protection across all aspects of jewellery production and sales, IP law fosters a secure environment for creators, businesses, and retailers, enabling them to safeguard their work and evolving market. This paper provides the significance of IP law in upholding the integrity of the jewellery industry, protecting the rights of designers and innovators, and promoting a future of originality, technological integration, and sustainable growth.

