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# FLUID TRADEMARKS IN INTELLECTUAL PROPERTY: THE VERSATILE NATURE OF BRAND IDENTITY

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## I. ABSTRACT

In the constantly evolving realm of global commerce, brands are perpetually searching for innovative methods to remain applicable and engage with their audiences. Traditional Trademarks, which were formerly immobile and unchanging, are now being replaced by a more dynamic and adaptable approach - Fluid Trademarks. This idea acknowledges that brand identity is not fixed; rather, it is a living, breathing reality that transforms in response to market trends, consumer preferences and cultural contexts. Fluid Trademarks signify a major shift in how brands perceive their identity which is important for brand protection.

The era of rigid, unchanging ensigns and symbols is over. Brands are now espousing flexibility and rigidity, enabling them to remain material in a fleetly changing environment. This strategy recognises that brand identity is not a static motion but a dynamic and evolving reality that can manifest in colourful forms. While fluid trademarks deliver multitudinous advantages, they also introduce challenges. A primary concern is the preservation of brand recognition and consistency. With a fluid trademark, icing that the brand's identity remains invariant across all touch points can be grueling.

Likewise fluid trademarks complicate the protection of brand identity under the Indian Indian Trademark Law as the brand's identity is in a state of constant progression. As the global marketplace continues to change it is apparent that fluid trademarks will impact brand identity. By embracing flexibility and adaptability, brands can remain relevant, connect with new audiences and sustain a robust relationship with their customers. Looking ahead, it is clear that the most successful brands will be those that can strike a

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balance between consistency and creativity while navigating the complexities of the Indian Trademark Law. By comprehending the benefits and challenges associated with fluid trademarks, brands can leverage this approach to shape their identity and achieve success in the global business.

## **II. KEYWORDS**

Fluid Trademarks, Brand Protection, Indian Trademark Law, Intellectual Property

## **III. COMPREHENDING TRADEMARKS - AN INTRODUCTORY OVERVIEW**

A trademark serves as a distinctive identifier or symbol that separates the items or administrations of one organization from those of others. This may include words, logos, images, or indeed sounds that establish a recognizable brand character within the commercial center. Inside the field of intellectual property, trademarks offer legitimate shields for brands, anticipating unauthorized replicating or abuse by others. By getting a trademark, companies protect their notoriety and keep up customer belief.

Acc. to the provisions laid down under Section. 2(1) (zb) of the Trademark Act 1899, a Trademark means mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours.<sup>2</sup>

The fundamental goal of trademark law is to offer legal protection and acknowledgement to unique marks utilised by businesses to identify and set apart if they are good or services from those of others. Trademarks assist consumers in recognising the source or origin of a product or service. They serve as a representation of trust, quality and consistency. When consumers encounter a well-known trademark, they anticipate the product's quality and characteristics from the product. The Trademark Act, 1999 protects the consumers against confusion and fraud. It ensures that consumers can make informed

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<sup>2</sup> "Trade Marks Act - Overview and Key Provisions" (LawBhoomi, 2020) available at <https://lawbhoomi.com/trade-marks-act/> accessed 20 June 2025).

choices by depending on the trademark to identify and select products or services that fulfil their expectations.<sup>3</sup> Trademarks empower businesses to develop and market their brands. A robust and easily recognizable trademark can distinguish a company from its rivals and foster brand loyalty.

During the COVID-19 Pandemic, numerous companies and organisations modified their trademarks, branding and marketing strategies to effectively address the crisis and its related challenges. The pandemic ushered in an extraordinary and swiftly evolving environment, marked by considerable health and safety concerns. Brands acknowledged the necessity to adjust their messaging and branding to demonstrate their dedication to public health and safety, which resulted in changes to trademarks usage.

For instance, they utilised their logos to remind consumers about the significance of wearing masks and practicing hygiene or keeping safe distance to promote social distancing as McDonalds redesigned their iconic yellow “M” logo against a red background. The Starbucks Mermaid and Amul Girl were depicted wearing masks over their faces. Simultaneously, brands expanded into digital services, health and hygiene products, and contactless delivery – leading to a rise in trademark applications that align with these market shifts. The increase in online shopping during lockdowns also resulted in a significant rise in trademark violations and counterfeit goods, particularly in PPE and sanitizers, which compelled brands to enhance their digital monitoring and initiate virtual takedown efforts.

In reaction, trademark offices globally hastened procedural changes: extending deadlines, digitizing application processes, and implementing virtual hearings – modifications that largely persist. Importantly, industries such as pharmaceuticals, telemedicine, health technology, remote-working solutions, and e-learning saw substantial growth in trademark filings, reflecting both heightened consumer demand and proactive brand protection measures. While the pandemic-related relaxations of

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<sup>3</sup> "The Trade Marks Act, 1999" (iPleaders, 2020) available at <https://blog.iplayers.in/the-trade-marks-act-1999/> (accessed 20 June 2025).

“use-in-commerce” deadlines have been reversed, many offices continue to uphold more flexible and digitally advanced procedures. Ultimately, the post-COVID environment emphasizes the increasing significance of trademarks in a health-conscious, digitally oriented world, underscoring the necessity for unique, socially aware branding and strong online enforcement strategies.

In today's world, trademarks play a crucial role in protecting brand identity amid the swift currents of globalization, technological advancements, and the digital marketplace. The current trademark environment is influenced by the growing prevalence of e-commerce, influencer marketing, and social media platforms, where brand recognition is essential. As companies broaden their international reach, the demand for cross-border trademark protection has significantly increased, leading to harmonization initiatives like the Madrid Protocol and enhanced collaboration among intellectual property offices.

Additionally, the emergence of non-traditional trademarks—such as sound marks, motion marks, and even fluid trademarks—indicates a transformation in how brands engage with consumers in a crowded market. Technological progress has also facilitated the creation of AI tools for trademark clearance, monitoring, and enforcement, enabling brands to quickly identify infringements. A particularly fascinating trend in branding and advertising during this time is the rise of “Fluid Trademarks”.

#### **IV. LITERATURE REVIEW**

The idea of fluid trademarks has gradually emerged as a notable shift from the conventional understanding of trademarks, especially in response to the ever-changing branding demands of the digital age. Scholars like Rebecca Tushnet (2011) and Barton Beebe (2004) have investigated how consumer perception and brand identity are transforming alongside marketing trends that prioritize flexibility over fixed

presentation. These studies contend that contemporary brand identity is increasingly narrative and participatory, necessitating an adaptation of the legal framework<sup>4</sup>.

Fluid trademarks—where the visual components of a mark are altered while preserving the core identity—are increasingly recognized as effective instruments for brand engagement, allowing businesses to remain culturally relevant and emotionally impactful. Numerous researchers, particularly in U.S. and European contexts, have examined the legal tension between creative expression and the statutory requirements of distinctiveness, use, and non-deception under trademark law. Research by McKenna (2015) and Dinwoodie & Janis (2012) highlights that while the public frequently associates a fluid mark with its source, the legal system faces challenges in protecting such evolving signs due to stringent formalities in registration and enforcement processes.<sup>5</sup>

Experts in the field, including practitioners like Pravin Anand and commentators from publications such as the Journal of Intellectual Property Rights, strongly support reforms that would enable composite trademark applications and the establishment of guidelines permitting limited aesthetic variations associated with the core registered mark<sup>6</sup>. Additionally, research in legal design and semiotics is starting to investigate how the audience's understanding of a mark's "essence" can provide a basis for granting extended protection to its evolved forms.

## V. METHODOLOGY

The research methodology adopted in the study is doctrinal in nature. The primary sources consist of relevant legal statutory provisions under the Trademark Act of 1999 as well as relevant judicial pronouncement of national as well as foreign courts. Secondary

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<sup>4</sup> Rebecca Tushnet, *Gone in 60 Milliseconds: Trademark Law and Cognitive Science* (2013) available at <https://tushnet.com/wp-content/uploads/2013/06/gone.pdf> (accessed 22 June 2025).

<sup>5</sup> McKenna M, "Testing Modern Trademark Law's Norms" (2007) available at <https://www.repository.law.indiana.edu/facpub/361/> (accessed 22 June 2025).

<sup>6</sup> Pravin Anand, "Session 2: IPR Presentation – NJA Programme P-992" (2016–17) available at: <https://www.nja.gov.in/.../Pravin%20Anand%20IPR.pdf> (accessed 22 June 2025).

sources include varied articles on the internet as well as commentaries written by various authors on trademarks.

## VI. CATEGORIES OF FLUID TRADEMARK ADAPTATIONS

Broadly, the most common and popular trademarks and service marks used in various sectors of economic can be categorized into the following major categories -

- **Word Marks** - A word mark signifies the name, words or any combination of letters and numerals for eg. (7PB), that a product or service employee engages with the marketplace.
- **Figurative Marks / Logo** - Often called device marks, consists of either a figure, a word or a combination of both. These marks also cover the word marks data design with unique fonts, colours or layout.
- **Shape Marks** - These refer to any uniquely identifiable dimensional or three-dimensional forms of arrangements of products, goods or their packaging. It is important to emphasize that these shapes must be able to function as trademarks in the relevant market.
- **Colour Marks** - Any distinguishing colour or any specific combination of many colours serves as recognition of the related product or service.
- **Sound Marks** - Any unmatched and distinguishing sound, melody original related to product or service.
- **Collective Marks** - A Collective Mark is defined as a specific sign or indication that sets apart the products or services of a certain group of enterprises. This group may consist of organizations, associations, and similar entities. Only the member companies or enterprises are authorized to use the collective mark. Generally, such an organization is recognized for its distinct qualities, characteristics, geographical origin, or other specific criteria. For example, the mark "CPA" distinguishes the members of the Society of Chartered Public Accountants.

- **Certification Marks** - A distinctive and unique mark owned by a corporation or organization, which signifies or guarantees certain standards of quality, accuracy, manufacturing processes, or any other highly desirable and distinctive features set by the organization. A well-known example of a certification mark is WOOLMARK, used to ensure the woolen goods produced are of 100% wool.

## VII. WHAT ARE FLUID TRADEMARKS

The idea of “Fluid Trademarks” embodies a flexible and responsive strategy for trademarks and branding that can shift and adapt according to evolving market dynamics, consumer taste, and communication methods.

Fluid Trademarks imply a modern progression in conventional trademarks, encouraging energetic brand interaction within the computerized time. In addition to inactive trademarks, fluid trademarks give the capacity to be adaptable and versatile, whilst still protecting fundamental viewpoints of the first check to guarantee buyer acknowledgment. This thought has gotten to be progressively noteworthy, especially amid circumstances just like the COVID-19 widespread, when companies such as Google, Absolut, and Audi changed their logos to resound with social messages.

By adopting a fluid trademark approach, businesses can effectively utilise that trademarks as adaptable marketing tools. The variations of registered trademarks coexist with the original marks designed to generate market interest and enhance brand loyalty. They can be officially registered as a series of marks, allowing multiple trademarks to be registered for the same or closely related products or services. Although, they maintain core characteristics that may differ in non-essential aspects, such as decorative modifications that do not significantly alter their overall identity. It is essential for brand owners to remain aware of the potential risks linked to the strategies.

**Fluid Trademarks can be categorized based on the types of changes they undergo:**

- **Event-Based Adaptations:** Variations are made to mark special occasions, like Google’s logo changes for national holidays or sports events.

- **Seasonal Changes:** Some brands adjust their marks for particular seasons, like incorporating winter themes during the holiday season.
- **Social Messaging:** These adaptations respond to social or cultural issues, such as changes promoting social distancing during the COVID-19 pandemic.
- **Cultural Relevance:** Brands may adapt their trademarks to align with cultural festivals or events, like Diwali or Holi in India.

There are many instances for fluid trademarks like “Amul Girl”<sup>7</sup> and “Google Doodle Case Study”<sup>8</sup>. In Covid 19 Pandemic, many brands had used fluid trademarks come out social distancing,

E.g. -

- Mc. Donald's had their iconic yellow “M” in the red background redesigned.
- The wheels in the four-wheel logo of “Audi” were spaced further apart.
- Logo of “Subway” had a mask on it.
- The “Starbucks Mermaid” and the “Amul Girl” had masks over their faces.
- “Google Doodle” changes in sync with the important days and birthdays.

## VIII. UNDERSTANDING FLUID TRADEMARKS IN INDIA

Fluid Trademarks refer to marks derived from a well-known and original trademark, which have been deliberately altered to create various versions while still preserving some fundamental and significant elements of the original mark. In India, the concept of fluid trademarks is a relatively new phenomenon, but it has certainly gained momentum over the last ten years, particularly with the growth of social media and digital marketing.

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<sup>7</sup>“Fluid Trademarks: The New Face of Brand Identity” (2020) available at <https://www.intepat.com/blog/fluid-trademarks/> (accessed 22 June 2025).

<sup>8</sup>“Google Doodle Case Study” (2020) available at <https://www.google.com/doodles/> (accessed 22 June 2025).

As both Indian businesses and international brands operating in India adapted to the online landscape, they sought innovative ways to keep their brands vibrant and appealing, even as they modified their logos and marketing strategies. Fluid trademarks have emerged as a practical solution for brands, allowing them to maintain relevance while ensuring they remain identifiable. Although India's intellectual property laws do not explicitly address fluid trademarks, existing legal frameworks, such as the Indian Trade Marks Act of 1999<sup>9</sup> and the Copyright Act of 1957,<sup>10</sup> provide a foundation for this innovative approach to branding.

For instance, a fluid trademark can be safeguarded as a series mark under Section 15 of the Trademarks Act, 1999<sup>11</sup>, where the core characteristics stay intact, yet non-distinctive elements, such as decorative changes, can vary without compromising their overall identity. Despite these legal provisions, the dynamic nature of fluid trademarks may lead brand owners to overlook the importance of their registration.

The Indian judiciary has yet to encounter a landmark case that is exclusively centered on fluid trademarks; nonetheless, courts have highlighted the significance of brand consistency and consumer association in various rulings. For instance, in *Tata Sons Ltd. v. Manoj Dodia & Ors.* (2011)<sup>12</sup>, the Bombay High Court reaffirmed that even variations of a renowned trademark that preserve its core identity are safeguarded against infringement.

Likewise, in *ITC Ltd. v. Nestle India Ltd.* (2020),<sup>13</sup> the Delhi High Court recognized the critical role of visual elements in shaping consumer perception, indirectly endorsing the

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<sup>9</sup> "The Trade Marks Act, 1999" available at [https://www.indiacode.nic.in/bitstream/123456789/15427/1/the\\_trade\\_marks\\_act%2c\\_1999.pdf](https://www.indiacode.nic.in/bitstream/123456789/15427/1/the_trade_marks_act%2c_1999.pdf) (accessed 22 June 2025).

<sup>10</sup> "Copyright Rules, 1957" (Government of India, 1957) available at <https://copyright.gov.in/documents/copyrightrules1957.pdf> (accessed 22 June 2025).

<sup>11</sup> "Fluid Trademark" (n.d.) available at <https://excelonip.com/fluid-trademark> (accessed 22 June 2025).

<sup>12</sup> *Tata Sons Ltd v Manoj Dodia & Ors* CS(OS) 264/2008 (Delhi HC, 28 March 2011) discussed in Asia IP Law, 'Delhi High Court Recognizes TATA as a Well-Known Mark' (2011) <https://www.asiaiplaw.com/> (accessed 22 June 2025).

<sup>13</sup> Mondaq, 'Madras HC Rules "Magic Masala" Cannot Be Monopolised' (IP Update, July 2020) <https://www.mondaq.com/india/trademark/969464/> (accessed 22 June 2025).

idea that minor stylistic modifications – if they are grounded in the brand's essence – do not relinquish trademark rights.

In case of *Cadbury India Limited v. Neeraj Food Products*, (2007)<sup>14</sup> Cadbury sued Neeraj Food Products for using packaging that closely resembled its famous "Cadbury Gems" packaging, including similar color schemes and visual elements. Though the logo wasn't copied verbatim, the overall trade dress and look-and-feel were argued to confuse consumers.

The Delhi High Court emphasized that even if the exact mark is not copied, infringement can be established if the essential features or overall visual impression of the mark are imitated. This judgment indirectly supports the protection of fluid trademarks by recognizing the value of evolving brand visuals that maintain a strong association with the original identity.

In another relevant case of *Hamdard National Foundation v. Sadar Laboratories Pvt. Ltd.*, (2018)<sup>15</sup> Hamdard, the producer of "Rooh Afza," sued Sadar Laboratories for marketing a deceptively similar product under the name "Dil Afza," with similar packaging and color scheme. The court found in favour of Hamdard.

The Delhi High Court held that consumer perception and likelihood of confusion are key, and that minor visual or linguistic variations do not prevent infringement if the original mark's essence is replicated. This supports the concept of fluid marks being protectable, so long as the evolving forms are recognizable to consumers.

These rulings indicate a judicial tendency to safeguard fluid marks as long as they uphold consumer association with the source. Consequently, although not formally established, fluid trademarks in India are based on principles of distinctiveness, consumer

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<sup>14</sup> Rachit Garg, 'Cadbury India Limited and others v Neeraj Food Products: case analysis' (iPleaders, 15 December 2023) <https://blog.ipleaders.in/cadbury-india-limited-and-others-v-neeraj-food-products-case-analysis> (accessed 24 June 2025).

<sup>15</sup> SC-IP, 'Hamdard National Foundation (India) & Anr v Sadar Laboratories Pvt Ltd' (SC-IP, 6 December 2022) <https://www.sc-ip.in/post/hamdard-national-foundation-india-anr-v-sadar-laboratories-pvt-ltd> accessed (24 June 2025).

recognition, and the overarching doctrine of unfair competition as outlined in Sections 29 and 30 of the Trade Marks Act, 1999<sup>16</sup>.

From a foreign perspective, courts in the United States and United Kingdom have approached fluid trademarks more pragmatically. In the landmark US case *Louis Vuitton Malletier S.A. v. Dooney & Bourke, Inc.*, (2006)<sup>17</sup>, the court acknowledged the evolving nature of trademarks and emphasized the importance of protecting the essence of a mark even if its appearance is adapted.

Similarly, the US Patent and Trademark Office (USPTO) allows registration of variant marks if the applied-for version does not substantially alter the commercial impression of the original.<sup>18</sup> In the UK, while fluid marks are not explicitly codified, the decision in *Specsavers International Healthcare Ltd v. Asda Stores Ltd* (2012)<sup>19</sup> allowed the inclusion of a stylized logo as part of a composite mark, recognizing the branding strategy of evolving trademarks. Both jurisdictions stress that even with variations, the mark must retain its distinctive character and not mislead consumers.

In the case of *Proctor and Gamble vs. Joy Creators*, (2011)<sup>20</sup>, the court highlighted that demonstrating a significant resemblance between the defendant's trademark and the plaintiff's trademark, due to the extensive use of key features, is adequate for proving infringement. Additionally, artistic elements included in fluid trademarks can be protected under the Indian Copyright Act of 1957. This protection enables brand owners to combat unauthorized reproductions and parodies.

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<sup>16</sup> iPleaders, 'Landmark Infringement Cases' (iPleaders blog, 12 October 2022) <https://blog.ipleaders.in/landmark-infringement-cases/> (accessed 26 June 2025).

<sup>17</sup> *Louis Vuitton Malletier v Dooney & Bourke, Inc* No 04-4941-CV (2nd Cir, 30 June 2006) <https://caselaw.findlaw.com/court/us-2nd-circuit/1187671.html> (accessed 24 June 2025).

<sup>18</sup> United States Patent and Trademark Office, Basic Facts About Trademarks: What Every Small Business Should Know Now, Not Later (USPTO, July 2023) [https://www.uspto.gov/sites/default/files/BasicFacts\\_1.pdf](https://www.uspto.gov/sites/default/files/BasicFacts_1.pdf) (accessed 24 June 2025).

<sup>19</sup> *Specsavers International Healthcare Ltd v Asda Stores Ltd* [2012] EWCA Civ 24 (CA) <https://www.wipo.int/wipolex/en/judgments/details/1484> (accessed 24 June 2025).

<sup>20</sup> *Delhi High Court Paves the Way for Punitive Damages* (World Trademark Review, 10 May 2024) <https://www.worldtrademarkreview.com/article/delhi-high-court-paves-the-way-punitive-damages> (accessed 24 June 2025).

The shift towards fluid trademarks highlights a broader transformation in branding, where the traditional rules of rigid consistency have given way to a more flexible, audience-centric approach. This evolution has been further accelerated by the rise of social media, where engagement is crucial, and relevance can change quickly. Fluid trademarks allow brands to maintain a fresh and engaging presence without losing their core identity. While not explicitly mentioned in the traditional trademark laws, fluid trademarks operate within the framework of intellectual property by keeping a recognizable brand element at their core, ensuring that consumers can identify the brand even as it evolves. Thus, fluid trademarks represent a convergence of creativity and legal strategy in brand management. Their rising use calls for a re-examination of the statutory and judicial frameworks in India to offer clearer protection and enforcement standards.

## IX. SAFEGUARDING FLUID TRADEMARKS IN INDIA

Built up trademarks must execute a carefully considered technique, when adjusting to fluid trademarks. They ought to assess whether to enroll in a fluid check and decide the strategies for checking and upholding their fluid marks. To typify the quintessence of a fluid check for a trademark application, the candidate is required to detail each variety of the stamp. Within the United States, the Trademarks Manual of Analysing Methods outlines *“The altered check must contain what is the pith of the initial check and the modern frame must make the impression of being basically the same marks”*.<sup>21</sup>

To address the challenges of fluid trademarks, trade can receive the taking after techniques the varieties of fluid trademarks ought to be comparable sufficient to the initial stamp that the buyers can still perceive the brand.

Restrain over the modifications in stamp as over changes within the showcase can befuddle the clients and dilute the uniqueness of the initial trademark. This guarantees that the substance of the brand personality is protected. This relates to the concept of

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<sup>21</sup> ISACA, CISA Review Manual, 27th edn (ISACA 2020) <https://www.scribd.com/document/878698545/CISA-Review-Manual-27th-Edition-Isaca-download> (accessed 25 June 2025).

trademark dilution, particularly as outlined in Section 29(4) of the Indian Trademarks Act<sup>22</sup> and the anti-dilution laws in the United States (15 U.S.C. §1125(c)). Frequent or erratic modifications can diminish a trademark's unique identity, rendering it susceptible to disputes or the forfeiture of enforcement rights. In the United States, the case of *Starbucks Corp. v. Wolfe's Borough Coffee, Inc.*<sup>23</sup> emphasized that preserving a consistent brand identity is crucial for preventing dilution.

To bolster any copyright claims in case of a legitimate debate, the record of plan handle, date of creation counting portraits and related materials can be filed. While trademarks protect identifiers of source, copyright law (Indian Copyright Act, 1957; US Copyright Act) may also be invoked if the artistic elements of the original and its variations qualify as original artistic works. In *India TV Independent News Service Pvt. Ltd. v. Yashraj Films Pvt. Ltd.*<sup>24</sup>, the court recognized the relevance of creation records in ownership determination.

Ceaselessly utilizing the first trademark to guarantee that the fluid varieties are perceived within the commercial center makes a difference connecting the varieties to the most brand. This reflects the principle of continued use and secondary meaning. To retain legal protection, trademarks (including fluid marks) must be used continuously in commerce. Abandonment (non-use for 5 years in India or 3 years in the US) may lead to loss of rights. Use of the original trademark alongside the fluid variants creates a legal trail of consistent brand identity and supports the claim that the variations are extensions, not separate marks.

Advancing open mindfulness by clearly communicating the association between unique trademarks and its varieties makes a difference in building shopper understanding and

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<sup>22</sup> Sim & San, 'Intellect: Sections 29(4) vs 29(5)' (Sim & San, [n d]) [https://www.simandsan.com/intellect\\_sections\\_29\\_4\\_v\\_29\\_5.html](https://www.simandsan.com/intellect_sections_29_4_v_29_5.html) (accessed 25 June 2025).

<sup>23</sup> *Star Athletica, L.L.C. v Varsity Brands, Inc* 12-364 (2nd Cir, 15 November 2013) <https://law.justia.com/cases/federal/appellate-courts/ca2/12-364/12-364-2013-11-15.html> (accessed 25 June 2025).

<sup>24</sup> *India TV Independent News Service Pvt Ltd & Ors v Yashraj Films Pvt Ltd* [2013] 53 PTC 586 (Del HC) <https://indiancaselaw.in/india-tv-independent-news-service-pvt-ltd-ors-vs-yashraj-films-pvt-ltd/> (accessed 25 June 2025).

reinforces brand devotion. This aligns with the doctrine of acquired distinctiveness or secondary meaning. Both Indian and international law acknowledge that consumer education and market presence help transform a non-distinctive sign into a protectable mark. By openly linking fluid variants to the core brand, the public recognition is preserved, supporting claims of distinctiveness and enforceability. Courts often look into advertising strategies and public perception in trademark cases as specified in the case of *Tata Sons Ltd. v. Manu Kosuri*<sup>25</sup>.

Ensure that your fluid trademark is protected in all its various forms, which may include registering different variations of the trademark. As change is inevitable and technology continues to evolve, consumers are increasingly seeking personalized experiences that resonate with current trends. Fluid trademarks are emerging as a powerful tool in modern brand identity, shaping the long-term perception of how brands are recognized. It is essential to manage fluid trademarks with great care to maintain the clarity of the brand's identity, avoid legal complications, and ensure that customers can easily recognize them. As businesses adopt more fluid marks, striking the right balance between creative ideas and alignment with the core message of the original brand is crucial. The case of *Google LLC v. Doodle Jump*<sup>26</sup> highlighted the importance of registering even stylized variations for more effective enforcement.

**Each point reflects not only branding wisdom but also mirrors key legal principles, such as -**

- Distinctiveness and Consumer Association
- Dilution and Loss of Rights
- Copyright Intersection
- Trademark Use and Abandonment

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<sup>25</sup> iPleaders, 'Landmark Cases: Domain Disputes in India' (iPleaders blog, 5 February 2024) <https://blog.ipleaders.in/landmark-cases-domain-disputes-india/> (accessed 25 June 2025).

<sup>26</sup> Google LLC, 'Google Doodles' (Google) <https://doodles.google/> (accessed 25 June 2025).

- Secondary Meaning
- Registration Strategy
- Adaptation to Technological and Market Advancements
- Fluid trademarks must creatively evolve while staying tethered to their core identity to remain protected under laws in India, UK and US. Courts have started recognising their marketing utility but only when managed within the boundaries of legal consistency and consumer perception.

## **X. LEGAL COMPLIANCE FOR IMPLEMENTATION OF THE FLUID TRADEMARKS**

In India, while the Trade Marks Act of 1999 does not specifically address the concept of "fluid trademarks," their acknowledgment is encompassed within the broader principles of trademark protection. A fluid trademark is characterized by its ability to evolve or change in appearance while maintaining its essential identity – this includes alterations in color, design, or theme aimed at engaging consumers or reflecting various events, festivals, or causes. Legally, for a brand to utilize a fluid iteration of its registered mark, it must ensure that these variations do not compromise the distinctive nature of the original registered mark.

The Indian courts and registry prioritize consumer recognition as the fundamental criterion. Consequently, brands must guarantee that the altered or fluid versions do not mislead or confuse the public and remain substantially similar to the core registered trademark. Although Indian jurisprudence does not provide direct case law on fluid trademarks, relevant principles can be drawn from cases such as *Cadila Healthcare Ltd. v. Cadila Pharmaceuticals Ltd.* [(2001) 5 SCC 73],<sup>27</sup> where the Supreme Court highlighted the necessity of preventing consumer confusion.

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<sup>27</sup> iPleaders, 'Cadila Healthcare Ltd v Cadila Pharmaceuticals: 2001 Case Study' (iPleaders blog, 5 March 2025) <https://blog.iplayers.in/cadila-healthcare-ltd-v-cadila-pharmaceuticals-2001-case-study/> (accessed 25 June 2025).

Furthermore, the Delhi High Court in *Hindustan Unilever Ltd. v. Gujarat Cooperative Milk Marketing Federation Ltd.* (2017)<sup>28</sup> emphasized the importance of brand consistency and the consumer's association with the core mark—an essential consideration in the strategy surrounding fluid trademarks.

Globally, fluid trademarks have gained clearer recognition, especially in regions such as the United States and the European Union, where the dynamic nature of branding is widely acknowledged. In the United States, the United States Patent and Trademark Office (USPTO) does not permit the registration of fluid trademark variations unless each version is filed as an individual application. Nevertheless, the primary registration must remain unchanged and act as the benchmark for all fluid modifications. A prominent illustration is the Google Doodles case, where Google frequently alters its homepage logo to commemorate various events while maintaining its fundamental brand identity. Although Google did not register each doodle individually, courts have recognized that the public continues to link the modified logos with the original Google brand, thereby establishing acquired distinctiveness.

In the case of *Louis Vuitton Malletier v. Dooney & Bourke Inc.* (2006)<sup>29</sup>, the U.S. District Court highlighted that consistent usage and consumer recognition are crucial for trademark protection, even for stylized or modified versions. Similarly, in the EU, the European Union Intellectual Property Office (EUIPO) requires that any significant alteration to the mark necessitates a separate registration. In the *Specsavers International Healthcare Ltd. v. Asda Stores Ltd.* (2012 EWCA Civ 24)<sup>30</sup> case, the court permitted Specsavers to seek protection for a logo that transformed in appearance but maintained

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<sup>28</sup>Gujarat Co-operative Milk Marketing Federation Ltd & Ors v Hindustan Unilever Ltd & Ors (Argus Partners, [2017]) [https://www.argus-p.com/uploads/km\\_updates/download/1566804633\\_Gujarat\\_Co-operative\\_Milk\\_Marketing\\_Federation\\_Ltd\\_Hindustan\\_Unilever\\_Ltd\\_and\\_others.pdf](https://www.argus-p.com/uploads/km_updates/download/1566804633_Gujarat_Co-operative_Milk_Marketing_Federation_Ltd_Hindustan_Unilever_Ltd_and_others.pdf) (accessed 25 June 2025).

<sup>29</sup> *Louis Vuitton Malletier v Dooney & Bourke, Inc* No 04-4941-CV (2nd Cir, 30 June 2006) <https://caselaw.findlaw.com/court/us-2nd-circuit/1187671.html> (accessed 25 June 2025).

<sup>30</sup> *Specsavers International Healthcare Ltd v Asda Stores Ltd* [2012] EWCA Civ 24 (CA) <https://www.wipo.int/wipolex/en/judgments/details/1484> (accessed 25 June 2025).

consumer association, thus affirming the validity of fluid marks under specific circumstances.

**Brand Possessors should take into account the following factors to help legal complications when administering fluid trademarks-**

- Use strong marks(ensigns) to minimize client confusion and enhance recognition among their target followership. This approach allows them to associate the trademark with the brand.
- Regarding the precedence of fluid trademarks, brands must ensure that the mark does not infringe upon any third party's trademark rights.
- In the process of enforcing a fluid trademark, it's essential for brands to continue using the original trademark, as this guarantees that the original mark remains shielded against cancellation due to lack of use. Likewise, each variant that features a fluid trademark must retain the distinctive rudiments of the original mark, similar to color or font.
- They may establish guidelines for applicable operation on their website or in a primer, which would permit the trademark to be employed in a specific way under certain conditions. For case, the manner in which Google specifies particular do's and don'ts as part of its brand help centre available on its website.

## **XI. SIGNIFICANCE OF FLUID TRADEMARKS**

### **A. Improving Brand Engagement**

Fluid trademarks are essential in contemporary brand strategy, enabling a mark to creatively evolve while maintaining its fundamental identity, which in turn enhances consumer engagement and emotional connection to the brand. A key advantage of fluid trademarks is their capacity to boost brand interaction. By flexibly adjusting logos or other brand components to mirror seasons, social events, or causes (like festivals, national

occasions, or global initiatives), brands can seem more modern, relatable, and emotionally attuned to their audience.

This not only heightens visibility but also strengthens brand identity and fosters deeper consumer loyalty. From the perspective of Intellectual Property protection under Indian law, fluid trademarks require careful management to remain within the legal frameworks established by the Trade Marks Act, 1999. While Indian law does not specifically categorize fluid trademarks, their protection is implicitly covered by standard trademark regulations. The fundamental principle is that any changes to the trademark utilized by the brand must not significantly diverge from the registered mark, ensuring its distinctiveness and preventing consumer confusion.

This stipulation is consistent with Section 2(1) (zb) of the Trade Marks Act, which defines a trademark as a mark capable of distinguishing one person's goods or services from those of others.<sup>31</sup> Additionally, according to Section 47, if a registered trademark is not utilized in the form it was registered, it risks cancellation due to non-use<sup>32</sup>. In decisions like *Amritdhara Pharmacy v. Satya Deo Gupta* (AIR 1963)<sup>33</sup>, emphasis was laid on the importance of consumer perception and likelihood of confusion—elements that remain crucial in evaluating the legitimacy of fluid versions of a trademark.

## **B. Fortifying Brand Character**

Fluid trademarks are incredibly valuable in today's branding landscape, as they enable companies to creatively modify their marks while preserving a recognizable core identity. This dynamic approach boosts consumer engagement, cultural relevance, and emotional ties to the brand, thus fortifying brand character through ongoing visibility and

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<sup>31</sup> "Trade Marks Act - Overview and Key Provisions" (LawBhoomi, 2020) available at <https://lawbhoomi.com/trade-marks-act/> accessed 26 June 2025).

<sup>32</sup> 'Section 47 of the Trademark Act, 1999: Cancellation of Trademarks for Non-Use or Lack of Bona Fide Intent' (LegalServiceIndia, 2 May 2025) <https://www.legalserviceindia.com/article-20968.html> (accessed 26 June 2025).

<sup>33</sup> *Amrit Dhara Pharmacy v Satyadev Gupta* [1963] AIR 449 (SC) (discussed in Law Essential, 'Amrit Dhara Pharmacy v Satyadeo Gupta (1963 AIR 449)') <https://lawessential.com/ip-case-laws/f/amritdhara-pharmacy-v-satyadeo-gupta-1963-air-449> (accessed 26 June 2025).

adaptability. In the field of intellectual property, this flexibility serves as a strategic advantage to enhance brand equity and public recall. Courts have recognized the significance of consistency in brand presentation.

In the case of *Hindustan Unilever Ltd. v. Gujarat Cooperative Milk Marketing Federation Ltd.* (2017)<sup>34</sup> The Delhi High Court highlighted the necessity of maintaining a distinctive character to prevent consumer confusion.

### **C. Combatting Encroachment through Peculiarity**

Fluid trademarks are incredibly valuable in today's branding landscape, as they enable businesses to engage creatively with consumers while preserving the essential identity of their marks. Their flexibility allows brands to remain culturally relevant and emotionally impactful, particularly during events, festivals, or social initiatives. Regarding intellectual property protection under Indian law, fluid trademarks act as a defense against infringement through their uniqueness, meaning their distinctive, evolving characteristics make it more challenging for counterfeiters or infringers to imitate the brand's identity without being noticed. Nevertheless, Indian law requires that any modifications must not compromise the original trademark's distinctiveness or mislead consumers.

Although the Trade Marks Act, 1999 does not explicitly acknowledge fluid trademarks, protection can still be pursued under common law principles and through the registration of variations when necessary. The significance of preserving consumer association with the core mark to prevent infringement was highlighted in *T.V. Today Network Ltd. v. Rajul Sureshbhai Shah* (2015)<sup>35</sup>, where the Delhi High Court affirmed the

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<sup>34</sup> *Gujarat Co-operative Milk Marketing Federation Ltd & Ors v Hindustan Unilever Ltd & Ors* (Argus Partners, [2017]) [https://www.argus-p.com/uploads/km\\_updates/download/1566804633\\_Gujarat\\_Co-operative\\_Milk\\_Marketing\\_Federation\\_Ltd\\_Hindustan\\_Unilever\\_Ltd\\_and\\_others.pdf](https://www.argus-p.com/uploads/km_updates/download/1566804633_Gujarat_Co-operative_Milk_Marketing_Federation_Ltd_Hindustan_Unilever_Ltd_and_others.pdf) (accessed 26 June 2025).

<sup>35</sup> *TV Today Network Ltd v Union of India* (Supreme Today AI, case no 01100133556) <https://supremetoday.ai/doc/judgement/01100133556> (accessed 26 June 2025).

protection of a stylized version of the registered mark, underscoring the necessity for distinctiveness even in modified forms.

### **D. Lawful Challenge and Development in IP Security**

Fluid trademarks are incredibly valuable in today's branding landscape, enabling companies to engage creatively with consumers by dynamically modifying aspects of their trademarks while maintaining their core identity. This adaptability not only boosts brand relatability and market responsiveness but also presents legal challenges under intellectual property law, especially regarding the consistency and distinctiveness necessary for legal protection. In the context of Indian IP law, although the Trade Marks Act, 1999 does not specifically acknowledge fluid trademarks, the protection depends on the original registered mark preserving its essential characteristics across all variations. This situation poses a developmental challenge within the IP security framework, as frequent alterations may dilute brand identity and complicate enforcement against infringement.

## **XII. CONCLUSION**

Fluid trademarks represent a significant shift from the conventional view of trademarks, emerging as a vital marketing and branding asset in today's fiercely competitive, digital, and visually-oriented marketplace. These trademarks empower brands to creatively alter their logos, slogans, or graphic identities in ways that remain identifiable yet flexible to seasonal promotions, cultural trends, or social initiatives, thereby boosting customer engagement and emotional connection. By adapting while preserving their core identity, fluid trademarks enable companies to convey relevance and innovation, particularly during social changes like the COVID-19 pandemic.

However, within the Indian context, the existing trademark legal framework under the Trade Marks Act, 1999 does not explicitly acknowledge or provide provisions to safeguard fluid trademarks, resulting in uncertainty regarding enforcement, registration, and legal evaluation. Therefore, to guarantee effective intellectual property protection,

future legislative reforms must clearly outline guidelines for the registration and safeguarding of dynamic visual alterations under the umbrella of a core registered mark. Proposed amendments could establish a distinct category for 'variant trademarks' or provide protection through a composite filing model—where both the original and commonly altered forms can be submitted together in a single application. Additionally, judicial interpretation should embrace a consumer-focused approach that emphasizes 'source identification' and 'visual continuity,' striking a balance between innovation and protection. Courts must also create precedents that clarify the extent to which a mark can evolve before it forfeits its protected identity. Integrating such principles into judicial reasoning and registry practices would enhance certainty for rights holders and encourage creativity without undermining legal enforceability.

A more transparent legal framework for fluid marks would enable established brands to utilize them safely, while also motivating emerging businesses to venture into this innovative branding opportunity within a legally robust environment.

### **A. Scope For Further Studies**

Future studies on fluid trademarks ought to concentrate on comparative legal systems, particularly how regions such as the U.S. and EU manage their protection and enforcement. Research into how courts interpret the "likelihood of confusion" regarding evolving marks is also essential. Moreover, analysing the intersection between fluid trademarks and non-traditional marks, such as motion or sound marks, could prove beneficial.

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