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WHEN SIMILARITY BECOMES FATAL: TRADEMARK INFRINGEMENT AND PATIENT SAFETY IN THE INDIAN PHARMACEUTICAL INDUSTRY

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Abstract : The increasing prevalence of look-alike and sound-alike (LASA) medications in the Indian pharmaceutical sector has elicited significant concerns over trademark infringement and patient safety. This research examines how misleadingly identical drug names and packaging induce misunderstanding among consumers and healthcare professionals, resulting in medication errors, negative health consequences, and ethical responsibilities. This paper meticulously analyses the legal framework established by the Trade Marks Act of 1999, focusing on its relevance to pharmaceutical branding and the inadequate protections it provides against consumer fraud. The absence of coordination between the Trade Marks Registry and the CDSCO is identified as a fundamental regulatory deficiency, permitting concurrent approvals of deceptive trademarks that may jeopardize both intellectual property integrity and public health.

The paper assesses the exploitation of trademark law for brand "evergreening," wherein rebranded pharmaceuticals with little modifications are promoted under new trade names to prolong exclusivity, hence raising ethical and legal issues. The research highlights the critical necessity for unified policy responses in India, informed by worldwide best practices, including WHO guidelines and regulatory frameworks from the USFDA and EMA. The report advocates for a cross-disciplinary regulatory strategy that combines trademark approval with medication safety measures. It also suggests improvements including pharmacovigilance systems, increased oversight for pharmaceutical brands, and AI-assisted brand monitoring to mitigate confusion and protect patient welfare.

IndexTerms **- Trademark Infringement, LASA Drugs, Pharmaceutical Branding, Patient Safety, Trade Marks Act, 1999, Drug Regulatory Framework, Public Health and Intellectual Property.**

1. INTRODUCTION

Trademarks have become essential tools for both brand identity and ensuring that consumers make safe and informed decisions in the fiercely competitive and dynamic Indian pharmaceutical sector, which is one of the world's biggest manufacturers of generic medications. However, when the names of pharmaceutical items sound or appear too similar, the trademark's primary purpose as a unique identifier is undermined. A new axis of risk has emerged as a result of the widespread use of look-alike and sound-alike (LASA) medicine names: one where patient health and lives are directly impacted by intellectual property issues.

India has a special regulatory conundrum because it has more than 10,000 pharmaceutical firms and more than 60,000 branded generics on the market[1]. Serious mistakes in prescription, distribution, or administration can result from a little spelling or phonetic similarity between medicine names, such as "Loprin" and "Liprin," or "Zantac" and "Zintec." Numerous instances of adverse drug reactions (ADRs), hospitalization, and even mortality have been attributed to these mistakes, which are frequently inadvertent. Despite the fact that these problems have medical implications, they stem from legal and regulatory shortcomings, especially with regard to the oversight of pharmaceutical trademarks.

In the pharmaceutical industry, the enforcement procedures seem inadequate, even though the Trade Marks Act 1999 stipulates that marks must be distinctive and non-deceptive[2]. The Trademark Registry doesn't pay much attention to patient safety or therapeutic class overlap. Additionally, the Central Drugs Standard Control Organization (CDSCO) and the Trade Marks Registry do not work together effectively, which leads to the simultaneous approval of confusingly identical brand names, putting patients and medical professionals at unnecessary danger[3].

[1] WHO, 'India: Medicine Supply Chain and Brand Saturation Report' (2022) https://www.who.int accessed 1 July 2025.
[2] Trade Marks Act 1999, Sec 9(2)(a).
[3] Ministry of Health and Family Welfare, Central Drugs Standard Control Organisation (CDSCO, 2024) https://cdsco.gov.in accessed 5 July 2025.

2. UNDERSTANDING TRADEMARKS IN THE PHARMACEUTICAL INDUSTRY

In the pharmaceutical industry, trademarks are more than just symbols of brand recognition; they are essential identifiers that help patients, pharmacists, and clinicians choose the right drug. The function of trademarks needs to be closely examined from both a legal and public health standpoint in a nation like India, where poor literacy, linguistic variety, and an excessive dependence on branded medications coexist. The statutory underpinnings, therapeutic need for uniqueness, and court actions that highlight the risky overlap between similar-sounding drug names are examined in this section.

2.1.Significance of Statutory Definition

A trademark is defined as per Section 2(1)(zb) of the Trade Marks Act, 1999 as a trademark as a mark capable of graphical representation and capable of distinguishing the goods or services of one person from another. Theoretically, this legal level is adequate to get rid of misleading markings, especially in light of Sections 9(2)(a) and 11(1)[4], which forbid marks that are likely to cause misunderstanding. But in reality, these protections have frequently fallen short of stopping the registration and distribution of dangerously similar medicine names, particularly in the pharmaceutical industry.

In a nation like India, where there are more than 60,000 branded medicine formulations available[5], trademarks need to be unique enough to prevent mistakes at every stage of the supply chain, from prescriptions written by doctors to dispensations made by pharmacists. A single case of mistake between pharmaceuticals with identical names might cause substantial harm, unlike consumer items. The Cadila Healthcare[6] ruling was the first to specifically recognize this judicial sensitivity.

2.2.The LASA Problem and the Breakdown of Regulatory Oversight

Look-Alike Sound-Alike (LASA) medications are one of the most pernicious threats to patient safety in the pharmaceutical sector. These are drugs that, despite variations in their chemical makeups or therapeutic purposes, have remarkably similar names, both phonologically and visually. The repercussions of confusing such medications because of similar packaging or trademarks might range from inadequate therapy to potentially fatal adverse drug reactions (ADRs). Although this problem is not exclusive to India, the combination of inadequate pharmacovigilance, high brand saturation, and regulatory fragmentation makes it worse in India.

More than 60,000 branded formulations are available in the Indian pharmaceutical industry[7], many of which have names that are only marginally different, such "Glycomet" and "Glycored," or "Zinetac" and "Zentac." These parallels are frequently overlooked by both laypeople and medical professionals working in demanding settings. The World Health Organization reports that LASA errors rank among the leading causes of avoidable pharmaceutical errors worldwide, especially in low- and middle-income nations with poor levels of prescription digitalization and health literacy[8].

Despite these dangers, the Indian Trade Marks Registry operates mainly independently of pharmaceutical regulatory agencies. The Central Drugs Standard Control Organization (CDSCO) and the Trade Marks Registry are not required by law to consult throughout the trademark approval procedure for pharmaceutical products. Accordingly, CDSCO may grant parallel permits under the Drugs and Cosmetics Act, 1940[9] for drug names that are confusingly similar but registered in compliance with trademark regulations. Because of this institutional gap, there is a regulatory void where safety under one regime is not equivalent to legality under another.

This systematic issue was highlighted in the Cadila Healthcare ruling. The Indian Supreme Court made it clear that medicine regulators and trademark officials should work together, noting that failure to do so could have deadly repercussions[10]. Nevertheless, there is scant indication of a formalized procedure between the CDSCO and the Trade Marks Registry, even after more than 20 years have passed since this ruling.

This issue is still being exposed by recent case law. Given that the suffix "-D" is frequently used in decongestants, the Delhi High Court observed in Zydus Healthcare Ltd v. Dabur India Ltd that both "ZAC D" and "PAC D" were cough syrups that were likely to be mistaken[11]. However, the fact that both trademarks had received separate approval demonstrates how the system allows therapeutically overlapping marks to coexist, compromising the safety of drugs.

Furthermore, the absence of a centralized LASA monitoring system in India has made it difficult to consistently identify and get rid of dangerous brand names. India still depends on post-market interventions and occasional litigation, even though Western models, such the USFDA's Division of Medication Error Prevention and Analysis (DMEPA), have institutionalized LASA screening during the drug approval process[12]. This reactive approach overburdens the legal system with cases that could have been avoided by coordinated screening and does little to stop direct patient harm.

Thus, the LASA issue is a structural failing rooted in fragmented regulation, compartmentalized institutions, and inadequate pre-market surveillance rather than just a symptom of irresponsible branding or commercial competitiveness. A unified, patient-centered trademark screening procedure that incorporates pharmacological and legal knowledge is not only vital, but also life-or-death.

3. TRADEMARK INFRINGEMENT AND PATIENT SAFETY: A CLINICAL PERSPECTIVE

3.1 The Clinical Risks of Trademark Confusion

In the pharmaceutical sector, trademark misunderstanding frequently results in a medical emergency rather than only being a business or legal annoyance. Many instances of medication errors have occurred globally as a result of the popularity of Look-Alike Sound-Alike (LASA) medicine names. This issue is particularly severe in India, where pharmacist training varies greatly and handwritten prescriptions predominate. The actual risk of harmful drug substitution is shown when a patient is prescribed

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[4] Trade Marks Act, 1999

[5] WHO, 'India: Medicine Supply Chain and Brand Saturation Report' (2022) https://www.who.int accessed 1 July 2025.

[6] Cadila Health Care Ltd v Cadila Pharmaceuticals Ltd (2001) 5 SCC 73.

[7] WHO, 'India: Medicine Supply Chain and Brand Saturation Report' (2022) https://www.who.int accessed 1 July 2025.

[8] WHO, 'Medication Errors: Technical Series on Safer Primary Care' (WHO, 2016) https://www.who.int/publ ications/i/item/9789241511643 accessed 1 July 2025.

[9] Drugs and Cosmetics Act 1940, Sec 18 and related rules under the Drugs and Cosmetics Rules 1945.

[10] Cadila Health Care Ltd v Cadila Pharmaceuticals Ltd (2001) 5 SCC 73 [26].

[11] Zydus Healthcare Ltd v Dabur India Ltd 2020 SCC OnLine Del 1110

[12] US Food and Drug Administration, 'Division of Medication Error Prevention and Analysis (DMEPA)' https://www.fda.gov accessed 1 July 2025.

Lamosyn (Lamotrigine, an anti-epileptic medication) but instead receives Lamocin, which may be an antibiotic. In both industrialized and developing healthcare systems, the World Health Organization has highlighted LASA-related errors as a major cause of avoidable adverse medication events. This tendency is also seen in India[13].

3.2 LASA Drugs: Clinical Issues and Indian Cases

The notion that even a slight phonetic or visual resemblance in medication names might cause serious harm by misleading pharmacists or consumers has been brought to the attention of Indian courts. Given the implications for public health, the Supreme Court correctly recognized in Cadila Health Care Ltd v. Cadila Pharmaceuticals Ltd[14] that the criteria for misleading likeness in pharmaceutical products needs to be applied more sensitively. In these situations, the Court emphasized that "even a single instance of confusion can result in serious injury or death[15]. Falcigo and Falcitab, two anti-malarial medications, were at the center of the lawsuit because their names were confusingly similar and may be mistaken by patients or medical professionals in an emergency.

In the Sun Pharmaceuticals v. Cipla Ltd. case, the Delhi High Court shared this opinion when it assessed the misunderstanding between "TAMARIN" and "TAMARIT," concluding that such resemblance in life-saving drugs should not be taken lightly[16]. The Court underlined that manufacturers and trademark authorities must reduce the margin for error because medications frequently reach patients who are illiterate or only partially literate.

3.3 Regulatory Silence and Gaps in the Healthcare System

The Drug Controller General of India (DCGI) and the Trademark Registry do not have unified control in India's drug regulating system, despite a rise in litigation. The Registrar of Trademarks considers marks based on their commercial uniqueness rather than their pharmacological safety when DCGI approves a medication formulation for sale. Without a shared vetting process, businesses can obtain confusingly similar trademarks, putting patients at risk. Scholars have cautioned that the trademark law will continue to indirectly endanger patient safety unless India implements a trademark policy that incorporates pharmacovigilance[17].

International regulatory regimes, on the other hand, offer useful examples. To screen medicine names before to clearance, for instance, the U.S. FDA has a strict procedure under its Division of Medication Error Prevention and Analysis (DMEPA)[18]. In a similar vein, pharmaceutical businesses are required by the European Medicines Agency (EMA) to provide brand name justification in order to avoid LASA overlaps[19]. These procedures highlight how urgently India needs a specific LASA-screening system that strikes a compromise between intellectual property rights and public health.

3.4 Integration of Patient Safety and Trademark Law is Necessary

Clinical reality cannot be separated from trademark law in the pharmaceutical industry. A proactive, health-focused legal approach is justified by the negative effects of trademark infringement on public health. A number of analysts argue that pharmacological testing ought to be required by law in India as a component of the pharmaceutical trademark registration procedure[20].

4. INDIAN JUDICIAL TRENDS

4.1 Prioritizing the Public Interest Above Individual Rights

The Indian judiciary has repeatedly stressed that, when it comes to pharmaceutical trademarks, public health interests take precedence over commercial monopolies. The Supreme Court emphasized in the landmark case of Cadila Health Care Ltd v. Cadila Pharmaceuticals Ltd[21] that misleading similarities in pharmaceuticals must be evaluated more strictly since they can have potentially fatal outcomes. The Court pointed out that courts must "err on the side of caution" because even one incident of uncertainty could result in death or irreversible harm. In a similar vein, the Delhi High Court denied registration of the confusingly similar marks "ZAC D" and "PAC D" in Zydus Healthcare Ltd v. Dabur India Ltd[22], noting that small phonetic variations are insufficient in high-risk industries like pharma.

4.2 Confusion Likelihood: A Clinical Perspective

Courts have assessed the possibility of confusion using a clinically sensitive methodology. The Delhi High Court ruled in Sun Pharmaceuticals v. Cipla Ltd[23]. that even highly qualified medical professionals and pharmacists might be duped by phonetically similar names like "TAMARIN" and "TAMARIT." The Bombay High Court decided in Glenmark Pharmaceuticals Ltd v. Curetech Skincare[24] that the marks "SKINFREE" and "SKINFEEL" were misleadingly similar, particularly given the overlapping customer base. Similarly, the Madras High Court acknowledged that even medical professionals could be misled by phonetic resemblance in Cipla Ltd v. M.K. Pharmaceuticals[25].

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[13] World Health Organization, Patient Safety: High 5s Project – Standard Operating Protocol for LASA Medication Errors (WHO 2012) https://apps.who.int/iris/handle/10665/75358 accessed 1 July 2025.

[14] Cadila Health Care Ltd v Cadila Pharmaceuticals Ltd (2001) 5 SCC 73.

[15] ibid

[16] Sun Pharmaceuticals Industries Ltd v Cipla Ltd (2009) CS(OS) No 1267/2008

[17] Kankanala KC, Pharmaceutical Trademark Law in India (1st edn, OUP 2017) 203.

[18] US FDA, 'Guidance for Industry: Best Practices in Developing Proprietary Names for Drugs' (2014) https://www.fda.gov/media/89850/download accessed 1 July 2025.

[19] European Medicines Agency, 'Naming of Human Medicines' (2021) https://www.ema.europa.eu/en/naming-human-medicines accessed 1 July 2025.

[20] Sharma R and Das S, 'The Overlooked Hazard: LASA Drug Names and the Case for Trademark Reform in India' (2020) 12(1) Indian J Health L 49.

[21] Cadila Health Care Ltd v Cadila Pharmaceuticals Ltd (2001) 5 SCC 73.

[22] Zydus Healthcare Ltd v Dabur India Ltd 2020 SCC OnLine Del 861.

[23] Sun Pharmaceuticals Industries Ltd v Cipla Ltd (2009) CS(OS) No 1267/2008 (Del HC).

[24] Glenmark Pharmaceuticals Ltd v Curetech Skincare 2020 SCC OnLine Bom 1287.

[25] Cipla Ltd v M.K. Pharmaceuticals 2021 SCC OnLine Mad 223.

The Delhi High Court highlighted in Pfizer Products Inc. v. Rajesh Chopra[26] that package resemblance could also deceive semiliterate customers, even if the text content is different. In Ajanta Pharma Ltd v Sunways India Pvt Ltd[27], the Court also ruled that brand names must be discernible to the average patient or pharmacist as well as to a skilled eye.

4.3 The Doctrine of Honest Concurrent Use and Prior Use

Indian courts have also discussed the "honest concurrent use" doctrine's applicability, carefully weighing it against the public interest. The Supreme Court reaffirmed in Neon Laboratories Ltd v. Medical Technologies Ltd[28] that health and safety concerns are not superseded by honest use. Similar to this, the Bombay High Court denied trademark protection in USV Ltd v IPCA Laboratories[29], citing long-term concurrent use and ruling that commercial repute cannot outweigh patient confusion.

4.4 Pharma Descriptive or Generic Marks

Because descriptive marks raise the risk of confusion, courts have discouraged their use in pharmaceutical branding. The Bombay High Court issued a warning against the use of medicinal indications in trademarks in Aristo Pharmaceuticals v. Wockhardt Ltd[30]. In Khandelwal Laboratories v. Orison Pharma, the Delhi High Court ruled that in order to avoid overlaps that are prone to errors, common medicinal suffixes like "-mol" and "-cillin" need to be used with more care[31].

4.5 Non-textual components, trade dress, and packaging

Indian courts have prioritized attire and trade clothing in addition to phonetics. The Delhi High Court held in Bayer Healthcare LLC v. Ajanta Pharma Ltd. that even when brand names are different, identical color schemes and tablet geometries may be misleading[32]. The Court noted in Dr. Reddy's Laboratories Ltd. v. Reddy Pharmaceuticals Ltd. that blister packs' apparent similarities could deceive patients in rural areas[33]. The Delhi High Court noted in Abbott Healthcare v. Raj Kumar Prasad[34] that, even in cases where the active components are different, packaging and marketing strategy must also guarantee public safety.

4.6 Judicial Policy: The Default Is Caution

As confirmed in Franco Indian Pharmaceuticals v. Micro Labs Ltd.[35], where the Bombay High Court emphasized that courts should not wait for actual harm to occur if a likelihood of uncertainty exists the Indian judiciary is now generally in line with a preventive approach. All of these cases show a distinct movement in jurisprudence toward incorporating public health concerns into trademark law, especially in the pharmaceutical industry.

5. LEGAL AND REGULATORY PROTECTIONS IN THE INDIAN PHARMACEUTICAL TRADEMARK SYSTEM

5.1 Disjointed Supervision: Drug Control System and Trademark Registry

The Trade Marks Act, 1999 and the Drugs and Cosmetics Act, 1940, as well as the rules established under them, form the two separate but mainly disorganized regulatory frameworks that control pharmaceutical trademarks in India. The Drugs Controller General of India (DCGI), who is in charge of approving new medications and keeping an eye on their safety, works independently of the Controller General of Patents, Designs, and Trade Marks (CGPDTM). Pharmaceutical corporations can obtain a trademark for a medication without the drug regulating body checking it for phonetic or visual similarities with other formulations already on the market, which creates a serious regulatory loophole. Because of this, medications with names that are confusingly similar are frequently approved for sale even if they endanger patient safety.

Without particular rules for assessing health-related confusion, registration under the Trade Marks Act of 1999 is generally based on the test of distinctiveness and lack of earlier use in the same class[36]. In the meantime, trademarks are not subject to trademark scrutiny when manufacturing or marketing licenses are granted under the Drugs and Cosmetics Rules, 1945[37]. This regulatory leniency allows commercial identifiers to completely circumvent pharmacological safety assessments. The DCGI does not review or object to the trade name unless a public complaint is made after the product is marketed, according to critics, even though it concentrates on the active pharmaceutical components and bioequivalence[38].

5.2 Absence of Comparative International Practices and Pre-Approval Drug Name Screening

The drug regulator in India does not need a pre-screening procedure for proprietary drug names, which is the standard in many other jurisdictions. For example, the US Food and Drug Administration (FDA) uses phonetic, orthographic, and semantic similarity methods to proactively evaluate proposed brand names through its Division of Medication Error Prevention and Analysis (DMEPA)[39]. In a similar vein, before granting market authorization, the European Medicines Agency (EMA) requires companies to submit a rationale dossier outlining how the proposed name avoids LASA (Look-Alike Sound-Alike) hazards[40]. India, on the other hand, only uses the trademark registration procedure, and the Registrar of Trademarks lacks a medical evaluation framework and pharmacovigilance knowledge.

Given the exceptionally high stakes in the pharmaceutical industry, where even a small mistake in brand recognition can have deadly consequences, academics have expressed worries that this method is essentially defective[41]. According to Dr. Sandeep

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[26] Pfizer Products Inc v Rajesh Chopra 2006 (32) PTC 301 (Del).
[27] Ajanta Pharma Ltd v Sunways India Pvt Ltd 2004 (28) PTC 99 (Del).
[28] Neon Laboratories Ltd v Medical Technologies Ltd (2016) 2 SCC 672.
[29] USV Ltd v IPCA Laboratories 2009 SCC OnLine Bom 205.
[30] Aristo Pharmaceuticals v Wockhardt Ltd 2010 (44) PTC 617 (Bom).
[31] Khandelwal Laboratories v Orison Pharma 2009 (39) PTC 633 (Del).
[32] Bayer Healthcare LLC v Ajanta Pharma Ltd 2020 SCC OnLine Del 927.
[33] Dr Reddy's Laboratories Ltd v Reddy Pharmaceuticals Ltd 2018 SCC OnLine Del 11958
[34] Abbott Healthcare v Raj Kumar Prasad 2019 SCC OnLine Del 13027.
[35] Franco Indian Pharmaceuticals v Micro Labs Ltd 2019 SCC OnLine Bom 2380.
[36] The Trade Marks Act 1999, Sec 9.
[37] Drugs and Cosmetics Rules 1945, rules 71–76.
[38] Yogesh Pai, 'Pharmaceutical Trademarks and Public Health in India: Uncoordinated Regulation and Policy Gaps' (2019) 24(2) JIPR 77.
[39] US Food and Drug Administration, Best Practices in Developing Proprietary Names for Drugs (2014) https://www.fda.gov/media/89850/download accessed 1 July 2025.
[40] European Medicines Agency, 'Naming of Human Medicines' (EMA, 2021) https://www.ema.europa.eu/en /naming -human-medicines accessed 1 July 2025.
[41] K C Kankanala, Pharmaceutical Trademark Law in India (OUP 2017) 191–193.

Goyal's review in a medical publication, India relies on post-market revisions, which frequently occur too late, because it lacks a coordinated system to identify, stop, or recall confusing medicine names[42]. In addition to jeopardizing patient safety, the DCGI and CGPDTM's lack of statutory cooperation runs against to India's larger constitutional obligation to safeguard public health under Article 21[43].

5.3 Regulatory Reform: Suggestions and Future Directions

Discussions about policy change have increasingly focused on developing an interdisciplinary framework for drug name approval that integrates pharmacological risk assessment and trademark law. The creation of a central drug name clearance unit was recommended in the 2003 Mashelkar Committee Report on Pharmaceutical Regulatory Reforms, however it has not been implemented[44]. Many legal experts support a Trade Marks Manual guideline tailored to the pharmaceutical industry that requires mandatory cross-verification with the DCGI database prior to final clearance[45]. Furthermore, the integration of AI-assisted similarity testing (such as the internationally utilized POCA and LASA software) into Indian regulatory bodies may help close the gap between clinical impact and commercial registration. This kind of systemic integration would greatly lower avoidable prescription errors based on trademark similarities and bring Indian practice into compliance with international patient safety standards.

6. RECOMMENDATIONS AND PROPOSED REFORMS

6.1 Combining Trademark Registration with Drug Safety

Establishing obligatory coordination between the Trade Marks Registry and the Drugs Controller General of India (DCGI) is a primary reform requirement. The trademark registration procedure now in use is focused on business and ignores the potential health risks associated with brand name similarity. Prior to approval, pharmacological, phonetic, and semantic analyses of proposed pharmaceutical trademarks should be carried out by a collaborative regulatory interface, ideally in the form of a central Drug Name Approval Authority (DNAA)[46]. A memorandum of understanding (MoU) between the Central Drugs Standard Control Organization (CDSCO) and the CGPDTM should institutionalize this system, guaranteeing that no trade name is released onto the market without first being examined for potential therapeutic confusion[47].

6.2 Drug Name Clearance Predictive Tools and the LASA Database

The USFDA's POCA (Phonetic and Orthographic Computer Analysis) and EMA's Name Review Group systems, which use artificial intelligence (AI) and linguistic algorithms to forecast LASA (Look-Alike Sound-Alike) name risks, are examples of technical tools that India should employ[48]. All trademarks that have been rejected because of safety concerns and are flagged or restricted should be listed in a nationally accessible LASA registry. This would promote transparency and lower litigation by helping pharmaceutical businesses and regulators with pre-submission screening. The centralization of such data, according to scholars, can effectively prevent "brand crowding" and guarantee that mistakes in name approval are not repeated[49].

6.3 Trademarks Manual: Pharma-Specific Guidelines

A specific chapter on pharmaceutical trademarks should be included in the Trade Marks Manual, requiring a higher level of inspection and the disclosure of the drug's composition, therapeutic class, and DCGI license number at the time of evaluation[50]. At the moment, these declarations are voluntary, enabling marks to pass official scrutiny without taking into account their actual effects. The preventive function of IP law in the pharmaceutical industry is defeated, as Kankanala indicates, if public health measures are not incorporated during the registration stage.

6.4 Training and Legal Amendments

To put the aforementioned into practice, the Trade Marks Act of 1999's rules must be changed to permit pharmaceutical input and interagency consultations throughout the trademark examination procedure[51]. To further guarantee that trademark examiners are prepared to identify risky applications, they should get regular training on drug classification, prescription contexts, and health literacy[52]. The Mashelkar Committee's goal of a safety-conscious and scientifically informed drug approval system is in line with these structural changes[53]. In accordance with Article 21 of the Indian Constitution, which protects the right to health, such regulatory reforms are not only desirable but also necessary.

7. CONCLUSION

In the pharmaceutical industry, trademark similarity is not just a business issue; it is a life-or-death one. The coherence and medical supervision required to stop LASA-based pharmaceutical errors are currently absent from Indian regulatory frameworks. Public health has rightfully been given priority in judicial trends, but urgent legal adjustments are still needed. It is crucial to introduce interdisciplinary inspection, predictive technologies, and standardized regulatory standards. Article 21 of the Constitution mandates that the trademark approval process incorporate patient safety. Preventable harms will be decreased going future if India's strategy is in line with international pharmacovigilance standards. Proactive caution must take precedence over reactive rectification in pharmaceutical trademark law.

8.REFERENCE

8.1.Statutes

[42] Sandeep Goyal, 'Preventable Medication Errors Due to Brand Name Confusion in India' (2020) 15(3) Indian J Med Ethics 200.

[43] Constitution of India 1950, Art 21

[44] Government of India, Report of the Expert Committee on a Comprehensive Examination of Drug Regulatory Issues in India (Mashelkar Committee Report) (2003).

[45] Priti Ramamurthy and Anil Raj, 'The Case for a Harmonised Pharma Trademark Screening Protocol in India' (2021) 9(2) Indian J Law & Policy 113.

[46] K C Kankanala, Pharmaceutical Trademark Law in India (OUP 2017) 210.

[47] Yogesh Pai, 'Pharmaceutical Trademarks and Public Health in India: Uncoordinated Regulation and Policy Gaps' (2019) 24(2) JIPR 77.

[48] USFDA, Proprietary Name Review: POCA Tool Overview (2014) https://www.fda.gov accessed 1 July 2025.

[49] Priti Ramamurthy and Anil Raj, 'The Case for a Harmonised Pharma Trademark Screening Protocol in India' (2021) 9(2) Indian J Law & Policy 113.

[50] Government of India, Manual of Trade Marks Practice and Procedure (CGPDTM, 2015) Part III.

[51] Trade Marks Rules 2017, Rule 33(4)

[52] A Sinha, 'Enhancing Capacity of Trademark Examiners in High-Risk Sectors' (2020) 12 NUJS L Rev 95.

[53] Government of India, Mashelkar Committee Report on Drug Regulation (2003).

[1] Constitution of India 1950
[2] Drugs and Cosmetics Act 1940
[3] Drugs and Cosmetics Rules 1945
[4] Trade Marks Act 1999
[5] Trade Marks Rules 2017

8.2.Books and Journals

[1] A Sinha, 'Enhancing Capacity of Trademark Examiners in High-Risk Sectors' (2020) 12 NUJS L Rev 95
[2] Kankanala KC, Pharmaceutical Trademark Law in India (1st edn, OUP 2017) 203
[3] Priti Ramamurthy and Anil Raj, 'The Case for a Harmonised Pharma Trademark Screening Protocol in India' (2021) 9(2) Indian J Law & Policy 113
[4] Sandeep Goyal, 'Preventable Medication Errors Due to Brand Name Confusion in India' (2020) 15(3) Indian J Med Ethics 200
[5] Sharma R and Das S, 'The Overlooked Hazard: LASA Drug Names and the Case for Trademark Reform in India' (2020) 12(1) Indian J Health L 49
[6] Yogesh Pai, 'Pharmaceutical Trademarks and Public Health in India: Uncoordinated Regulation and Policy Gaps' (2019) 24(2) JIPR 77

8.3.Websites

[1] European Medicines Agency, 'Naming of Human Medicines' (2021) https://www.ema.europa.eu/en/naming-human-medicines accessed 1 July 2025
[2] Government of India, Manual of Trade Marks Practice and Procedure (CGPDTM, 2015) Part III
[3] Government of India, Mashelkar Committee Report on Drug Regulation (2003)
[4] Ministry of Health and Family Welfare, Central Drugs Standard Control Organisation (CDSCO, 2024) https://cdsco.gov.in accessed 5 July 2025
[5] US FDA, 'Guidance for Industry: Best Practices in Developing Proprietary Names for Drugs' (2014) https://www.fda.gov/media/89850/download accessed 1 July 2025
[6] US Food and Drug Administration, 'Division of Medication Error Prevention and Analysis (DMEPA)' https://www.fda.gov accessed 1 July 2025
[7] USFDA, Proprietary Name Review: POCA Tool Overview (2014) https://www.fda.gov accessed 1 July 2025
[8] WHO, 'India: Medicine Supply Chain and Brand Saturation Report' (2022) https://www.who.int accessed 1 July 2025
[9] WHO, 'Medication Errors: Technical Series on Safer Primary Care' (WHO, 2016) https://www.who.int/publications/i/item/9789241511643 accessed 1 July 2025
[10] World Health Organization, Patient Safety: High 5s Project – Standard Operating Protocol for LASA Medication Errors (WHO 2012) https://apps.who.int/iris/handle/10665/75358 accessed 1 July 2025