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Drug Names – a Matter of Trademarks or Patient Trust?

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CDSCO must adapt international methodologies to India’s multilingual prescribing environment



A case study by the Indian Institute of Management Ahmedabad highlighted how the advertisement of a mother caring for her sick child by applying Vicks turned the brand into a cultural icon of caregiving. This is how medicine names acquire trust and reliance over time. In this backdrop, the Central Drugs Standard Control Organisation's (CDSCO) [circular](#) proposing to regulate the use of similar brand names for medicines containing different active pharmaceutical ingredients and serving distinct therapeutic purposes warrants attention. It recognises that confusion between medicines cannot be treated merely as an intellectual property dispute. It is equally a question of patient safety.

However, as the regulator tightens pharmaceutical nomenclature, it also needs to decide if it will employ trademark law principles to adjudge similarity, or it needs to develop additional framework rooted in medication safety?

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Formula of Medicines Nomenclature

Pharmaceutical manufacturers name brands through a painstaking [process](#). They hire linguists, lawyers and market researchers who test the pronunciation, trademark registrability, and memorability of numerous proposed names. The objective is to generate brand recognition and patient trust.

Many a times drug names differ by a syllable, prefix or suffix despite serving different therapeutic purposes. These are called look-alike and sound-alike (LASA) drug names. Their similarity can confuse not only patients, but also trained doctors and pharmacists who work under severe time pressures.

Prescribing the Problem

The risks posed by LASA drug names are magnified by the realities of India's healthcare system. A Comptroller and Auditor General [report](#) on government hospitals in Uttar Pradesh found that outpatient consultations commonly lasted for two minutes. Doctors often write hurried prescriptions and have little time to explain the medicines to patients.

Pharmacists operate under similar pressures. Another CAG [audit](#) of Delhi hospitals found that each pharmacist routinely attended to over 200 patients, while deciphering illegible prescriptions and managing staff shortages.

Patients increasingly navigate healthcare by themselves. A recent survey [found](#) that 8 out of 10 patients in Delhi NCR searched online after consulting a doctor because they remained unclear about their medicines. Many depend on remembered brand names and self-medication.

This convoluted ecosystem demands regulation before harm occurs.

Reactive Trademark Law

Confusing pharmaceutical names are traditionally regulated through trademark law. Sections 9(2)(a) and 11 of the Trade Marks Act, 1999 prohibit the registration of marks that are likely to cause confusion or are deceptively similar to an earlier trademark.

In [Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd.](#), where the similarity between the marks of two drugs was being disputed, The Supreme Court observed that medicines are a different class of goods. This is because confusing one medicine for another may result in therapeutic failure. Accordingly, the Court held that instead of focusing only on visual or phonetic similarity, courts must also consider the nature of the medicines, their therapeutic use, the class of purchasers, and the mode of purchase.

Trademark litigation however cannot be a one-stop for drug regulation, as litigation is inherently reactive, and it is initiated by private manufacturers to secure their good will and commercial interests. Preventing errors resulting from LASA drug names requires a regulatory intervention before a proprietary name is introduced into clinical practice.

Sluggish Regulation

As per section 17B of the Drugs and Cosmetics Act, 1940, a drug that has a name similar to another drug and is likely to confuse, is considered a spurious drug. Although the provision partially captures the problem of resemblance and confusion. It does not prescribe the standards for adjudging similarity.

Relying on it, the Court in Cadila suggested that regulators could require applicants to check for likelihood of confusion before proposing names. Eventually, it directed the Ministry of Health and Family Welfare (MoHFW) to develop a framework to curb the menace of LASA drugs. The Delhi High Court in [Curewell Drugs & Pharmaceuticals Pvt. Ltd. v. Ridley Life Science Pvt. Ltd.](#) Echoed this sentiment. Thereafter, the 59th report of the Parliamentary Standing Committee on Health and Family Welfare also reemphasised the judicial directives.

After a long vacuum, the MoHFW introduced the Drugs and Cosmetics Amendment Rules, 2019 requiring companies to self-certify that their proposed names are unlikely to cause confusion, and to upload the proposed names on the database hosted by CDSCO's SUGAM portal.

But this reform papered over. A survey of 137 postgraduate residents at a tertiary hospital showed that 39% of medical errors continued to be a result of LASA drug names. While the SUGAM database was made publicly searchable only in 2024, after the [Drugs Consultative Committee](#) reiterated the suggestion. Even now this portal only enables browsing across existing drug names, it does not offer any standards for determining similarity.

Courts and regulators have recognised that LASA drug names need to be curbed in unison. But no one has clarified the methodology for doing so.

Call for Proactive Regulation

International experience demonstrates that LASA assessments require structured methodologies. The United States Food and Drug Administration [evaluates](#) proposed proprietary names through phonetic and orthographic analysis, wherein it is determined if two drug names sound or appear similar when they are spoken or written. It also conducts simulated prescribing and dispensing tests, to see if healthcare professionals are likely to confuse the names while reading handwritten prescriptions or selecting medicines from a pharmacy shelf. Similarly, health Canada [focuses](#) on factors like visual and sound similarity and the clinical context of prescription and dispensation.

CDSCO must adapt these international methodologies to India's multilingual prescribing environment. A predictable set of standards need to define how similar is too similar, in what all conditions should a name sound and appear to be similar, to which stakeholders should it seem similar. This would provide greater certainty to manufacturers and assist doctors and pharmacists in identifying potential risks.

A medicine name is not merely a commercial identity, but a constituent element of the patient safety architecture. Hence, its regulation cannot be ex-post. While the CDSCO collects inputs from the industry, a significant regulatory decision awaits it- whether LASA drug names should be regulated through trademark or patient safety principles or both. The answer is not easy, but it nevertheless has to be excavated.

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