



## news flash

### September 2023



### NEWSFLASH

#### Blenders Pride vs Royal Challenge American Pride

##### **Introduction**

In a trademark dispute involving Pernod Ricard India Private Limited (“**Pernod**”), the proprietor of the "Blenders Pride" trademark, and United Spirits Limited (“**USL**”), the proprietor of "Royal Challenge American Pride" trademark, the Apex Court issued a directive to the trial court in Mohali, to expedite the proceedings and render a decision within a timeframe of six months.

##### **Background**

Pernod acquired the trademark for "Blenders Pride," from its predecessor namely, Seagrams Company Limited which was registered in 1994 and thereafter, the predecessor of Pernod launched a whiskey under the Trademark "Blenders Pride" in India. In the year 2019, USL filed an application seeking registration of the trademark "Challenger American Pride" for the goods falling under similar description. Thereafter, USL applied for the approval of the label with the competent authorities at Mohali in Punjab.

Pernod, on being aware of the same, immediately filed their objections. In furtherance to protect their trademark, Pernod also filed an application for cancellation of USL’s trademark which is currently pending.

In addition to the above, Pernod filed a suit for injunction on account of infringement before the Commercial Court in Mohali which was dismissed. Thereafter, an appeal against the said order was filed by Pernod, before the High Court of Punjab and Haryana.

The High Court in its judgment dated 21 March 2023, stated that it is too far stretch that by use of word "Pride", there could be any misconception or dilution in the mind of the common man on the street, who is the ultimate consumer, which would lead to any confusion and Pernod had failed to demonstrate as to how it is facing any irreparable loss or injury. Further, the High Court also stated that the similarities of the single word cannot be taken as an infringement and/or passing off and hence dismissed the said appeal.

## **Supreme Court's decision**

Owing to the above, Pernod approached the Supreme Court and in its decision dated 6 September 2023, determined that the current stage of the case should be addressed within the Mohali trial court. The Supreme Court refused to interfere with the judgment of the High Court of Punjab and Haryana and Commercial Court of Mohali and instructed the lower court to adjudicate on the matter within the next six months. Significantly, it emphasized that the trial court's decision should be rendered independently, free from any influence stemming from the observations made in the former decisions.

## **Conclusion**

In today's fast-paced business world, adoption and registration of a generic or descriptive word like "Pride" in a trademark can result in many drawbacks. While the Supreme Court has dealt with a noticeable issue of delays by the trial court in deciding Pernod's matter, the question of whether using the generic mark "Pride" will give Pernod protection, is yet to be ascertained by the trial court. In similar cases such as Big Basket vs Daily Basket, PhonePe vs BharatPe etc. it was established that no exclusivity can be claimed over such marks unless the marks are totally distinct and capable of acquiring another meaning.

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