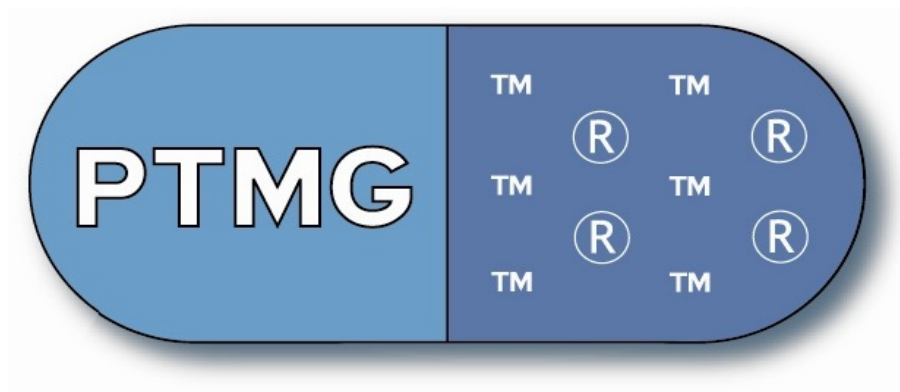




Rahul Bagga

Dentons Link Legal

DENTONS

International Case Round Up

Rahul Bagga
Partner - Head IP, Dentons Link Legal

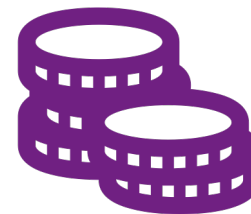
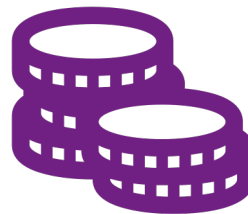
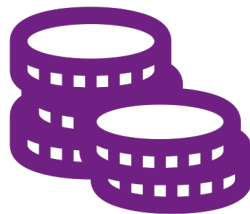
Loke Khoon Tan
Partner – Head of IP & Technology Practice

Before We Begin...

Quick Challenge: You have three protection tokens. Where would you invest them?

- A. Invented product name
- B. Therapeutic wording
- C. Distinctive package shape
- D. Signature colour combination
- E. Simple geometric logo
- F. Company house mark

Choose three. You have 10 seconds.



The Roadmap

01

Your Asset: What Do You Really Own?

- The nature of the right itself: registration limits, distinctiveness, and scope
- Where is the line between protectable and unprotectable elements?

02

What Wins?

- Evidence, conduct, procedure, and practical outcomes
- Proving use, reputation, confusion, and compliance

03

Your Remedy: Emerging Models of Enforcement

- The UK's dynamic site-blocking model

Part 1

Your Asset: What Do You Really Own?

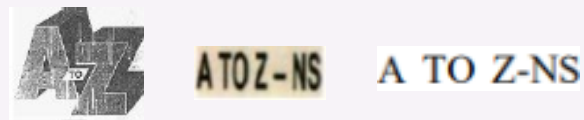
❖ The Nature of the Right

- Which elements are protectable?
- Where does distinctiveness reside?
- What can registration not do for you?
- Where does your right stop in the marketplace?



India – Interim Injunction

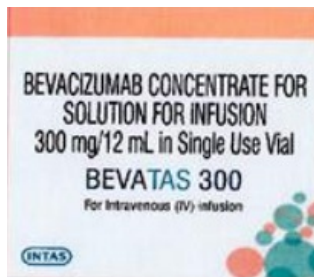
Alkem Laboratories Ltd v Prevego Healthcare and Research Pvt Ltd
CS(COMM) 84/2025, 17 January 2026



- "A TO Z" is descriptive and generic for multivitamins (vitamins are known by letters; A TO Z connotes a complete range) – no monopoly in the letters A and Z
- The parties' marks were considered as a whole, and are not deceptively similar - "Multivein" changes the overall impression
- The overall impression of the competing trade dresses is different considering the font, text, and colour scheme and there is no copyright infringement
- Interim injunction refused

India – Interim Injunction Appeal

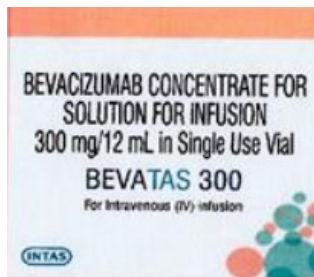
- Sun Pharma's registered mark BEVETEX (applied 1983, registered 1990; used only from 2015 for Paclitaxel, a cytotoxic chemotherapy agent)
- Intas's mark BEVATAS (coined from BEVAcizumab + inTAS; launched 2016 for the monoclonal antibody Bevacizumab; c. 22% market share, 75,000+ patients)
- Interim injunction refused (2018), upheld on appeal (2020)
- Single Judge (March 2026): held deceptively similar; granted permanent injunction
- Division Bench (May 2026): appeal allowed; suit dismissed; costs to Intas



India – Interim Injunction Appeal (cont'd)

The Division Bench's reasoning

- **Different medicines:** Different active ingredients, therapeutic uses, dosages and modes of administration; the products were not substitutes
- **Weak shared element:** BEV / BEVA were commonly used for Bevacizumab products; BEVETEX and BEVATAS were sufficiently different when compared as wholes
- **Specialist purchasing environment:** Different packaging and labelling; expensive prescription medicines handled by oncologists and trained professionals
- **Insufficient evidence of confusion:** No cogent evidence from oncologists, pharmacists or nurses explaining how confusion could realistically arise



“

Part 1: Conclusion – Your Asset

“

The Real Identifier

- Protection follows the elements that identify commercial origin
- Descriptive, generic and decorative elements attract limited exclusivity

“

The Boundary of Protection

- Registration does not protect every element of a composite mark
- Reputation in a name does not automatically extend to get-up

Hong Kong – Trade Mark Opposition Appeal

"萬里追風油" (Wan Li Zhui Feng You, meaning "Ten-Thousand-Mile Wind-Chasing Oil" in English)
[2025] HKCFI 3087, 16 July 2025



- "Ten-Thousand-Mile Wind-Chasing Oil" had become a common generic name for medicated oils
- Distinctive character resided in the other components of the mark
- Opposition rejected
- Opponent appealed on procedural grounds of whether the Hearing Officer had been **entitled to make a finding of genericness in the absence of an express pleading of genericness or a revocation application**

Hong Kong – Trade Mark Opposition Appeal (cont'd)

"萬里追風油" (Wan Li Zhui Feng You, meaning "Ten-Thousand-Mile Wind-Chasing Oil" in English)
[2025] HKCFI 3087, 16 July 2025

Can genericness be considered without revocation?

Court of First Instance – dismissing the appeal:

- The earlier registrations were neither revoked nor invalidated
- Assessing the distinctive character of the shared element was necessary to the likelihood-of-confusion analysis
- Revocation and assessment of distinctive character are legally distinct inquiries
- The Applicant's evidence of common third-party use was unchallenged

Practical implications:

- Registration of a composite mark does not confer exclusivity over every element
- Generic or weakly distinctive wording may carry little weight in opposition proceedings
- An adverse finding may limit the registration's practical value in later disputes
- Proprietors should monitor third-party use and avoid using marks as product descriptions



Hong Kong – Trade Mark Opposition

"滅濕痛" (Mie Shi Tong, meaning "Dispels Dampness and Pain" in English)

[2026] HKTMR 13-15, 16 April 2026

BEVADON FORTE CREAM
強力滅濕痛 滲透止痛膏

GUTONGXIA MST
滅濕痛

德國天地坊柏林 NST
滅濕痛

A.	Bavide 滅濕痛	B.	Bavide 滅濕痛
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Where did distinctiveness reside?

- The term "滅濕痛" (Mie Shi Tong) described the products' therapeutic purpose and had low distinctiveness
- The Opponent did not establish acquired distinctiveness in that wording
- The distinctive character of the Opponent's Mark resided principally in "BEVADON"

Different outcomes:

- GUTONGXIA / MST: Rejected
- NST: Rejected
- BAVIDE: Succeeded because BAVIDE was moderately similar to BEVADON for identical goods

Hong Kong – Trade Mark Invalidation

"美妍" (Mei Yan, meaning "Beauty" in English)

[2026] HKTM 25, 17 July 2026

青春寶

美妍青春寶

- The Applicant's Marks are recognized as well-known marks in Mainland China from at least 2000
- The added characters "美妍" (Mei Yan, meaning "Beauty" in English) are descriptive of the products and of low distinctiveness
- Both parties sell nutritional supplements; implausible that the Registrant had no knowledge of the earlier well-known mark
- Registrant failed to explain the origin of the subject mark
- Registration invalidated for bad faith

Singapore – Trade Mark Opposition

Merck KGaA v Pfizer Inc
[2026] SGIPOS 7, 18 May 2026



- The word elements MAVENCLAD and ABRYSVO are the dominant and distinctive components; the concentric-circle logos are simple, evoke no concept and are decorative
- This decision is consistent with the Australian opposition decision in the same dispute of 8 January 2026

New Zealand – Trade Mark Opposition

Maen Oja International Nutrition Co Ltd v Swisse Wellness Pty Ltd
[2026] NZIPOTM 15, 26 June 2026



- Swisse opposed a Class 5 label mark said to resemble its label design and colour scheme
- Reputation established in the SWISSE name in New Zealand, but not independently in the label and colours
- Different verbal elements outweighed similarities in layout and colour
- Consumers of these supplements pay a reasonable degree of attention
- Bad faith failed - knowledge of the earlier mark is not enough on its own
- Well-known status not proven where sales figures were inflated by foreign markets

Part 2

What Wins?

Evidence, conduct, procedures,
and practical outcomes

❖ Relevant considerations include:

- Proving use, reputation, and distinctiveness
- Proving confusion in specialist markets
- Expert witnesses: oncologists, pharmacists, and nurses
- Candour, conduct, and compliance with undertakings
- The practical fate of existing stock



Hong Kong – Non-Use Cancellation

“風痛療 Gingium plus” (Feng Tong Liao, meaning "Wind-Pain Therapy")
[2026] HKTMR 3, 4 February 2026

- Non-use cancellation filed by Hung Win Trading Company Limited against the registration in Class 5 owned by Japan Pharma Co., Ltd.
- Evidence relied upon
 - Facebook photograph posted after the non-use cancellation application;
 - Nine invoices issued to connected parties; and
 - Most invoices showed a distinctive house mark "天地坊" (Tian Di Fang, meaning "Sky and Earth Lane")
- Registration cancelled:
 - No use proved during the relevant period
 - No outward facing commercial use established
 - Added house mark altered the distinctive character



Malaysia – Trade Mark Invalidation and Non-Use Cancellation

Dong-A Pharmaceutical Co Ltd v Chen Zhen-Rui
[2026] AMEJ 1279, 20 April 2026

- Korean pharmaceutical company Dong-A's IR mark for "FATION" in Class 3 and 35
- Defendant's identical "FATION" registration blocked Dong-A's IR designation in Malaysia
- Dong-A established standing through international adoption, Malaysian distribution arrangements, regulatory notifications, local sales and actual prejudice, and established the Defendant's prima facie non-use with evidence from Google, marketplace, and social media searches
- Defendant neither appeared nor produced evidence of genuine use
- Registration revoked for non-use
- Registration also invalidated for confusion, passing off, fraud or misrepresentation, and lack of entitlement to judicial protection



India – Well Known Trade Mark Declaration

GlaxoSmithKline Pharmaceuticals Ltd v Walter Healthcare Pvt Ltd,
CS(COMM) 403/2025, 15 May 2026

- CALPOL / CALPOL FAST v WALPOL - ex parte interim injunction granted in May 2025
- Defendants agreed to abandon WALPOL, withdraw the application, and pay INR 200,000 in damages

Remaining issue: whether CALPOL qualified as a well-known trade mark

- Evidence supporting well-known status:
 - More than 35 years of continuous use in India
 - 2024 sales exceeding INR 3 billion and 200 million pack units
 - Nationwide distribution through pharmacies, stockists and online platforms
 - Sustained advertising, promotion, and media coverage
 - Registration history dating to 1965
 - Six successful enforcement actions in 2024-2025
- CALPOL declared a well-known trademark for medicinal and pharmaceutical products



Malaysia – Trade Mark Infringement (Summary Judgment)

Kotra Pharma (M) Sdn Bhd v Ho Choi Yee
[2026] AMEJ 1039, 9 April 2026

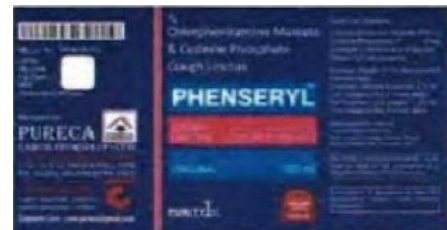
- CREOBIC (antifungal cream) – counterfeit products bearing the identical mark sold by the Defendant through an e-commerce platform
- Summary judgment application by Kotra
- Comparison of the infringing product with the genuine product established a prima facie case of infringement
- Defendant's arguments – that she was merely a reseller and had **no knowledge** that the products were counterfeit – held not to affect liability for infringement
- Summary judgment entered on liability; injunction granted



India – Trade Mark Infringement (Summary Judgment)

Opella Healthcare Group v Pureca Laboratories Pvt Ltd, CS(COMM)
552/2024, 22 July 2026

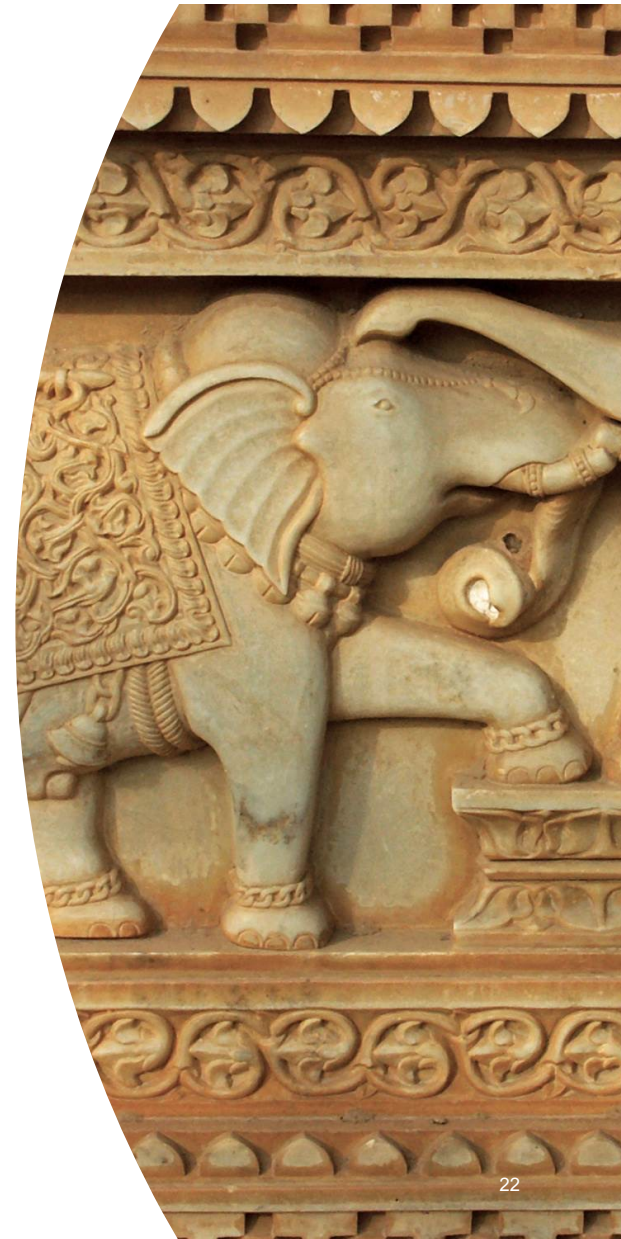
- Opella: PHENSEDYL (cough syrup; adopted 1954, registered in India 21 July 1954, used in India since 1995 through sub-licensees; Sanofi group) and its blue-and-pink trade dress
- Pureca: adopted PHENSERYL and a near-identical trade dress
- Ex parte interim injunction 9 July 2024
- Defendant's only defence: its own trade mark and copyright registrations.
- Both were cancelled by the court on 12 November 2024 in rectification proceedings
- Defendant stopped appearing and was set ex parte on 20 July 2026
- Applied for summary judgment - granted



India – Breach of Undertakings

Laboratoires Griffon Pvt Ltd & Anr v Rajiv Mukul & Ors
IA 3540/2022 in COMM IP Suit 213/2022, 13 January 2026

- GLIMET / GLIMET DS (anti-diabetic; registered Nos 579544 and 2676118) v GLYNET (first suit, 2021) and GLYZET (second suit)
- Defendants undertook to cease using **GLYNET** and dispose of existing stock within 90 days
- Test purchases in July 2021: orders for GLYZET products were fulfilled with GLYNET products, some manufactured in May 2021 – after the undertakings; defendants' affidavit stated (falsely) that they had ceased use and that the products were made in May 2020
- The adoption of **GLYZET** was a calculated attempt to defeat the earlier order
- Interim injunction granted; costs of Rs 50,00,000 payable within 12 weeks (12% interest thereafter)
- Registry directed to take steps for false statements on oath



“

Part 2: Conclusion – What Wins?

“

Evidence Decides

- Use, reputation and distinctiveness require targeted, relevant evidence (e.g. use of the mark as registered)
- Confusion must be proved in its commercial context

“

Conduct and Context Matter

- Liability may not depend on knowledge or intention
- Breaching undertakings carries serious consequences

Part 3

Your Remedy: Emerging Models of Enforcement

A view from the UK: "dynamic" website blocking
against counterfeit medicines

Novo Nordisk A/S & Anor v British
Telecommunications plc & Ors [2026] EWHC 1094
(Ch) and [2026] EWHC 1535 (Ch)

<https://ptmg.org/wp-content/uploads/2026/07/LLP-Spotlight-July-2026.pdf>



The first order – Novo Nordisk v BT [2026] EWHC 1094 (Ch) (13 May 2026)

- Application against six major UK internet service providers
- Four websites offered counterfeit and unlicensed prescription medicines
- Claims based on trade mark infringement, passing off and breaches of the Human Medicines Regulations
- The MHRA had attempted to take down the websites and supported the application
- Blocking was expected to reduce UK traffic to the websites by approximately 98%
- No lawful products were offered on the target websites
- **Outcome: website blocking order granted. The public health interest strongly supported intervention**

The "dynamic" order – Novo Nordisk v BT [2026] EWHC 1535 (Ch) (23 June 2026)

Why was a dynamic mechanism needed?

- Operators registered new mirror domains to circumvent the first order – more than 130 further websites were identified

How does the mechanism work?

- Novo Nordisk assesses a website against confidential criteria (court approved), self-certifies, notifies ISPs—no fresh court application is required for each site

Why was it approved?

- Discretion exercised because: (i) alignment with the MHRA's interests and support; (ii) the order plugs a gap in control of the online environment that creates a public-health risk; (iii) Novo Nordisk has the resources and rigour to monitor, and the risk of "overblocking" legitimate trade is negligible

Regional Building Blocks for Dynamic Blocking



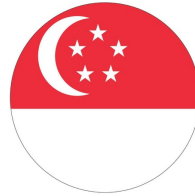
Australia

Statutory and adaptable site-blocking under section 115A of the Copyright Act, including mechanisms for additional domains and mirror sites



New Zealand

No express statutory site-blocking regime, although the possible use of the High Court's inherent jurisdiction remains open



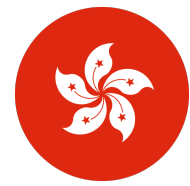
Singapore

Statutory copyright site-blocking, with dynamic orders used against new domains and IP addresses providing access to the same infringing locations



India

"Dynamic injunctions" against rogue websites developed in copyright and applied by the Delhi High Court against counterfeit and infringing websites



Hong Kong

No established statutory site-blocking framework for IP infringement, only a general injunction power

Key takeaways

“**01**

Your Asset: What Do You Really Own?

- Weak elements stay weak (descriptors, generic terms, decorative devices)
- Registration does not protect every element of a composite mark
- Protection ends where the shared element is not distinctive

“**02**

What Wins?

- Use, reputation and distinctiveness require targeted evidence
- Confusion must be assessed in its commercial context
- Liability may not depend on knowledge or intention

“**03**

Your Remedy: Emerging Models of Enforcement

- Dynamic blocking responds to mirror and successor websites
- The UK model combines court oversight, regulator support and rights-holder monitoring
- A model to watch, and potentially adapt, in the region

DENTONS

Thank you!

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