

ROOH AFZA VS. DIL AFZA: WHEN SIMILARITY BREEDS CONTROVERSY



Introduction- The Deceptive Similarity Dilemma

In 2019, Bisleri highlighted counterfeit issues with brands like Belsri and Brisleri, questioning whether consumers recognize the difference. With over 3,000 local brands controlling 65% of India's ₹15,000 crore packaged water market, deceptive similarity is a growing concern for premium brands.

Deceptive similarity occurs when a trademark closely resembles another, causing consumer confusion and harming brand reputation. Trademark laws aim to prevent such misuse, but legal tests like the anti-dissection rule and dominant feature rule often lead to differing interpretations.

In the recent case of Hamdard National Foundation & Anr. v. Sadar Laboratories Pvt. Ltd., the Delhi High Court addressed this ambiguity by prohibiting the manufacture and sale of 'Dil Afza', ruling that its overall commercial impression was confusingly similar to the well-known brand Rooh Afza. This judgment attempts to bring clarity to how deceptive similarity is assessed, offering guidance on balancing consumer protection with fair competition.

Facts of the Case

In this case, Hamdard National Foundation and Hamdard Dawakhana appealed for an injunction against the respondent's use of the trademark "Dil Afza," claiming it infringed on their well-known mark "Rooh Afza." They argued that the name, design, and packaging were deceptively similar and filed a lawsuit in the Delhi High Court after issuing a cease-and-desist notice.

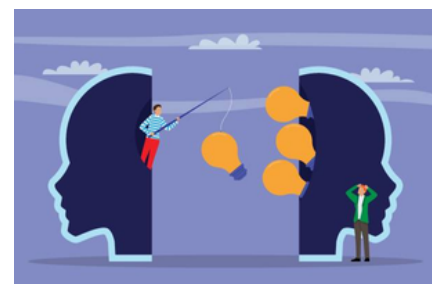
The single-judge bench dismissed the suit, ruling that "Rooh Afza" must be considered as a whole and that "Dil Afza" was distinct enough to avoid confusion. Dissatisfied, the appellants appealed to a division bench, which overturned the earlier ruling and decided in their favor.

The Clash Between Anti-Dissection and Dominant Feature Rules

The anti-dissection rule, under Sections 15 and 17 of the Trademarks Act, mandates that a trademark be considered as a whole, as consumers perceive it in its entirety. In *Cadila Healthcare Ltd v. Cadila Pharmaceuticals Ltd.*, the court affirmed that trademarks should be assessed from the perspective of an average consumer with imperfect recollection.

Conversely, the dominant feature rule, though not explicitly in the Act, has evolved through judicial interpretations. It focuses on the most distinctive element of a trademark to determine deceptive similarity, as reinforced in *South India Beverages Pvt. Ltd. v. General Mills Marketing Inc.*

While seemingly contradictory, courts have clarified that these principles complement each other. In *Stiefel Laboratories v. Ajanta Pharma Ltd.*, the *Delhi High Court* held that identifying a dominant feature is a preliminary step in assessing confusion, not a rejection of the anti-dissection rule. Together, these doctrines ensure balanced trademark evaluation and consumer protection.



Decoding the Verdict

The Delhi High Court recognized "Rooh Afza" as a strong trademark deserving heightened protection. It applied the dominant feature rule, noting that "Rooh" (soul) and "Dil" (heart) evoke similar sentiments, creating a common commercial impression. The anti-dissection rule further reinforced that trademarks must be assessed as a whole, and "Dil Afza" bore deceptive similarity to "Rooh Afza" due to the shared term "Afza," which has no direct relation to sweet beverages but is strongly associated with Rooh Afza's goodwill.

Referencing *Kenner Parker Toys v. Rose Art Industries* and *Planters Nut & Chocolate Co. v. Crown Nut Co.*, the Court highlighted Rooh Afza's century-long goodwill, necessitating a "safe distance" from the mark. As the respondents failed to prove independent goodwill, the Division Bench overturned the Single Judge's order and issued an interim injunction in favor of Hamdard Laboratories, safeguarding the 100-year-old "Rooh Afza" trademark from deceptive imitation.

Conclusion

The Delhi High Court's ruling in favor of Hamdard Laboratories rightly safeguards long-established trademarks from deceptive imitation. Given Rooh Afza's century-old goodwill, allowing a similar name like Dil Afza would have led to consumer confusion and unfair advantage. The Court correctly applied trademark principles, emphasizing overall commercial impression over literal meaning. By granting an injunction, it reinforced trademark integrity, consumer trust, and fair competition. To avoid future disputes, businesses must actively protect their trademarks while courts balance brand protection with market fairness.