Is a Cease and Desist Notice Legally Binding in India: Consequences of an IP Dispute for Startups

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For a startup founder, a cease and desist notice can arrive at an uncomfortable point in the life of a business: when a brand is gaining recognition, a product is entering the market, or technology is beginning to acquire commercial value. The notice may allege trademark infringement, copyright infringement, patent infringement or another violation of intellectual property rights, and may demand that particular conduct stop.

But a cease and desist notice is not itself a judgment that infringement has occurred. It is, generally, an assertion of a legal position and a demand based on that position. The distinction is important because the legal strength of the demand depends on the underlying intellectual property right, the facts surrounding its use and the remedies potentially available.

Indian courts have encountered such notices in a variety of IP disputes. In *Mankind Pharma Ltd. v. Gurinder Singh*, the Delhi High Court recorded a cease-and-desist notice issued in relation to a disputed trademark and also considered the recipient's reply to that notice. The case illustrates a basic feature of such correspondence: a notice may formally bring an alleged conflict to the other party's attention, but the competing positions and underlying facts remain part of the dispute.

What exactly is being asserted?

The words "cease and desist" do not, by themselves, identify the nature or strength of the legal claim.

A trademark dispute may concern the similarity of marks, the goods or services for which they are used, the likelihood of confusion, prior use or the scope of registered rights. A copyright dispute can involve questions of authorship, ownership, originality and reproduction. A patent dispute may turn on whether the allegedly infringing product or process falls within the scope of the patent claims. Design disputes raise yet another set of questions concerning the registered design and the allegedly infringing article.

That distinction can become particularly important where both parties have a history of using or developing similar intellectual property.

A notice is an allegation, not an adjudication

The formal tone of a legal notice can sometimes make the recipient assume that the sender's position has already been legally established. Indian case law demonstrates why that assumption can be problematic.

In *Drums Food International Pvt. Ltd. v. Euro Ice Cream*, the Bombay High Court considered proceedings in which the plaintiff sought a declaration that a cease and desist notice concerning the mark "HOKEY POKEY" was an unjustified and groundless threat. The dispute therefore went beyond the existence of the notice itself: the legal basis and consequences of the asserted trademark rights were also placed before the court.

The case is significant for a broader reason. A cease and desist notice represents the position of the party issuing it; it does not, merely because it has been issued, transform that position into a judicial finding.

For founders, this distinction matters. An IP dispute may involve genuine infringement, a disagreement over the scope of rights, competing claims to ownership or use, or a more complicated question of priority. The notice is the point at which the dispute is articulated; it is not necessarily the point at which it is legally resolved.

Why history and timing can become important

Intellectual property disputes are often disputes about chronology.

When was a brand first adopted? When was it first commercially used? When was an application filed? Who created the work? Who owns the rights? Was there an assignment or licence? When did the competing party begin using its own intellectual property?

For startups, these questions can become significant because intellectual property is often closely tied to the identity and value of the business itself. A name may appear across a website, application, packaging and social-media presence. A technical feature may sit at the centre of a product. Copyright-protected material may be integrated into marketing, software or other commercial assets.

The growing scale of India's IP ecosystem makes these questions increasingly relevant. Government data shows that applications filed in India by Indian citizens across patents, designs, trademarks, copyright, geographical indications and semiconductor layout-designs increased from **4,77,533 in FY 2020–21 to 6,89,991 in FY 2024–25—a 44% increase**. During the same period, Indian patent applications rose from 24,326 to 68,176 and Indian trademark applications from 4,18,594 to 5,38,665.

These figures do not indicate how many disputes exist. They do, however, illustrate the expanding volume of intellectual property being created and sought to be protected in India.

The consequences can go beyond the demand to "stop"

The commercial significance of an IP dispute can be much wider than the wording of a cease and desist notice suggests.

Depending on the right involved and the proceedings brought, an IP dispute can raise questions concerning injunctions, damages, accounts of profits and other forms of relief. Under Indian trademark and copyright law, courts have statutory powers to grant civil remedies in appropriate infringement proceedings.

The potential business consequences can therefore extend to the continued use of a brand, product packaging, technology, creative material or other commercial assets.

The transition from correspondence to litigation can be seen in *Hawkins Cookers Ltd. v. Khaitan Pressure Cooker Pvt. Ltd.* before the Calcutta High Court. The judgment records that the plaintiff had issued a cease and desist notice concerning an allegedly infringing label and that, after the defendant did not comply, the plaintiff instituted a suit seeking permanent injunction and damages. The defendant, in turn, disputed the alleged similarity and the originality of the plaintiff's work.

The significance of the case lies not in suggesting that every notice will lead to litigation, but in showing how a private demand can become part of a larger judicial dispute when the underlying disagreement remains unresolved.

For startups, the business consequences may be larger than the legal document

An established company may be able to separate one disputed asset from a broader portfolio. For an early-stage startup, that may be considerably more difficult.

A brand can be deeply embedded in customer recognition and acquisition. A product may have been built around a particular technical feature. Marketing expenditure may already have been incurred. Distribution arrangements, contracts and commercial relationships may have been developed around the disputed identity or product.

This is why the significance of a cease and desist notice cannot always be measured by the length of the letter or the particular demand made in it.

The underlying question can become much larger:

That is a legal question, but it is also a business question.

A cease and desist notice is therefore a point of assessment

There are two equally unhelpful assumptions a founder can make.

The first is that receiving a notice automatically means the startup has infringed someone's rights.

The second is that because the document is not a court order, it can simply be disregarded.

Neither assumption captures the complexity of an IP dispute.

The significance of the notice depends on the right being asserted, the factual history behind the claim, the competing rights of the parties and the consequences that may follow if the dispute progresses.

For a startup operating in an environment where intellectual property filings have grown substantially over recent years, these questions are becoming increasingly relevant. A cease and desist notice is not the final determination of an IP dispute—but neither is it merely a piece of correspondence to be considered in isolation.

It is the point at which an allegation concerning an intellectual property asset becomes a formal dispute between two parties, with the possibility that the legal and commercial consequences may extend well beyond the notice itself.

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