

# Khadi Mark Registration Under the Trademark Law: An Analysis

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## Abstract

Khadi mark is a Certification Mark specifically is a cultural mark protected under the trademark law. This paper is to provide the legal protection of khadi mark as well as the role of Khadi and Village Industries Commission (KVIC) regarding the registration and monitoring the use of the mark. Only the genuine hand spun and hand woven products are applicable for the protection as Khadi. The analysis focused on the legal framework of Trademark Act, 1999 and the role of KVIC in protecting, monitoring and licensing of Khadi. This paper mainly highlights the authenticity of Khadi, which carries national heritage as well as very helpful for sustainable development and its protection as a Khadi Mark under the trademark law and monitored by the KVIC for any kind of misusing.

**Keywords:** Khadi Mark, Trademark, Cultural Mark, Certification Mark, Intellectual Property Rights in India, Trademarks Act, 1999, Khadi and Village Industry, KVIC

## INTRODUCTION

*"If we have the khadi spirit in us, we would surround ourselves with simplicity in every walk of life"*

- Mahatma Gandhi

Khadi is primarily a cotton-based hand-spun and handwoven fabric mainly found in Bangladesh, Pakistan, and India. From spinning the threads on a spinning wheel to weaving on a handloom, this handmade heritage handloom fabric is created entirely by hand. It refers to any handloom fabric made from cotton, silk, or wool that has been spun into yarn on a spinning wheel, or from a combination of two or more of these yarns. It is a fabric that is commonly used in fashion circles and is cool in the summer and warm in the winter. Way more it can be said that khadi is handloom but not all handlooms are khadi because to be khadi the yarn must be hand spun and handwoven but the same thing does not apply to handloom.<sup>1</sup>

At present time, khadi is regarded as a cultural mark because of its heritage use. During the time of freedom movement against the Britishers, Mahatma Gandhi started the swadeshi movement where people started using the khadi cloths as of their Indian identity and boycott any kinds of foreign products<sup>2</sup>. The Trademarks Registry has recognized "KHADI" as a well-known trademark since it was adopted in September 1956 and registered in many classes. This article is providing the knowledge regarding the

<sup>1</sup> Government Of Assam Handloom Textiles & Sericulture, <https://hts.assam.gov.in/portlets/khadi-production-0>

<sup>2</sup> What is Khadi Exactly?, Jan 4, 2019, [https://cottonrack.com/blogs/journal/what-is-khadi-exactly?srsltid=AfmBOoqi5HZXph\\_dScC5XB0dn7CN2kUtV70R6GskPJW2C1DNL40ojBXI](https://cottonrack.com/blogs/journal/what-is-khadi-exactly?srsltid=AfmBOoqi5HZXph_dScC5XB0dn7CN2kUtV70R6GskPJW2C1DNL40ojBXI)

registration of khadi mark as a cultural mark under the Trademark Act by the Khadi and Village Industries Commission( KVIC).<sup>3</sup>

### Scope of the study

The study is confined to the legal analysis of Khadi mark, that it is a certification mark more preciously cultural mark under the Trademark Act, 1999. This study anso highlighted the role of KVIC in protecting and enforcing the Khadi mark. It provides License to the persons or the businesses who are dealing with the Khadi products.

The scope includes the analysis of statutory provisions, judicial pronouncements and the administrative practices which helps to protect the mark as well as the study helps to understand the misuse and unauthorised use of the mark.

### Objective of the study

1. To understand the origin, legal status of the khadi mark
2. To explore the category of trademark by analysing the Trademark Act, 1999
3. To evaluate the role of KVIC in protecting the Khadi mark
4. To analyse the legal challenges faced to protect the khadi mark

### Literature Review

#### Narayanan, P., Law of Trademarks and Passing off ( 6<sup>th</sup> edition, 2023)

The author in this book enlightened an elaborative discussion on certification mark as per the Trademark Act, 1999. Though the book is not directly deals with the Khadi mark or the role of KVIC but to understand about the certification mark its misuse or the unauthorised use the book plays great role.

#### Kasheva. S. R., The Khadi and Village Industries in Globalised India: Role, Challenges and Future ahead (International Journal of Interdisciplinary Studies, Vol. 1)

This research paper solely focused on the role of KVIC, the challenges it faced regarding the enforcement. It also provides the future scope for the growth of Khadi and Villege Industries. Though the research paper not emphasize more on trademark act but to understand about the KVIC the research paper plays very crucial role.

### Research Methodology

This study is fully based on the qualitative method of research under which doctrinal and analytical approach is majorly followed. For the doctrinal approach of research emphasis on various legal framework and principles which laid on various sources like the statutes, legal documents, articles, journals, various case, books and many more. While the analytical approach refers to the process of collecting data, analysing of data, interpreting, deduction and at the end reaching to the conclusion. By formulating hypothesis this study using the analytical approach of the research thoroughly.

### What is Khadi?

The term "khadi" refers to textile that is hand spun and made from desi cotton. Khadi cloth is woven on charkhas, which are handlooms made from natural fibers like as cotton, silk, or wool spun into yarn on a

<sup>3</sup> Akanksha Kar, Protecting the Reputation and Goodwill of Trademark Owners: The Dispute over "Khadi" Trademark, Feb 21 2024, <https://www.lexology.com/library/detail.aspx?g=353443b8-fb66-4958-abb8-8b9b1c10b111>

spinning wheel, or a combination of any two or all of these fibers/yarns. Khadi is environmentally friendly, produces no waste, and has no carbon imprint. These charkhas also use less electricity.<sup>4</sup>

Before independence, khadi was produced of short-stapled cotton, but as the Industrial Revolution progressed, demand for long-stapled cotton increased and was imported from the United States. Desi cotton eventually died extinct. There are now only a few acres where it grows. Ambar charkhas and new-model charkhas are now being employed to suit the growing global demand for khadi.

Khadi has a strong and deep meaning in India; it is more than just a handwoven textile; it is a complete movement. Khadi is more than just a cloth; it represents a way of life. It represents independence and a return to the basics. The Khadi movement, founded by Gandhiji, justify a concept, namely that Indians might be self-sufficient in cotton and free of foreign textile and clothes. The British would buy cotton at a low price from India and export it to Britain, where it would be weaved into garments. These clothing were sent back to India and sold for a high price. The khadi movement intended to promote Indian products while rejecting foreign commodities, notably cotton. In the 1920s, Mahatma Gandhi began advocating khadi spinning for rural self-employment and self-reliance (rather than buying industrially manufactured cloth from Britain), making khadi a vital aspect and icon of the Swadeshi movement. Khadi embodies the spirit of Swadeshi. The word 'Khadi' reminds us of the struggle for freedom. 'Khadi' is more than simply a fabric; it played a significant role in India's freedom and is now making a comeback by establishing the latest fashion trends while also supporting sustainability. The "Swadeshi Movement," which increased textile and khadi production in India, is also a trend toward sustainability. Khadi continues to astound people all around the world, encouraging sustainable fashion and establishing some of the most recent fashion trends.<sup>5</sup>

### What is Trademark?

A trademark typically protects symbols, such as a word, phrase, symbol, logo, design or typography. Companies, banks, telecommunication, airlines, etc. may also utilize a service mark to protect their services in the same way that trademarks protect goods. Trademarks also helping to develop different types of marks at global level such as sound mark, taste mark, smell mark.

A 'trademark' is a mark that can be represented visually and is capable of differentiating one person's goods or services from those of others. It may include the shape of goods, their packaging, and colour combinations.<sup>6</sup>

A 'mark' can be a device, brand, header, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging, colour combination, or any combination of the above.<sup>7</sup>

A "certification trade mark" is a mark that can be used to differentiate goods or services that are used in the course of business and that are certified by the mark's owner regarding their origin, material, method of manufacture, quality, accuracy, or other characteristics from goods or services that are not so certified and registrable as such under Chapter IX for those goods or services in the owner's name as the certification trade mark's proprietor.<sup>8</sup> Some well-known certification marks are ISI Mark, AGMARK, Hallmark, WOOLMARK, BIS etc. The Khadi marks are also considered as a certification mark.

<sup>4</sup> The World of Khadi, Mar 13, 2025, <https://textilevaluechain.in/in-depth-analysis/articles/basics-of-textiles/the-world-of-khadi>

<sup>5</sup> Sakshi Jain, Analysing the Case Khadiv Khadi, Jun 23, 2021, <https://blog.ipleaders.in/analysing-the-case-of-khadi-v-khadi/>

<sup>6</sup> See The Trade Marks Act, 1999 § 2(1) (zb)

<sup>7</sup> See The Trade Marks Act, 1999 § 2(1) (m)

<sup>8</sup> See The Trade Marks Act, 1999 § 2(1) (e)

That means trademark includes various types of combinations of words, names, letters.

### **The Khadi and Village Industries Commission (KVIC) Act, 1956**

For the purpose of promoting and developing textiles, the Khadi and Village Industries Commission was created as a statutory body under the Khadi and Village Industries Commission Act, 1956. Adopted in September 1956, the trademark "KHADI" is registered in multiple classes and has been acknowledged by the Trademarks Registry as a well-known trademark.<sup>9</sup> According to the Khadi Mark Regulations, 2013, certified khadi institutions and individuals who produce, sell, or trade in khadi and khadi products must affix the khadi mark tags and labels issued by the Commission in order to authenticate genuine khadi, as defined by the KVIC Act.<sup>10</sup> The KVIC Act which is defined khadi as cloth handwoven in India from cotton, silk, or woollen yarn hand-spun in India, or from a mixture of any two or all of these yarns.<sup>11</sup> The Khadi Mark Regulations, 2013, have been notified for the aim of authenticating genuine khadi, as defined in the Khadi and Village Industries Commission Act, 1956. These regulations state that no textile shall be sold or traded as khadi or khadi goods in any form or manner unless it bears a Khadi Mark tag or label granted by the Committee.<sup>12</sup>

### **The Fabindia Dispute**

KVIC is the sole regulatory body for the khadi certification as well as it is look after the matter of unauthorised use of khadi. Fabindia in the year 2017 used the khadi mark on its products without any authorisation from KVIC. A suit was filed against the Fabindia under trademark act<sup>13</sup> for the infringement of khadi mark.

According to KVIC no product can be sold as khadi unless it has the Khadi Mark. Furthermore, any private brand or producer of khadi must source khadi from a government-approved khadi institution. This is the only way to protect the khadi artisans. Thus, firms like Fabindia that wish to sell khadi clothing must, in compliance with the existing legal framework, apply for a Khadi mark Regulation.<sup>14</sup> As a result Fabindia remove the mark as well as the advertisement campaign.

Similar action was taken by the KVIC on the Khadi essentials, Khadi Face marks, Khadi PPE kits. From that it is showing the activeness of KVIC regarding the unauthorised use of khadi mark.

### **Registration of Khadi Mark**

Khadi mark is basically a certification mark. All Khadi Producing Institutions must now register for the "KHADI MARK" certificate to ensure the genuineness of their Khadi. Khadi Institutions that have achieved the "KHADI MARK" Certification will only be considered for recruitment under government supply.

The procedure of registration of khadi mark is enumerates in the Chapter VI of Khadi Mark Regulation,

<sup>9</sup> Akanksha Kar, Protecting the Reputation and Goodwill of Trademark Owners: The Dispute over "Khadi" Trademark, Feb 21 2024, <https://www.lexology.com/library/detail.aspx?g=353443b8-fb66-4958-abb8-8b9b1c10b111>

<sup>10</sup> Ministry of Micro, Small and medium Enterprises (Khadi and Village Industries Commission), RID/KRDP/Khadi Mark Launch/110/2013-14 (Issued on January 06, 2014)

<sup>11</sup> See The Khadi and Village Industries Commission Act, 1956 § 2(d)

<sup>12</sup> See The Khadi and Village Industries Commission Act, 1956 § 27

<sup>13</sup> See The Trade Mark Act, 1999 § 29

<sup>14</sup> Cheshta Sharma, Legal ownership of KHADI, Apr 22, 2017, <https://www.iipta.com/legal-ownership-khadi/>.

2013.<sup>15</sup> The KVIC is the statutory body for promoting and regulating khadi. The khadi mark is also registered before the KVIC. The KVIC has the exclusive right to registered the khadi mark along with the charkha logo as a trademark under The Trade Mark Act, 1999. In the event that Khadi is awarded a GI tag by the trademark registrar, the KVIC may still be able to maintain their trademark under the GI Act, which permits the registration of a GI as a trademark in good faith.<sup>16</sup>

To register the khadi mark the applicant must have filed an application before the KVIC. The ID Proof, product sample, and other documents are necessary to file the application. After receiving the application KVIC will conduct an inspection of the premises of the applicant for the verification of the compliance of the khadi mark standard and finally if the applicant fulfil all the requirement KVIC will issues a khadi mark registration certifice accordingly. The whole process is required 15 to 30 month.<sup>17</sup>

### Case Law

*Khadi and Village Industries Commission V. Raman Gupta And Ors.*<sup>18</sup>

The plaintiff in this action asserts that the Charkha logo and the KHADI word and logo marks are registered to them. It added that a statutory corporation is used to market its KHADI marks, and that Khadi product promotion has received a lot of attention lately on a global scale. The plaintiff further asserted that it broadened its commercial operations to include a variety of medical items, including hand sanitisers, which are widely utilised by the general population, during the COVID-19 pandemic. The Hon'ble court issued an ex-parte order on the plaintiff's prima facie case because it believes that the use of the registered trademark "KHADI," particularly for medical products like PPE kits, hand sanitisers, and fireballs, without any quality control is not only against the plaintiff's rights but also against the public interest because there is no quality supervision.

Furthermore, the use of the Charkha emblem and the mark "KHADI BY HERITAGE" on the website may give the impression that the Defendants are connected to, supported by, or linked with the Plaintiff. The use of the term "KHADI" as a mark, logo, or device in a business name or trading style is prohibited and illegal.

The Hon'ble Court believes that denying the ex parte could have a significant negative impact on the general public's daily lives. In order to prevent the defendants, their partners, directors, distributors, and anybody else working on their behalf from producing, marketing, or offering for sale any goods, such as PPE kits, masks, hand sanitisers, fireballs, or any other products bearing the trademark "KHADI BY HERITAGE" or any of the Plaintiff's creative works, wordmarks, or logos, an interim injunction was granted.

*Khadi and Village Industries Commission V. Girdhar Industries & ANR*<sup>19</sup>

The defendant is a soap and detergent company who has registered the trademark "GIRDHAR KHADI" under Class 3 of the Act. According to the Plaintiff, the Defendant's use of the mark "GIRDHAR KHADI"

<sup>15</sup> Khadi Mark Regulation 2013 § 22.

<sup>16</sup> Shubham Shende, Khadi: A Trademark Or GI?, Aug 03, 2018, <https://www.mondaq.com/india/trademark/725328/khadi-a-trademark-or-gi>.

<sup>17</sup> West Bengal Khadi & Village Industries Board, <https://www.wbkvib.org.in/index.php/khadi-d/khadi-special/khadi-mark>

<sup>18</sup> Khadi & Village Industries Commission vs Raman Gupta And Others, decided by Delhi High Court on 4<sup>th</sup> March, 2022, available at: <https://indiankanoon.org/doc/91668083/>.

<sup>19</sup> Khadi and Village Industries Commission v. Girdhar Industries, 2023 SCC OnLine Del 8446... <https://www.sconline.com/blog/post/2024/01/03/delhi-hc-denies-interim-injunction-to-khadi-and-village-industries-commission-in-trade-mark-infringement-dispute-legal-news/>.



is misleadingly similar to its own mark "KHADI" and is likely to lead to consumer misunderstanding and deceit. Additionally, it claims that the defendant is passing off its goods as KVIC's by using the mark "Girdhar Khadi."

The Delhi High Court denied the KVIC temporary relief. This was based on a number of factors, but most importantly, the court decided that Girdhar Industries could not be charged with infringement because it had a legitimate registration for GIRDHAR KHADI. The court made it clear that KVIC had to demonstrate that, by the time Girdhar Industries began using the mark, it had gained the required reputation and goodwill. After this date, any goodwill or reputation associated with the KVIC mark was irrelevant for determining legal value. The court declined to prohibit Girdhar Industries from using the GIRDHAR KHADI mark, concluding that the KVIC could not prove that KHADI had gained the required goodwill and reputation in relation to soaps and detergents before Girdhar Industries did.

### Challenges

The KVIC faced lots of challenges while protecting the Khadi mark. The challenges are as follows-

1. First and foremost, challenge is misuse of khadi mark. Though it is protected still many retailers, ecommerce users use the khadi mark without certified from the KVIC. That cause misrepresentation and authenticity problem to the consumers.
2. Lack of awareness is also a great problem in this field. Because khadi is the product mainly belongs to the village industries, but the small enterprises and the artisans are unaware about the legal protection and the benefit of it.
3. In the digital age due to lack of digitalisation and digital authenticity consumers face lots of problem regarding the genuineness.
4. A great problem caused that the khadi is in generic term also used for handloom products but in broader perspective the handloom and khadi both are very different so regarding the distinction it became very difficult.
5. KVIC is struggling to protect the Khadi mark because of the limited legal infrastructure and the man strength.

### Suggestion

To eradicate the challenges, the followings are very important to implement.

1. KVIC and government should conduct the public campaign to educate the small industries and artisans about the legal significance to enhance awareness.
2. Required to use updated digital technology and various tools for verification of the authenticity.
3. To protect for the misusing, it needs to regular inspection and monitoring by the KVIC to comply with its standard.

### Conclusion

Khadi mark has a rich cultural heritage. It is symbol of independence movement which was started by Mahatma Gandhi. Khadi was the movement started to boycotting the foreign goods so it can be said that the movement is for the self-reliance, self-dependant. Its registration and protection are critical for preserving its distinctive identity and value. While the Trademark Act of 1999 protects trademarks, the Khadi Mark is registered under the Khadi and Village Industries Commission (KVIC) Act of 1956, which grants the KVIC additional protection and exclusive rights.

The Khadi Mark Registration under Trademark Law is an important legal and commercial tool for safeguarding the authenticity and goodwill associated with Khadi products. While the Trade Marks Act of 1999 provides a basis for trademark registration, the Khadi and Village Industries Commission (KVIC) maintains exclusive rights to the "Khadi Mark" under the Khadi Mark Regulations of 2013.

Judicial precedents, such as Khadi & Village Industries Commission v. Fabindia Overseas Pvt. Ltd. (2021), illustrate the courts' recognition of KVIC's authority as well as the need of preventing the term "Khadi" from being misused. To use "Khadi" legally, firms must comply with both KVIC regulations and trademark legislation due to the overlap between the two processes.

This one-of-a-kind registration process emphasises the necessity of preserving India's cultural heritage and intellectual property.