

# Is Reverse Passing Off Illegal in India? Delhi High Court Clarifies the Law

**Case:** Western Digital Technologies Inc. & Anr v. Geonix International Private Limited & Ors

**Court:** Delhi High Court

**Area of Law:** Trademark Law / Passing Off

**Key Legal Issue:** Whether reverse passing off—removing the original brand identity from goods and selling them under another brand—constitutes an actionable tort under Indian trademark law.

**Court's Principle:** Reverse passing off is not independently recognized as an actionable tort in India because passing off requires misrepresentation causing consumer confusion.

## Introduction

Trademark law plays a crucial role in protecting the goodwill and reputation of businesses while ensuring that consumers are not misled about the origin of goods or services.

One concept that has recently attracted attention in Indian trademark jurisprudence is 'Reverse Passing Off.'

Unlike traditional passing off, reverse passing off involves removing the original brand identity from a product and selling it under a different brand name.

The legal position regarding this issue was examined in the case of Western Digital Technologies Inc. & Anr v. Geonix International Private Limited & Ors.

The Delhi High Court clarified that reverse passing off is not an independently actionable tort in India, though liability may still arise depending on the circumstances.

## What Is Reverse Passing Off?

Reverse passing off occurs when a person removes the original trademark or branding from a product and markets the product as their own.

For example, a trader may purchase genuine storage devices manufactured by Western Digital, remove the brand markings, and sell the products under another label.

In such a situation, the trader is not claiming that the goods belong to Western Digital, but instead presenting them as their own product.

This distinction forms the basis for the legal reasoning adopted by Indian courts.

## Traditional Passing Off Under Indian Law

Indian trademark law recognizes passing off as a common law remedy intended to protect business goodwill and prevent consumer confusion.

### **1. Goodwill**

The plaintiff must demonstrate that the brand enjoys reputation and goodwill in the market.

### **2. Misrepresentation**

The defendant must have misrepresented their goods or services in a manner that causes consumers to believe that they originate from the plaintiff.

### **3. Damage**

The misrepresentation must have caused actual or potential damage to the plaintiff's goodwill.

## **Conclusion**

The decision in *Western Digital Technologies Inc. & Anr v. Geonix International Private Limited & Ors* clarifies an important nuance in Indian trademark law.

While reverse passing off is not an independently actionable tort, businesses must remain cautious because similar conduct may still attract liability if it results in consumer deception or trademark infringement.

Indian trademark jurisprudence ultimately focuses on protecting consumers from confusion and safeguarding business goodwill.