

## IP Hotline

July 09, 2018

### FERRERO AWARDED RS1 MILLION IN DAMAGES FOR INFRINGEMENT OF FERRERO ROCHER TRADE DRESS

This article was originally published in the 15<sup>th</sup> May 2018 edition of



#### BACKGROUND

Plaintiff Ferrero Spa is an Italian confectionery giant which is part of the Ferrero Group, founded in 1946. It is ranked amongst the biggest four confectionery producers in the world. The plaintiff was also listed as the most reputable company in the world by the Reputation Institute Survey of 2009 and as reported by the *Economist* and *Forbes Magazine*.

The plaintiff conducts business in India through Ferrero India Private Limited. Although the Indian entity was incorporated only in 2008, the plaintiff's products were sold on the Indian market much earlier. Further, the plaintiff's Ferrero Rocher products have been available in India for a considerable length of time and enjoy a formidable consumer base, "who swear by the chocolates' uniqueness of taste, as well as their distinct visual appeal".

The plaintiff has secured numerous trademark registrations in India and worldwide for its FERRERO ROCHER mark and the other elements making up its mark - ie, the trade dress. The plaintiff has been extremely vigilant in protecting its rights in the mark and trade dress across the world; as a consequence, judicial forums worldwide, including in India, have recognised and enforced the plaintiff's rights in the mark and trade dress on several occasions and granted the plaintiff relief against third parties.

Ruchi International (the first defendant) is an importer and marketer of chocolates in India under the brand name Golden Passion, which are lookalikes of the plaintiff's Ferrero Rocher chocolates, sold under the FERRERO ROCHER mark and trade dress. These chocolates are manufactured and exported from China by the second defendant under the brand Golden Passion.

During the pendency of the suit, the first defendant settled the matter amicably with the plaintiff. A compromise decree was passed by the High Court of Delhi in an order dated May 26 2016, and the suit proceeded *ex parte* against the second defendant.

**Ferrero awarded Rs1 million in damages for infringement of Ferrero Rocher trade dress**

– Puja Saha & Pooja Kapadia

You can direct your queries or comments to the authors

#### DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

## Research Papers

### Evolution of Generative AI

July 11, 2024

### From Capital to Impact: Role of Blended Finance

June 15, 2024

### Opportunities in GIFT City

June 14, 2024

## Research Articles

### Private Client Insights - Sustainable Success: How Family Constitutions can Shape Corporate Governance, Business Succession and Familial Legacy

January 25, 2024

### Private Equity and M&A in India: What to Expect in 2024?

January 23, 2024

### Emerging Legal Issues with use of Generative AI

October 27, 2023

## Audio

### Pursuing Remedies against Non-signatories in Investment Agreements

July 03, 2024

### Why is the ad industry unhappy with MIB's self-declaration mandate?

June 18, 2024

### Incorporation of arbitral clause by reference: Position in India and other Asian Jurisdictions

June 12, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

[Click here to view Hotline archives.](#)

## Video

### Self Declaration Certificate For Ads: Decoding The Complexities Of Ad Regulations

July 08, 2024

**Future of India-Mauritius tax treaty –  
Impact of new Protocol on M&A  
deals and Private Equity structures**

April 23, 2024

**Q&A 2024 Protocol to the Mauritius  
India Tax Treaty**

April 22, 2024