

# Meenaxi Enterprise, Inc. v. Coca-Cola Co. 38 F.4th 1067 (Fed. Cir. 2022)

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## BACKGROUND

Appellant, Meenaxi Enterprise, Inc. (“Meenaxi”), has produced and sold beverages in the United States under the marks THUMS UP and LIMCA since 2008. Meenaxi’s THUMS UP and LIMCA beverages are predominately sold in Indian grocery stores in the United States. Meenaxi claimed they conducted two trademark clearance searches for U.S. beverages before adopting the marks. For the first search, Meenaxi claimed they visited several Indian grocery stores since they cater to Meenaxi’s target consumers. For the second search, Meenaxi claimed they conducted a trademark search through the United States Patent and Trademark Office (“USPTO”) database. The USPTO database search showed an abandoned application from 1987 for a THUMS UP mark and an expired registration from 1996 for a LIMCA mark.

After determining the two marks were not registered nor in use in the United States, Meenaxi sought, and was granted, registration of its THUMS UP and LIMCA marks in 2012. Both marks were registered in International Class 32 for “Colas; Concentrates, syrups or powders used in the preparation of soft drinks; Soft drinks, namely, sodas.”<sup>1</sup>

Appellee, Coca-Cola Company (“Coca-Cola”), started selling beverages in India in 1950. Parle Exports (“Parle”) began selling the soft drinks LIMCA in India in 1971 and THUMS UP in 1977. In 1993, Coca-Cola acquired Parle and its trademarks. Coca-Cola has sold THUMS UP and LIMCA in India and other international countries. Coca-Cola claimed that since 2005, third parties have imported and sold Coca-Cola’s THUMS UP and LIMCA beverages in the United States. However, Coca-Cola does not have registrations for their THUMS UP and LIMCA marks in the United States.

## PROCEDURAL HISTORY

In 2016, appellee Coca-Cola brought a trademark cancellation proceeding against appellant Meenaxi in the United States. Coca-Cola claimed Meenaxi was misrepresenting the source of its goods by using trademarks identical to Coca-Cola’s Indian-registered trademarks from 1993.<sup>2</sup> Specifically, Coca-Cola claimed that Meenaxi was mispresenting the source of its beverages and damaging Coca-Cola’s reputation because the U.S. consuming public

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1. Meenaxi Enter., Inc. v. Coca-Cola Co., 38 F.4th 1067, 1070 (Fed. Cir. 2022).

2. 15 U.S.C. § 1064.

would think Meenaxi's beverages were Coca-Cola's products. Coca-Cola supported its claim by providing evidence that Meenaxi had previously admitted knowledge of Coca-Cola's THUMS UP and LIMCA marks in India.

Meenaxi countered that Coca-Cola lacked statutory standing. Specifically, Meenaxi's argued the territoriality doctrine limits international trademark rights to the countries where the mark is utilized. Meenaxi relied on the territoriality doctrine because Coca-Cola did not use its THUMS UP or LIMCA marks in U.S. commerce. The Trademark Trial and Appeal Board ("TTAB") initially heard the case. They considered whether Coca-Cola had statutory standing under § 14(3) of the Lanham Act to pursue a cancellation proceeding against Meenaxi.<sup>3</sup>

The TTAB made its determination by considering whether Coca-Cola had: (1) an interest in the matter that fell in the zone of interest that the Lanham Act protects, and (2) an injury that was approximately caused by Meenaxi's violation of the Lanham Act. The TTAB found that Coca-Cola was interested in protecting its U.S. reputation because many Indian consumers living in the United States likely knew of Coca-Cola's THUMS UP and LIMCA marks. The TTAB also found there could be an injury caused by Meenaxi's use of the marks due to potentially upsetting the expectations of the relevant consumers.

The TTAB ruled in Coca-Cola's favor, holding that Meenaxi was attempting to misrepresent the source of its goods under the THUMS UP and LIMCA marks. The TTAB subsequently canceled the registration of Meenaxi's trademarks on June 28, 2021. Meenaxi appealed to the United States Court of Appeals for the Federal Circuit.

### ISSUE

The Federal Circuit addressed whether Coca-Cola had statutory standing to bring a cancellation cause of action against Meenaxi Enterprise, Inc.

### DECISION

The Federal Circuit reversed the TTAB's cancellation of Meenaxi's federally registered THUMS UP and LIMCA trademarks because Coca-Cola did not establish that it had a cause of action under the Lanham Act. Although the Court found that Coca-Cola's lack of domestic ownership of the marks did not preclude its claim, it determined that Coca-Cola ultimately did not satisfy the standing requirements to bring a statutory cause of action under the Lanham Act.

### REASONING

As mentioned, the Federal Circuit was set to determine whether Coca-Cola had statutory standing to bring the cancellation proceeding against

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3. *Id.*

Meenaxi. The court began by reiterating that in a cancellation proceeding based on misrepresentation of the source, the court was required to consider whether Coca-Cola had: (1) an interest in the matter that fell in the zone of interest that the Lanham Act protects, and (2) an injury that was approximately caused by Meenaxi's violation of the Lanham Act. To demonstrate injury, Coca-Cola had to show that it experienced: (1) lost sales in the United States as a result of Meenaxi's use of the THUMS UP and LIMCA marks in commerce, and (2) a reputational injury in the United States as a result of Meenaxi's use of the THUMS UP and LIMCA marks in commerce.

Before reviewing the requirements, the court established that Coca-Cola was not precluded from bringing the action and rejected Meenaxi's argument relying on the territoriality doctrine. The doctrine establishes that international trademark rights usually only extend to the countries in which the mark is used. However, the court reasoned that cancellations proceedings for misrepresentation of source could be brought by anybody who believes they could be damaged by a registered trademark, regardless of whether they are a trademark holder. Therefore, Coca-Cola was not precluded from bringing this action.

The court then addressed the statutory standing requirements for a cause of action under the Lanham Act. Here, the court agreed with Meenaxi in that Coca-Cola did not suffer a sufficient injury for standing purposes because (1) Coca-Cola did not establish that it lost sales in the United States due to Meenaxi's use of the THUMS UP and LIMCA marks, and (2) Coca-Cola did not establish its reputational injury in the United States due to Meenaxi's use of the THUMS UP and LIMCA marks.

The court agreed with Meenaxi that Coca-Cola did not show lost sales because it provided insufficient evidence. Specifically, the court said that evidence of: (a) third-party sales in the United States, (b) minimal sales of THUMS UP at the World of Coca-Cola in Atlanta and Orlando, and (c) indefinite plans to introduce THUMS UP and LIMCA to the U.S. market, were insufficient in showing loss of U.S. sales. Therefore, Coca-Cola failed to establish that it lost sales of its THUMS UP and LIMCA beverages in the United States due to Meenaxi's use of the marks.

As for reputational injury, the court determined the TTAB improperly relied on stereotyped speculation that assumes Indian-Americans would have any awareness of brands in India because there was no consideration of whether those individuals ever visited or lived in India. The court explained that Coca-Cola had not shown how its commercial interests were adversely impacted by a reputational injury other than speculating that dissatisfied consumers of Meenaxi's goods may blame Coca-Cola. The court also explained that limited sales of Coca-Cola's Thums Up and Limca beverages by third parties did not show Coca-Cola's reputation in the United States. Furthermore, the court determined that evidence of a single instance of U.S. consumer awareness of Coca-Cola's THUMS UP mark was insufficient. As such, Coca-Cola failed to establish that it lost any sales in the United States due to Meenaxi's use of the marks.

For the aforementioned reasons, the court reversed the TTAB's cancellation of Meenaxi's registered THUMS UP and LIMCA trademarks. Specifically, Coca-Cola did not have statutory standing because it failed to show lost sales or a reputational injury in the United States due to Meenaxi's use of the THUMS UP and LIMCA marks.