

# INDIA IPR - ENFORCEMENT DIGEST

EDITION | OCT - DEC 2023

# DECODING AND DEMYSTIFYING BRANDJACKING



## Featuring Inside

- ◎ Brandjacking Unveiled
- ◎ Counteracting Brandjacking through Collaboration
- ◎ Navigating Socio-Economic Crimes and Brandjacking
- ◎ Comprehensive Strategies Against Brandjacking



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# P R E F A C E

In the complex and interconnected global business environment, safeguarding trademarks from brand squatters emerges as a paramount challenge. This challenge is particularly evident because, even with the best intentions, companies, irrespective of their size or influence, cannot establish a physical presence in every market worldwide.

Brand jackers, individuals or entities with opportunistic motives, take advantage of the absence of original trademark owners in specific domains. By doing so, they seek to capitalize on the popularity and recognition of trademarked goods, presenting a substantial menace to both the brand's integrity and the overall efficacy of the trademark system. In response to this threat, the existence and role of Trademark Registries on a global scale become crucial. These registries serve as guardians, diligently maintaining accurate records and facilitating legal avenues for dispute resolution, playing a pivotal role in thwarting the illicit activities of brand jackers. To effectively counteract brand jacking, a synergistic collaboration among brand owners, legal professionals, and trademark offices becomes indispensable. This coordinated effort ensures a comprehensive and strategic approach in addressing the multifaceted challenges posed by those seeking to exploit the vulnerabilities in the trademark protection landscape.

**IN THE GLOBAL BUSINESS ARENA, SAFEGUARDING TRADEMARKS FROM BRAND SQUATTERS IS A CRITICAL CHALLENGE. BRAND JACKERS EXPLOIT THE ABSENCE OF ORIGINAL OWNERS, POSING A SIGNIFICANT THREAT TO BRAND INTEGRITY. A COORDINATED EFFORT AMONG STAKEHOLDERS IS ESSENTIAL TO COUNTERACT BRAND JACKING.**

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**Strategic IPR, Risk & Anti-Terror Expert**

## WHAT IS BRANDJACKING : AN OVERVIEW

Brandjacking is a deceptive practice wherein individuals or groups maliciously exploit a brand's identity for their own nefarious purposes. This insidious activity encompasses a range of tactics aimed at undermining the brand's integrity and causing harm to its reputation. One prevalent manifestation of brandjacking involves the creation of counterfeit or fraudulent social media accounts that impersonate the brand, leading to potential confusion among consumers.

In addition to the creation of fake profiles, brandjackers often engage in the dissemination of false information, leveraging these fabricated identities to spread misinformation about the brand. This can include malicious rumors, misleading content, or harmful narratives that tarnish the brand's image. Such deliberate efforts to manipulate public perception can have detrimental effects on consumer trust and loyalty.

Furthermore, brandjacking extends beyond the virtual realm, with perpetrators employing various activities aimed at causing tangible harm to the brand.

This may involve the production and distribution of counterfeit products, unauthorized usage of the brand's intellectual property, or even association with illicit activities that implicate the brand in a negative light.

The impact of brandjacking is far-reaching, with potential consequences including financial losses, erosion of consumer trust, and long-term damage to the brand's reputation. To mitigate the risks associated with brandjacking, brands must remain vigilant in monitoring their online presence, proactively addressing instances of impersonation or misinformation, and implementing robust security measures to safeguard against malicious exploitation.

## SMUGGLING AND GRAY MARKET GOODS

Intellectual property infringement refers to the unauthorized use, reproduction, or trade of protected creations across borders, often done to evade legal obligations, such as copyright, trademark, or patent regulations imposed by the destination country. This illicit activity involves the unlawful transfer of intellectual property across international borders without adhering to legal requirements. Infringers frequently employ clandestine methods to conceal their actions, including the use of counterfeit packaging, false documentation, or digital means. Illicitly traded intellectual property encompasses a broad range, including pirated software, counterfeit goods, and unauthorized reproductions of copyrighted works.

This comparison provides a clear picture of the progress made in combating counterfeiting in different states over the course of a year.

Smuggling, characterized by illegal cross-border activities, encompasses the unlawful transportation of goods across international borders without complying with legal requirements. It often employs covert methods such as hidden compartments or human carriers.

In summary, while smuggling involves illegal cross-border activities with a diverse range of goods, gray market goods pertain to legal products entering the market through unauthorized channels, creating challenges for brand owners, authorized distributors, and consumers.

The range of smuggled goods is vast, including drugs, weapons, wildlife, and counterfeit products. The consequences of smuggling are significant, causing economic losses for governments, contributing to security concerns related to organized crime, and distorting markets by fostering unfair competition.

On the other hand, Gray market goods refer to genuine, branded products imported and sold through unauthorized channels outside the manufacturer's official distribution network. While these products are legal, they enter the market through unauthorized means, typically parallel importation. Gray market goods are not counterfeit, but they may be sold at prices lower than those set by official distributors, leading to price disparities.

The impact of Gray market goods includes brand erosion due to unauthorized sales, potential conflicts with authorized distributors, and consumer confusion regarding product quality and after-sales services. In contrast, smuggling primarily affects public finances, raises security concerns, and distorts markets through unfair competition.



## UNDERSTANDING SMUGGLING AND GRAY MARKET GOODS

Smuggling and gray market goods represent two intertwined challenges in commerce. Smuggling involves illegal cross-border activities, while gray market goods are legal products entering the market through unauthorized channels. Both present obstacles for brand owners, distributors, and consumers. This discussion explores their implications and strategies to address them.

### Understanding Smuggling

**Definition:** Smuggling is the illegal transportation of goods across borders to evade taxes, regulations, or restrictions.

**Involvement:** Criminal networks often engage in smuggling, moving products like counterfeit goods, drugs, or even people secretly.

### Exploring Gray Market Goods

**Definition:** Grey market goods are legal products sold outside the authorized distribution channels set by the brand or manufacturer.

**Characteristics:** These goods are genuine but may lack proper warranties or support, causing concerns for both consumers and brands.

### Common Ground between Smuggling and Grey Market

**Distribution Channels:** Smuggled goods and grey market products may share illegal distribution channels, as both seek alternative paths to reach consumers.

**Risk to Brands:** Both activities can harm relationships between brands and authorized distributors, impacting a brand's control over its products.

### Consumer Impact

**Smuggled Goods:** Consumers may unknowingly purchase smuggled items, facing potential legal consequences or supporting illicit activities.

**Grey Market Goods:** Consumers buying grey market products may experience challenges with warranties and customer support, affecting their overall satisfaction.

### Legal Distinctions

**Smuggling:** Involves the illegal movement of goods across borders, attracting legal consequences for both smugglers and buyers.

**Grey Market:** Operates within legal boundaries but tests the limits of authorized distribution, causing concerns for brand reputation.

### Intersection of Activities

**Common Methods:** Smuggling can serve as a means for both counterfeit goods and genuine grey market products to enter markets.

**Brand Identity Exploitation:** Smuggling networks may exploit brand identities, leading to instances of brandjacking, impacting consumer trust.

### Impact on Markets

**Market Integrity:** The convergence of smuggling and the grey market poses challenges to market integrity, making it crucial for authorities to combat these activities.

**Consumer Awareness:** Educating consumers about the risks associated with both smuggled and grey market goods is essential for maintaining a healthy marketplace.

*In conclusion, while smuggling and the grey market differ in legality, they intersect through shared distribution channels and potential harm to brand relationships. Both activities impact consumers, market integrity, and the reputation of brands, emphasizing the need for effective measures to curb unauthorized trade.*

*Smuggling involves the illegal transport of goods across borders to evade taxes and regulations, often facilitated by criminal networks. On the other hand, grey market goods are legal products sold outside authorized distribution channels, raising concerns about warranties and brand control. Though legally distinct, smuggling and the grey market share commonalities such as the use of alternative distribution channels and potential harm to brand relationships. Both activities impact consumers, market integrity, and brand reputation, underscoring the importance of addressing unauthorized trade through effective measures and consumer education.*

## IMPACTS ON BRANDS AND CONSUMER TRUST: GRAY MARKET GOODS AND SMUGGLING

### Challenges of Gray Market

The gray market encompasses the legal sale of products through unauthorized channels without the explicit approval or involvement of the brand or manufacturer. This phenomenon poses potential risks to established relationships with authorized distributors and can detrimentally impact the overall reputation of the affected products. Among the wide array of items susceptible to gray market trade are cameras, automobiles, watches, and even pharmaceuticals.

In the context of the gray market, products are legally acquired but are diverted from the intended distribution channels specified by the brand. This diversion can occur due to a variety of reasons, such as parallel importing, where products are sourced from regions where they are priced lower, and then resold in regions where they command a higher price. Despite the legality of the products themselves, the unauthorized nature of their distribution can strain the connections between manufacturers and their authorized distributors.

The potential consequences of gray market activities extend beyond financial implications. Brands may face challenges in maintaining control over the distribution and pricing of their products, leading to inconsistencies in customer experience and undermining carefully crafted marketing strategies. Furthermore, the lack of control over the supply chain can compromise the authenticity and warranty support associated with the products, eroding consumer trust in the brand.

### Relation between Brandjacking, Smuggling and Gray Market Goods

Brandjacking, smuggling, and the trade in grey market goods are interconnected through the unauthorized use of brand identities. While grey market goods involve legal sales outside authorized channels, counterfeiting goes further, producing fake items often smuggled across borders. Smuggling networks facilitate the illegal trade, impacting both grey market and counterfeit goods. Brandjacking exploits brand identities for fraudulent purposes, creating deceptive online presences or misrepresenting product authenticity. Overall, the convergence of these activities poses risks to consumer trust, brand reputation, and the integrity of markets, with smuggling acting as a common thread linking these illicit practices.

In industries such as electronics, automobiles, and pharmaceuticals, where quality, safety, and reliability are paramount, the gray market poses heightened risks. Consumers may unknowingly purchase products lacking the expected level of warranty or after-sales support, potentially resulting in dissatisfaction and negative reviews. Overall, the gray market represents a complex challenge for brands, requiring a multifaceted approach to mitigate the associated risks and maintain a strong and controlled market presence.

### The Dark Business of Illicit Smuggling

Illicit smuggling operations thrive on the substantial profits associated with trafficking various commodities. High-end watches, cigarettes, and liquor are often smuggled to exploit regional price differentials, while exotic animals are trafficked for their rarity. Human smuggling involves illegally moving individuals across borders to evade immigration laws.

The profitability of these ventures stems from factors such as desirability, tax differentials, and market demand. However, these activities pose significant risks, including the erosion of biodiversity, public health concerns, and the exploitation of vulnerable individuals. The illicit trade underscores the complex interplay of economic incentives, legal loopholes, and criminal networks.



## OCTOBER-DECEMBER 2023 RAID ACTIONS – INDIA

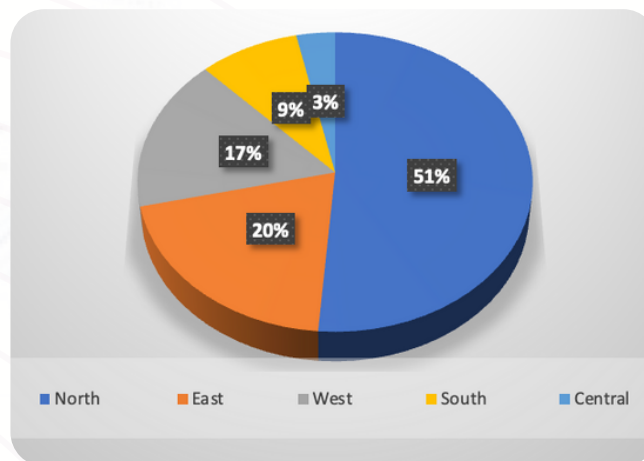
## COUNTERFEIT CASES : OVERVIEW

## ZONE, STATE, AND INDUSTRY TRENDS: A COMPREHENSIVE OVERVIEW

The October-December 2023 edition reveals a growing concern: counterfeit products. A total of **503 cases** have been reported, indicating a significant escalation of the issue.

## ZONE WISE:

An analysis of counterfeit cases highlights significant variations in prevalence across different geographic zones. The North zone reports the highest number, with 258 instances of counterfeit cases. Following this, the East zone records 101 cases, the West zone 83, the South zone 44, and the Central zone 17 cases.



This detailed breakdown underscores the varying degrees of counterfeit activity present in each region. It serves as a critical reminder of the importance of understanding and addressing the unique challenges and circumstances faced by different areas.

The prevalence of counterfeit cases in certain zones may be influenced by a variety of factors, including population density, economic activity, and regulatory enforcement. Additionally, cultural and social factors may also play a role in shaping the demand for counterfeit goods in specific regions.

Recognizing these variations is essential for devising effective strategies to combat counterfeiting. By tailoring interventions to the specific needs and circumstances of each zone, authorities and stakeholders can maximize their impact in mitigating the proliferation of counterfeit products.

Such tailored interventions may encompass a range of initiatives, including increased surveillance and enforcement efforts, public awareness campaigns, and collaboration with local businesses and communities. By engaging stakeholders at the grassroots level and fostering a collaborative approach to tackling counterfeiting, it becomes possible to create more targeted and impactful interventions.

## OCTOBER-DECEMBER 2023 RAID ACTIONS – INDIA

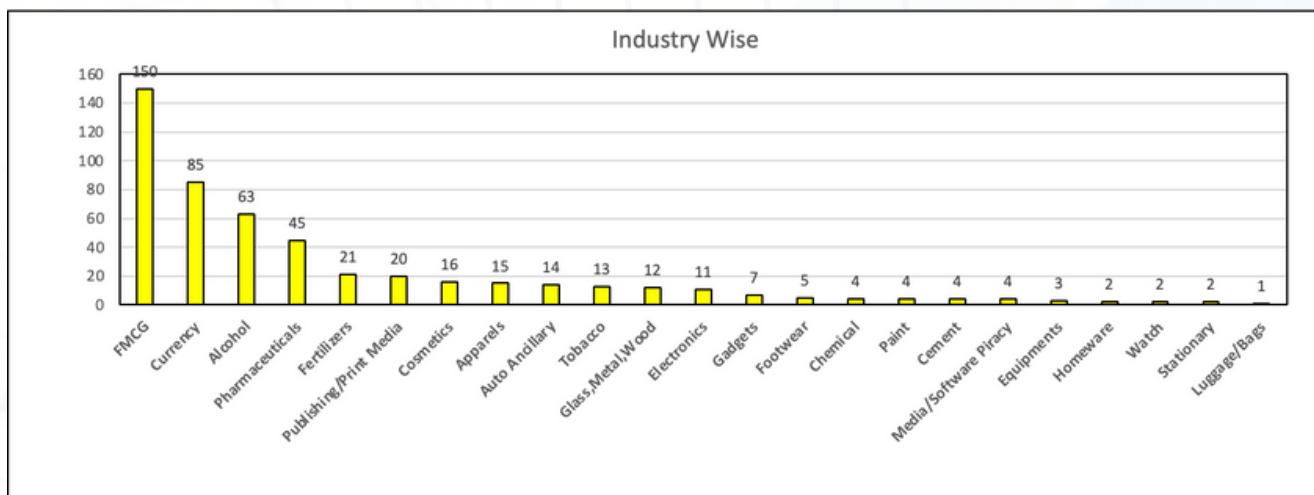
### COUNTERFEIT CASES : OVERVIEW

#### INDUSTRY WISE:

Counterfeit cases across different industries in the October-December 2023 edition present a varied picture of illicit activity. The Fast Moving Consumer Goods (FMCG) sector tops the list with 150 cases, followed by currency with 85 and alcohol with 63. Pharmaceuticals, critical for public health, reported 45 cases, while other affected industries include fertilizers, publishing/print media, cosmetics, and apparels.

This data emphasizes the pervasive impact of counterfeiting and underscores the urgent need for collaborative efforts to combat it effectively. Industries, regulatory bodies, and law enforcement must work together to implement stringent measures and protect consumers from the risks associated with counterfeit products.

Sector	Cases
FMCG	150
Currency	85
Alcohol	63
Pharmaceuticals	45
Fertilizers	21
Publishing/Print Media	20
Cosmetics	16
Apparels	15
Auto Ancillary	14
Tobacco	13
Glass,Metal,Wood	12
Electronics	11
Gadgets	7
Footwear	5
Chemical	4
Paint	4
Cement	4
Media/Software Piracy	4
Equipments	3
Homeware	2
Watch	2
Stationary	2
Luggage/Bags	1
<b>Grand Total</b>	<b>503</b>





OCTOBER-DECEMBER 2023 RAID ACTIONS – INDIA

COUNTERFEIT CASES : OVERVIEW

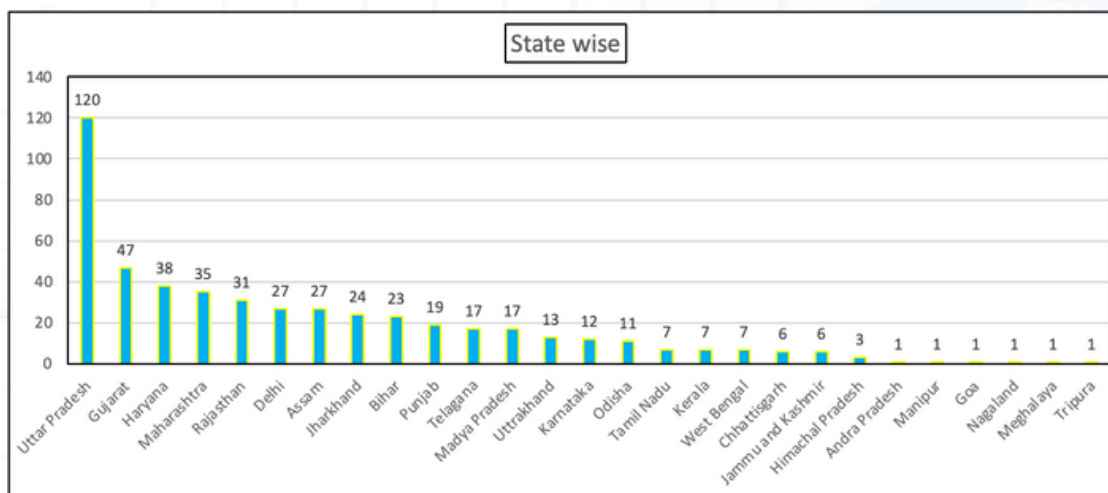
STATE WISE:

The analysis of counterfeit cases across states in the October-December 2023 edition provides insights into the prevalence of counterfeit activities in various regions. Uttar Pradesh emerges as the state with the highest number of reported cases, totaling 120 instances. Following Uttar Pradesh, Gujarat reports 47 cases, while Haryana documents 38 cases, indicating significant counterfeit activity in these areas.

Moreover, states such as Maharashtra, Rajasthan, Delhi, and Assam also contribute to the overall count of counterfeit cases, highlighting the widespread nature of the issue across different parts of the country.

Implementing strict measures and regulations is crucial to protect consumers from counterfeit products and maintain the integrity of the marketplace nationwide. Through concerted efforts and coordinated actions, we can create a safer environment for consumers and businesses alike.

States	Cases
Uttar Pradesh	120
Gujarat	47
Haryana	38
Maharashtra	35
Rajasthan	31
Delhi	27
Assam	27
Jharkhand	24
Bihar	23
Punjab	19
Telagana	17
Madya Pradesh	17
Uttrakhand	13
Karnataka	12
Odisha	11
Tamil Nadu	7
Kerala	7
West Bengal	7
Chhattisgarh	6
Jammu and Kashmir	6
Himachal Pradesh	3
Andra Pradesh	1
Manipur	1
Goa	1
Nagaland	1
Meghalaya	1
Tripura	1
<b>Grand Total</b>	<b>503</b>



OCTOBER-DECEMBER 2023 RAID ACTIONS – INDIA

COUNTERFEIT CASES : OVERVIEW

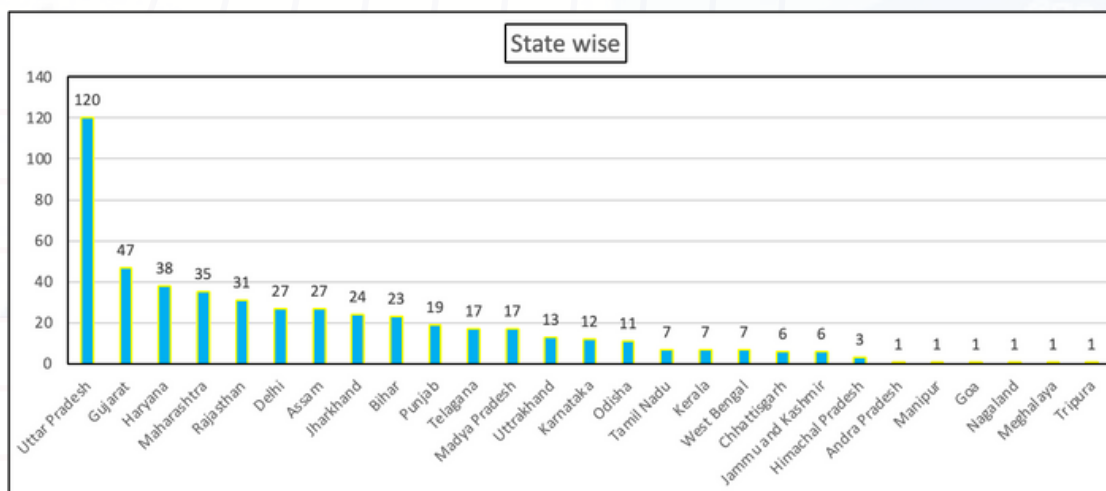
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Jharkhand	24
Bihar	23
Punjab	19
Telagana	17
Madya Pradesh	17
Uttrakhand	13
Karnataka	12
Odisha	11
Tamil Nadu	7
Kerala	7
West Bengal	7
Chhattisgarh	6
Jammu and Kashmir	6
Himachal Pradesh	3
Andra Pradesh	1
Manipur	1
Goa	1
Nagaland	1
Meghalaya	1
Tripura	1
<b>Grand Total</b>	<b>503</b>





# UPCOMING EVENTS


## INDIA AND THE WORLD

The Pharma IPR India conference, organized by Informa Markets, is a prominent annual event focusing on Intellectual Property Rights (IPR) in the pharmaceutical sector. Scheduled for March 5-7, 2024, at The Westin Mumbai Garden City, this conference is a key forum for stakeholders to discuss effective IP management strategies. It stands out as the sole event in India dedicated to pharmaceutical IP protection. The agenda covers a range of topics including anti-trust regulations, patent laws, trademarks, and copyrights. Participants include senior executives and legal professionals from pharmaceutical and biopharmaceutical companies, specifically those involved in IP management and legal departments.

## INDIA

-  The 13th Annual Pharma Intellectual Property Rights (Pharma IPR India 2024) | Mumbai  
5th-7th March 2024
-  4th Annual Corporate Legal Counsel Summit and Awards | Mumbai  
15-16 April 2024

## INTERNATIONAL

-  The Global Intellectual Property (IP) ConfEx | London, UK  
21 March Please approve the attached invoice for Website support for the month of March '24



# ABOUT IIRIS CONSULTING

**IIRIS Consulting** aka **Indus IntelliRisk & IntelliSense Services Pvt. Ltd.** stands committed as a value catalyst to corporates bringing in innovative, cutting edge technology aided, risk advisory and intelligence management solutions that help clients not only mitigate risks but also enable better business decisions.



IIRIS is an India born solutions and consulting firm, with wide operations across South Asia, Far East, USA, UK and Middle East. We operates in the fields of advisory, risk management, intelligence, digitization, and forensics.

Each of our services is delivered by experienced leaders using advanced methodologies that combine legally acceptable technological resources, on-the-ground intelligence collection, and data analytics.

Apart from helping clients make better business decisions, IIRIS also acts as an industry mentor that provide certification and skill building to help professionals be better future leaders.

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## Brand Protection Offerings

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MARKET RESEARCH

SUPPLY CHAIN AUDITS

