Tuhin & Partners

NEXUS OF LAW & BUSINESS

PUBLICATION

Trademark Protection and the RMG Sector: Safeguarding Bangladesh’s Global Brand Identity

Bangladesh’s readymade garment (RMG) sector stands as the backbone of the national economy and a central driver of its integration into global trade.

CONTENTS

CHAPTER 1

Introduction

Bangladesh's readymade garment (RMG) sector stands as the backbone of the national economy and a central driver of its integration into global trade. Over the past four decades, the industry has evolved from a small export-oriented initiative into one of the world's largest apparel manufacturing hubs, supplying leading international brands and retailers across Europe, North America, and Asia. Today, the sector accounts for the overwhelming majority of Bangladesh's export earnings and provides employment to millions, particularly women, positioning the country as a critical link in global apparel value chains.

Despite its economic success, the RMG sector remains structurally vulnerable. While Bangladesh has achieved global recognition as a reliable manufacturing base, it has yet to secure equivalent recognition as a source of protected and trusted brands. The industry's heavy reliance on contract manufacturing, combined with weak trademark enforcement and limited brand ownership, has exposed Bangladeshi exporters to reputational risks, allegations of counterfeiting, and legal disputes in foreign jurisdictions. As global markets increasingly emphasize intellectual property (IP) compliance, brand integrity, and supply-chain transparency, trademark protection has emerged as a decisive factor in sustaining competitiveness.

Trademark law plays a dual role in the context of the RMG sector. On the one hand, it protects the goodwill and commercial identity of international brands sourcing from Bangladesh. On the other, it offers Bangladeshi manufacturers a legal framework to develop, protect, and commercialize their own brands. In the absence of effective trademark protection, manufacturers face heightened risks of infringement claims, border seizures, and trade restrictions, while the country as a whole confronts growing scrutiny from trading partners and international watchdogs. Consequently, trademark protection is no longer a peripheral legal issue; it has become a core trade, governance, and development concern.

This issue has acquired particular urgency as Bangladesh approaches graduation from least developed country (LDC) status in 2026. LDC graduation will gradually phase out preferential market access and policy flexibilities under international trade regimes, including transitional arrangements under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Post-graduation, Bangladesh will be expected to demonstrate a higher level of compliance with international IP standards, both in law and in practice. Failure to do so risks eroding market access, triggering trade defense measures, and undermining confidence among buyers and investors.

Within this broader context, trademarks serve as a gateway between law and trade. They function not only as legal instruments but also as signals of quality, origin, and trust in international markets. For a sector increasingly scrutinized for labor standards, environmental compliance, and ethical sourcing, weak trademark governance can amplify existing vulnerabilities. Allegations of counterfeit exports, unauthorized use of foreign marks, and ineffective enforcement mechanisms have already placed Bangladesh under the spotlight of international trade bodies and brand associations. These challenges underscore the need for a systematic examination of trademark protection in relation to the RMG sector.

CHAPTER 2

International commitments and compliance

Bangladesh’s readymade garment (RMG) industry is deeply integrated into the global economy. As the country moves toward graduation from leastdevelopedcountry (LDC) status in 2026, meeting international intellectualproperty (IP) standards becomes essential for retaining preferential market access.

The Agreement on TradeRelated Aspects of Intellectual Property Rights (TRIPS) and the Paris Convention for the Protection of Industrial Property forms the principal international frameworks governing trademarks.

Bangladesh acceded to the Paris Convention in 1991, became a founding member of the World Trade Organization (WTO) in 1995 and is thus bound by TRIPS.

Although it has not yet joined the Madrid Protocol for international registration of marks, the Trademarks Act 2009 aligns domestic law with many TRIPS provisions and adopts the Nice Classification.

Compliance obligations under TRIPS and the Paris Convention

Bangladesh benefits from a transitional period for TRIPS compliance as an LDC. Article 66.1 allows LDCs to delay implementation of most obligations except national treatment and mostfavorednation treatment.

In July 2021 the WTO extended this transition until 2034, giving Bangladesh additional time to align its laws. Despite the flexibility, Bangladesh has already enacted a modern trademarks statute and is preparing to meet postgraduation standards. Key obligations include:

National treatment and MFN:

Bangladesh must provide foreign trademark owners the same protection it grants domestic owners, and must not discriminate between nationals of different WTO members.

Registration system and priority rights:

The 2009 Act allows priority applications from Paris Union countries (s 120), reflecting the Paris Convention’s requirement that a trademark filed in one member state can claim priority in another.

Wellknown marks:

Article 6b is of the Paris Convention obliges states to protect wellknown trademarks even if unregistered. Bangladeshi courts have applied this principle; a 2024 High Court Division judgment protected an international mark based on transborder reputation and trade dress, granting injunction and stressing recognition of wellknown marks.

Border measures:

Customs authorities must prevent import of goods infringing trademarks. Bangladesh's IPR (Import–Export) Rules 2019 and Section 15 of the Customs Act empower customs officers to detain suspected counterfeit goods.

Enforcement agencies such as the Rapid Action Battalion, police and courts also participate in seizures.

Impact on trade relations

The European Union and United States are Bangladesh's largest apparel markets and link preferential access to IP compliance. American and French trade associations have accused Bangladesh of exporting counterfeit garments and recommended placing it on the USTR Special 301 Priority Watch List.

In 2022 global seizures of counterfeit goods labeled "Made in Bangladesh" reportedly increased by 50 %. Although the commerce ministry disputes the allegations, failure to meet IP standards could trigger increased tariffs, quotas or sanctions.

EU–Bangladesh trade negotiations for a planned partnership agreement likewise emphasize robust enforcement; noncompliance may jeopardize dutyfree access when the country graduates from LDC status. The government therefore recognizes that strengthening trademark protection is not only a legal obligation but also a strategic trade priority.

CHAPTER 3

Challenges in trademark protection for the RMG sector

Despite legislative reforms, Bangladesh's trademark regime faces practical and structural challenges. These weaknesses undermine brand integrity for garment exporters and expose them to allegations of piracy.

Weak enforcement and counterfeit goods

Counterfeiting is pervasive. An empirical study estimated that Bangladesh loses over US $600 million annually from counterfeit apparel and footwear; counterfeit goods constitute nearly 12 % of domestic market share, with additional losses in personal care, electrical equipment and pharmaceuticals. Police seized 1.4 million units of counterfeit products in 2019 worth Tk 2.5 crore.

Lawenforcement agencies conduct raids—mobile courts of the Bangladesh Standards and Testing Institution recently seized counterfeit cosmetics bearing wellknown brands such as Sunsilk, Dove and Pantene, while detectives in Narayanganj confiscated counterfeit televisions, refrigerators and perfumes valued at Tk 50 crore and arrested eight persons.

These actions demonstrate commitment but also highlight the scale of the problem.

International complaints underline enforcement gaps. The American Apparel & Footwear Association (AAFA) and French organization UNIFAB claimed that Bangladesh is among the top five sources of counterfeit clothing, citing difficulties in conducting IP enforcement due to corruption and lack of dedicated policy.

The USTR Special 301 review noted that Bangladeshi lawenforcement agencies and customs rarely prioritize IP crimes. These allegations risk damaging, the RMG sector's reputation and hamper trade negotiations.

Legal and institutional barriers

Several legal and administrative issues hinder effective protection:

Lengthy registration and lack of compulsory registration:

Obtaining a trademark registration can take two to three years, and there is no requirement for mandatory registration, making enforcement more difficult. The absence of a fasttrack system discourages small exporters.

Limited awareness among manufacturers:

Many local manufacturers are unfamiliar with IP rights and may unintentionally reproduce foreign designs. Surveys indicate that up to 40 % of domestic goods could be counterfeit due to ignorance and weak oversight.

Inadequate enforcement infrastructure:

The Department of Patents, Designs and Trademarks (DPDT) suffers from manual recordkeeping, staff shortages and insufficient training. There is no specialized IP court; trademark disputes are heard by civil courts, leading to delays and inconsistent rulings.

Cost and complexity:

Small and medium enterprises (SMEs) face high legal costs (USD 2,000–4,000 per case). The proposed Trademarks (Amendment) Act 2025 aims to adopt the Madrid Protocol and expand the definition of trademarks to nontraditional marks (sound, color, scent) but may increase fees for international filing, placing further burden on SMEs.

Disputes abroad:

Bangladesh does not yet participate in the Madrid system, complicating protection of marks overseas. Foreign courts may entertain actions for passingoff or infringement based on transborder reputation, but exporters must litigate separately in each jurisdiction. In the H & M vs. HM Mega Brands case in India (not a Bangladeshi case), Indian courts treated identical letters "H & M" on similar garments as infringement, illustrating the risks faced by Bangladeshi exporters if marks are not protected in foreign markets.

Real examples of disputes and passingoff

Local case law shows how courts address passingoff.

In Asian Consumer Care Ltd v Marico Bangladesh Ltd (2021) the High Court considered whether a rival's hairoil bottle design and color scheme infringed the famous Parachute brand. The court concluded that similar packaging and color combinations were likely to confuse ordinary consumers and granted injunctions against the defendant.

Another case study from legal commentary explains that a restaurant named "Takeout 2.0" misrepresented itself as associated with the original "Takeout Ltd", and the court emphasized that passingoff protects goodwill even for unregistered marks. These cases illustrate that Bangladeshi courts apply the commonlaw doctrine of passingoff and recognize trade dress—a product's visual appearance as part of trademark rights.

CHAPTER 4

Reforms and strategic recommendations

To safeguard Bangladesh's global brand identity and ensure sustainable growth of the RMG sector, comprehensive reforms are necessary. These should combine legal amendments, institutional strengthening, and proactive industry initiatives.

Strengthening legal enforcement and judicial capacity

Establish specialized IP courts:

Dedicated trademark tribunals would allow judges to develop expertise and expedite disputes. The proposed creation of an IP court under the draft amendment should be prioritized.

Improve customs and police capacity:

Increase staffing and training for the DPDT, customs, police and Rapid Action Battalion to detect and seize counterfeit goods. Adopt digital recordkeeping and interagency coordination as envisaged by the National Intellectual Property Rights Facilitation and Protection Portal, which plans fasttrack registration, realtime enforcement dashboards and customslinked monitoring systems.

Enhance border measures:

Implement the IPR (Import–Export) Rules 2019 by establishing a proactive notification system allowing rights holders to request detention of suspect consignments. Create a "white list" of authorized exporters and empower customs to use riskbased targeting.

Update legislation:

Adopt the Madrid Protocol cautiously, ensuring that local firms can afford international filings. Address concerns about high fees, language barriers and mobile courts by providing subsidies and translations. Revise the Trademarks Act to explicitly protect wellknown marks, trade dress and geographical indications, and clarify registration timelines.

Punish repeat offenders:

Increase penalties for counterfeiters. Section 97 of the Trademarks Act allows civil remedies including injunction, damages and destruction of infringing goods; criminal penalties under the Penal Code should be enforced vigorously.

Awareness and capacitybuilding for exporters

Education programs:

Government agencies, trade bodies (e.g., BGMEA, BKMEA) and NGOs should conduct awareness campaigns on trademark registration, brand management and consequences of counterfeiting. Many manufacturers lack understanding of IP rights; training can reduce unintentional infringements.

Support for SMEs:

Provide lowcost legal assistance and simplified online registration for small exporters. The National IPR Portal envisages a fasttrack registration window and insurance for piracy losses; implementing these features will encourage compliance.

Public–private partnerships:

Collaborate with international brands to monitor supply chains and ensure traceability. Encourage brands to invest in authentication technologies (QR codes, block chain) and share intelligence with law enforcement.

Streamlining registration processes

Digitalization and onestop services:

The DPDT should fully digitize filings and integrate with WIPO systems to reduce delays. Clear guidance on documentation, processing times and fees will create predictability.

Fasttrack and provisional approval:

Introduce provisional approval within 6 months for marks used in export markets; allow applicants to obtain an export license while the full examination proceeds. This will help RMG exporters protect their brands quickly.

Join the Madrid Protocol with capacitybuilding:

Before acceding, Bangladesh should prepare by training DPDT officials, developing online communication with WIPO and ensuring translations. Joining the Protocol will enable exporters to secure protection in multiple jurisdictions with a single application.

Promoting branding strategies for global competitiveness

Brand diversification:

Encourage Bangladeshi garment manufacturers to develop their own brands rather than relying solely on contract manufacturing. Strong domestic brands can command higher prices and reduce vulnerability to counterfeit allegations.

Quality assurance and certification:

Adopt strict quality control and obtain international certifications (e.g., ISO, Fair Trade). Demonstrating compliance with labor and environmental standards enhances brand reputation and reduces suspicion of counterfeits.

Engage in international advocacy:

Work with the WTO, WIPO and trade partners to communicate progress and challenges. Highlight the transitional status under TRIPS and seek technical assistance. Being transparent can mitigate the risk of trade sanctions.

5. Conclusion

Bangladesh's RMG sector is at a crossroads. While the country has enacted modern trademark legislation and participates in global IP frameworks, enforcement challenges and institutional weaknesses continue to threaten brand integrity.

Addressing counterfeiting, streamlining registration and investing in legal infrastructure are not merely legal obligations but essential strategies to secure market access and nurture domestic brands. With coordinated reforms and international cooperation, Bangladesh can transform trademark protection from vulnerability into a competitive advantage.

Tuhin & Partners

NEXUS OF LAW & BUSINESS

Talk to us about this.

CORPORATE OFFICE

Flat G2 (6th Floor), House # 94
Road # 10, Block # D
Niketan, Gulshan-1
Dhaka-1212

REGISTERED OFFICE

Office No. 305 (2nd Floor)
3/B, Purana Paltan
Dhaka-1000

hello@tnp.legal
+8801913885588
tnp.legal