

## LEGAL OPINION AND SEARCH REPORT

Mr. Zeeshan Agarwal

Date: 12.08.2020

21, Sterling Hills Road, 34<sup>th</sup> Cross, Koramangala,  
Bengaluru – 5600432

### **Re : BHELPURA Trademark Registration**

Dear Sir,

Thank you for reaching out to us. You had contacted us on 1<sup>st</sup> of August, 2020 with respect to confirming the availability of your proposed brand name, “BHELPURA” trademark for use in your business. As per our previous communication, you had requested us to conduct a proper search for you and further assist you to register the mark if the results confirm that the mark is non-infringing. For the purpose of the same, you had described your product as “Packaged Juice”.

We found that your product falls under Class 32 of the NICE Classification which is followed by India in accordance with the Trade Marks Act, 1999 for the purpose of ascertaining and categorising goods and services according to their nature so that filing of an application seeking for protection can be made under the correct class. Class 32 of the NICE Classification pertains to the followings products: -

*“Beers; non-alcoholic beverages; mineral and aerated waters; **fruit beverages and fruit juices**; syrups and other non-alcoholic preparations for making beverages.”*

As the primary nature of your product is encompassed within the aforementioned class, our team conducted a comprehensive search in order to ascertain the availability of your proposed brand name under Class 32. The relevant results from the comprehensive search conducted have been included along with this legal opinion dated 11th of August, 2020 for your reference.

The following are the conclusions arrived at after conducting the search under Class 32: -

1. That there are no entries that exactly match your proposed brand name “Bhelpura”.
2. That there are only two entries held by the same proprietor which contain “Bhel” in their trademarks. The name of their brand is “Kalyan Bhel” which is not confusingly/deceptively similar to your proposed brand name
3. That there are a number of marks (exactly 79 results) which have the term “Pura” but none of them call for alarming concern or render your proposed mark less distinctive. Hence, only a few from the comprehensive search have been included for your reference.
4. That under phonetically similar marks as well, we found that none of the marks on the portal are phonetically similar to your proposed mark. Hence, only a few out of the 77 results from the comprehensive search have been included for your kind perusal.

Therefore, the possibility of having conflictingly/phonetically or even confusingly similar registered marks under this class can be eliminated. Moreover, if any registered marks under Class 32 do come up as objections under the Examination report, your proposed trade mark can be defended well in terms of distinctiveness.

The proposed brand name “Bhelpura” was then evaluated by us under Section 2(1) (zb) of the Trademark Act, 1999 in order to ascertain if it could be a trademark. According to this section, a “trademark” is *“a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colors.”* Bhelpura is mark that can be represented graphically as a conventional Word mark. Moreover, it is distinctive as well as concluded from the search report as it can sufficiently distinguish your products from those of others under the same class.

However, as we had counselled you earlier, the first impression that is borne on the mind of a person with average intelligence when they hear or see the word “Bhelpura” would be to immediately associate it with “Bhelpuri” which is a popular Indian Snack item. The latter word has been claimed by the proprietor ‘Brijaswi Confectioners Pvt. Ltd.’ who claims to have used the mark since 1980 due to which the mark has gained reputable distinctiveness in the market. The current status of this mark is “Objected” for being descriptive of the product. However, your proposed brand mark does not relate to the goods and services offered by this proprietor, nor is it descriptive at the least of the product that you offer. The relevance of

bringing this to your notice is because if the mark “Bhelpuri” does get registered for being a well-known mark (which is not the current position under the List of Well-Known Marks in India), there might be a possibility that an objection is raised under Section 11(2)(b) of the Trademark Act, 1999 pertaining to your mark deriving or trampling upon the goodwill and reputation of the well-known mark which even though is not the case, it may lead to unnecessary legal constraints on you in the future.

We would also like to bring to your notice that the term “Bhelpura” is very likely to be objected by the Examiner under Absolute grounds of refusal for it being indicative as it may serve in trade to designate the geographical origin of the product/service and causing confusion among the public due to the underlying suggestion that it is attached to the geographical locations as explained onward.

Although the brand name “Bhelpura” is sufficiently distinctive of the products that you plan to trade with under Class 32, it must be brought to your attention that the term “Bhelpura” also signifies the geographic locations of not one but almost two places. Bhelpura is a village in the State of Odisha and the brand name also closely resembles to Bhelupur in Varanasi. Although the second place might not be a problem, the first source could be a possible roadblock. In this regard, we’d advice you to make certain modifications to the Brand Name so that the same does get refused on the aforementioned ground.

May we recommend the use of “**Velpoora**” or something a little different from your proposed brand name that does not indicate a place and stand the risk of getting rejected on the ground of causing a sense of confusion among the general public for they may associate your products to be originating from those geographical locations. The alternative name “Velpoora” dilutes the resemblance with the geographical locations and is very less likely to confuse the public because of the uniqueness added to it by changing its phonetic semblance while also maintaining the essence of your proposed brand mark. Moreover, we also went ahead and did a comprehensive trademark search on this mark as well for you and found that there are no conflicting marks which exactly match this name. Furthermore, from a closer, more refined search the marks which seem slightly similar to “Velpoora” will not prove as major hindrances to get the same registered. We can file for this recommended mark under Wordmark as opposed to a Device mark as “Velpoora” is a coined expression which can get you broader and a wider protection and if granted registration, you can get protection on the whole wording of the mark irrespective of the way it is styled.

However, we also understand your attachment to your proposed brand name “Bhelpura” and can still proceed to file the same if that’s what you require us to do. The above proposal was an illustrative one in order to provide your brand name some additional cushioning which would improve the chances of clearance from the Registry. Conversely, if you’re still willing to take the risk, we assure you that we will attempt to defend your proposed brand name to the best of our abilities. Please let us know what course of action you would like for us to proceed with.

Sincerely,

Avantika Khandelwal

(Trademark Attorney)


Zenine IP Services



### COMPUTER GENERATED TM-SEARCH REPORT

**Search Criteria :** Wordmark **Search String :** bhel **Class :** 32 **Search Date :** 10-Aug-2020

APPL NO	CLASS	CONFLICTING MARK	JOURNAL No	PROPRIETOR NAME	PROPRIETOR ADDRESS	STATUS	Image
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4262938	32	KALYAN BHEL	1919	MR. RAMESH S. KONDHARE TRADING AS: KALYAN BHEL HOUSE	SR. NO- 580/5, SHOP NO-6, HAMAL NAGAR, MARKET YARD, PUNE- 411 037, MAHARASHTRA, INDIA	Registered	
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APPLICATION DATE : 12/08/2019

USER DATE : 01/07/2019

GOODS/SERVICES : MINERAL AND AERATED WATERS, AND OTHER NON-ALCOHOLIC DRINKS; FRUIT DRINKS AND FRUIT JUICES;  
 SYRUPS AND OTHER PREPARATIONS FOR MAKING BEVERAGES

Vienna Code(s) : 261325, 270501, 290112

4262939	32	KALYAN BHEL	1919	MR. RAMESH S. KONDHARE TRADING AS: KALYAN BHEL HOUSE	SR. NO- 580/5, SHOP NO-6, HAMAL NAGAR, MARKET YARD, PUNE- 411 037, MAHARASHTRA, INDIA	Registered	
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APPLICATION DATE : 12/08/2019

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 SYRUPS AND OTHER PREPARATIONS FOR MAKING BEVERAGES

Vienna Code(s) : 261325, 281900, 290113



### COMPUTER GENERATED TM-SEARCH REPORT

Search Criteria : Wordmark Search String : pura Class : 32 Search Date : 12-Aug-2020

APPL NO	CLASS	CONFLICTING MARK	JOURNAL No	PROPRIETOR NAME	PROPRIETOR ADDRESS	STATUS	Image
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531527	32	PURA	1156	PARLE AGRO LTD.,	WESTERN EXPRESS HIGHWAY, ANDHERI (EAST), MUMBAI-400 099.	Removed	
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APPLICATION DATE : 15/06/1990

USER DATE :

GOODS/SERVICES : MINERAL WATERS, NON-ALCOHOLIC SOFT DRINKS, JUICES, CONCENTRATES.

546718	32	AQUA PURA	---	---	---	Abandoned	
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APPLICATION DATE : 07/03/1991

USER DATE :

GOODS/SERVICES : MINERAL AND AERATED WATERS INCLUDED IN CLASS 32.

611474	32	BOMBAY BUBBLY AQUAPURA	1237	AMAR G. BAJAJ	BAJAJ NIWAS, 712, LINKING ROAD, KHAR, MUMBAI - 400 052.	Removed	
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APPLICATION DATE : 10/11/1993

USER DATE :

GOODS/SERVICES : BEER, SOFT DRINKS, MINERAL AND AERATED - WATERS AND NON - ALCOHOLIC DRINKS, FRUIT DRINKS AND PREPARATIONS FOR MAKING BEVERAGES IN CLASS 32.

942887	32	BIOPURA	9998	RAJIB CHOWDHURY	3-C, DHARMADAS ROW, KOLKATA-700026, WEST BENGAL.	Registered	
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APPLICATION DATE : 27/07/2000

USER DATE :

GOODS/SERVICES : MINERAL WATER AND DISTLED WATER.

2996021	32	PURAN	1857	KANTA BEN PATEL	PURAN PRODUCTS, RING ROAD NO.2, BEHIND ASHOK VIHAR, GONDWARA, RAIPUR-492001, (C.G.).	Registered	
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APPLICATION DATE : 29/06/2015

USER DATE :

GOODS/SERVICES : BEERS, MINERAL AND AERATED WATERS, AND OTHER NON-ALCOHOLIC DRINKS; FRUIT DRINKS AND FRUIT JUICES; SYRUPS AND OTHER PREPARATIONS FOR MAKING BEVERAGES.

Vienna Code(s) : 260102, 270501, 290112

4225848	32	KALPURA	1915	CHIKU ARTS PRIVATE LIMITED	A-59, SHISH RAM PARK, UTTAM NAGAR, DELHI WEST DELHI - 110059	Registered	
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APPLICATION DATE : 04/07/2019

USER DATE :

GOODS/SERVICES : Beers; Non-alcoholic beverages; Mineral and aerated waters; Fruit beverages and fruit juices; Syrups and other non-alcoholic preparations for making beverages

Vienna Code(s) : 270501, 290113



### COMPUTER GENERATED TM-SEARCH REPORT

**Search Criteria :** Phonetic **Search String :** bhelpura **Class :** 32 **Search Date :** 12-Aug-2020

APPL NO	CLASS	CONFLICTING MARK	JOURNAL No	PROPRIETOR NAME	PROPRIETOR ADDRESS	STATUS	Image
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386731	32	BELFRY'S	---	BELFRY COMMERX INDIA (PRIVATE)LTD	B-6/1 COMMERCIAL CENTRE SAFDARGANJ ENCLAVE NEW DELHI-110029.	Advertised bef acc	
APPLICATION DATE : 22/02/1982							USER DATE :
GOODS/SERVICES : BEER, STOUT, ALE AND PORTER.							
Vienna Code(s) :							

571689	32	BLUE PEARL	1214	G. M. BREWERIES LIMITED	GANESH NIWAS, S. VEER SAVARKAR MARG, PRABHADEVI, MUMBAI - 400 025.	Registered	
APPLICATION DATE : 23/04/1992							USER DATE :
GOODS/SERVICES : BEER, ALE AND PORTER; MINERAL AND AERATED WATERS AND OTHER NON-ALCOHOLIC DRINKS; SYRUPS AND OTHER PREPARATIONS FOR MAKING BEVERAGES; FRUIT JUICE.							

1191204	32	BILBURI	1298	SIDHARTH SHARMA	SHIV SAGAR BUILDING, 6TH FLOOR, 36 D PALI HILL, BANDRA (WEST), MUMBAI - 50.	Removed	
APPLICATION DATE : 10/04/2003							USER DATE : 10/04/2003
GOODS/SERVICES : MINERAL WATER AND OTHER AERATED DRINKS.							

1635524	32	BLUE VERA	---	YASH BEVERAGES	C-112, SECTOR-4, BHAWANA IND. AREA, DSIIDC, NEW DELHI	Abandoned	
APPLICATION DATE : 28/12/2007							USER DATE : 28/06/2007
GOODS/SERVICES : PACKAGED DRINKING WATER.							

2028342	32	BILBERI	1665	SYNERGY PETROCHEM AND MINERALS PVT. LTD.	701, COMMODITY EXCHANGE, SECTOR-19, VASHI, NAVI MUMBAI 400 705	Registered	
APPLICATION DATE : 24/09/2010							USER DATE : 01/04/2009
GOODS/SERVICES : BEERS, MINERAL AND AERATED WATERS AND OTHER NON ALCOHOLIC DRINKS, FRUIT DRINKS AND FRUIT JUICES, SYRUPS, PACKAGED DRINKING WATER AND OTHER PREPARATIONS FOR MAKING BEVERAGES INCLUDED IN CLASS 32							