**FOOD** is the need of every living being. No one can survive without it. But apart from nutrients, the taste and presentation also add value to the food, thus giving an opportunity to people, to think and innovate in food as well.

We have today various kinds of options in dishes for a single type of food article around us. Let’s take the example of Paneer or Cottage cheese, a very common food ingredient in most Indian cuisines. We have shahi paneer, palak-paneer, paneer-do-pyaza, matar-paneer and other mouth-watering dishes made from paneer and then there are the umpteen regional variations in different parts of India. These and all others combinations are the result of human intellect. In fact, humans have been innovating in food since ages.

Today, in the world of consumerism and industrialization we are surrounded by various ready-made food products that include packaged snacks, chocolates, bars, breakfasts, etc. We use them at home or in office or even while travelling. Such products provide us with a great variety of options to choose from. And so, fierce competition among these brands has led to advanced innovations in their products and the method of manufacturing them. Thus, a competitive and innovative food industry has been established.

While purchasing a food item from a shop there are two things that tempt us: first, the taste and second the shape or packaging. There are many food products in the market that are similar in shape and size but they do not taste the same. The reason lies in the varying composition and the different manufacturing process of different companies for a particular product. The innovation lies in these steps only and like any company they also safeguard their inventions by seeking some exclusive legal rights from the government for marketing their product in the form of patents, trade secrets or trademarks.

Simply put, Trade Secrets include any information that is not publicly known but is used by the company...
for its economic benefit e.g. the Maggi masala, Pepsi cold-drink composition, etc. Trademarks are the registered sign/symbols that enable the consumer to identify and distinguish a particular product from another product e.g. Britannia’s Tiger brand. While Patents are the exclusive rights given to an inventor or an assignee for a limited time period by the government, and in exchange the invention is publicly disclosed by the inventor/assignee.

The legal aspect of such food articles sometimes makes for an interesting story. Let’s take a look at some of these.

**Patents: Exclusive Rights**

**Pringles chips:** The first patent for this brand of potato chips was filed on 2 August 1974 defined the process of manufacturing the potato chip with the specific shape and qualities. Another patent was filed by the company replacing the packet for storing the chips with the cylindrical container. These two innovations made Pringles unique in those days and excluded others from using the same composition and packaging systems.

**Kellogg’s:** This brand of cereals breakfast has many innovations patented in the form of manufacturing process, shapes and sizes of its product. One such is a design patent titled ‘Hexagonal waffle’ filed on 10 February 1998. This patent describes the hexagonal-shaped waffle that is now used by Kellogg’s in its products – until the patent expires no other rival can make a similar shaped waffle. Another patent titled ‘Quick Bread’ was filed in November 1997. This patent describes the manufacturing process of a quick bread that can be stored frozen or in refrigeration and can be eaten without any additional toasting.

**Pepsi:** Recently Pepsi has come up with a fizzy carbonated candy that creates a fizzy reaction when in the mouth. The company filed a patent application in the US in March 2013 titled ‘Chewy Granola Bar with Carbonated Candy’. Although similar candies are available in the market, PepsiCo claims a novel composition in the invention.

**NaBisCo’s Oreo:** The design of this cream-filled biscuit was first trademarked in 1912 by NaBisCo. The old Oreo had undergone various phases of evolutionary cycles. It was renamed and redesigned. The modern Oreo was designed in 1975 and was developed by food scientist Sam Porcello. NaBisCo owns patents that claim the filler composition and method of production related to Oreo. NaBisCo also has another patent on the design of a Cracker cookie which was filed in 1976.

**Pizza Hut:** Among various varieties of pizzas served in their outlets, its Crust pizza involves a novel manufacturing process. Pizza Hut had filed a patent application titled ‘System and method for producing par-baked pizza crusts’ in USA on 30 March 2000 which was granted in 2005. Another patent granted to Pizza Hut in 2011 discloses the product Pizza Crust and methods of making the same and the related products.

**Kraft foods:** A brand that comes out with a wide variety of products like cheese, lemonade, etc. It filed a patent in USA in 2010 which was granted in 2012. The patent is titled ‘Production of baked snack chips with irregular shape having notched edges’. The patent describes the production method, shape and texture of the chips. It details about chips as thin-baked chips with irregular shape having bubbles on the surface and possessing a crispy texture.

**General Mills:** A food company diversified in many food articles, it possesses many patents in the domain. One of its patents ‘Gluten free dough’ claimed a process for dough processing that makes it gluten free. This kind of dough is very useful as Pizza base and other like articles. While another of its patent application is about the manufacturing process of an Oat Bran enriched in Beta-Glucan.

**Trademark Battles**

Often, the symbol, colour, and design gives the food its identity. There have been many court battles over these unique trademarks.

**Nestle’s Kitkat:** Nestle tried to get its four-fingered bar as its trademark, so as to prevent any other chocolate bar to be in this shape thus getting an edge over others. In the application Nestle stated that the typical shape was launched in 1935 and since then it had acquired a typical character associated with the company, hence shall be made its trademark. However, rival Cadbury interrupted and filed an opposition application that was accepted and gave a setback to Nestle.

**Cadbury’s Dairy Milk:** Cadbury’s Dairy milk chocolate comes in a purple wrapper. The colour has been associated with the brand since ages. The company wanted to get this colour trademarked so as to avoid others from using the same colour or similar packaging in their in chocolate packages. Cadbury’s appeal was approved by lower courts, but Nestle filed an application challenging the lower court’s decision and was able to get the decision overruled – thus the long five-year legal battle was lost by Cadbury.

**Britannia’s Tiger:** There has been a dispute between Britannia and Danone over Britannia’s Tiger trademark. Britannia has been exporting this biscuit as well. Britannia (an Indian firm) has claimed that Danone (a French food giant) has infringed its Tigers trademark by
registering Tiger Brand in many countries without taking consent from Britannia and would file a Trademark infringement case against it. Danone has agreed to return the Tiger brand to Britannia.

**Trade Secret: Secret of Success**

There are various success stories and controversies related to Trade Secrets also.

**Nestle Maggi Masala:** This two-minute noodle’s masala has its ingredients protected as the trade secret, and has been enjoying an exceptional status in the industry. Of course, it has been in the news recently due the findings of allegedly unwanted harmful ingredients, of course testing of samples have now been found to be fit and the ban has been revoked.

**Coke & Pepsi:** These soft drinks are made with a secret formulation and are under stringent supervision and observation thus providing a unique taste to its drinks. In 2007, three people were caught conspiring to steal and sell the trade secret to rival Pepsi. Interestingly, Pepsi also helped Coke for a fair trial.

**KFC:** Its pressure fried chicken pieces are cooked with a special recipe of herbs and spices that are its trade secret giving it a unique taste.

Everything in this world is questionable and so are these legal provisions. The question of which is better – patent or a trade-secret – depends on one’s perception and idea. Patent is a publicly disclosed document that gives exclusive right to the inventor or patentee for a specific time period. While the monopoly based on trade secret can be enjoyed till the trade secret is maintained as a secret.

Secret recipes have been with us since ages. One would have heard of special recipes of ‘daadi or naani’. The famous ‘Tunde Kabab’ of Lucknow, the age-old ‘Murabbas’ of Shimla brothers are some other examples of trade secrets.

But in those early days, secret recipes did not involve harmful ingredients. Now with advancements in science and technology, and the use of various kinds of chemicals and chemical formulations, the trade secret has posed a big question of health safety. Harmful components have been reported in many leading brands all over the world. Since the exact components are not known it becomes difficult to detect and identify the hazardous components.

So, the food that we eat has not just gone through processing but has also passed through various legal processes and been engaged in legal fights as well. The next time you purchase your favorite food article do think of the legal aspects like trademark, trade secrets and patent that have made it unique for you.

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