

NO MONOPOLY OVER A MEDICAL TRADITION: "AYURVEDA" AND THE INTERNATIONAL LIMITS OF TRADE MARK REGISTRATION

On the Generic and Descriptive Character of a Shared Civilisational Inheritance

On 23 September 2026, India marked the eleventh observance of Ayurveda Day under the theme “Ayurveda for a Healthier Tomorrow.” The occasion assumed particular significance as it marked the first observance of Ayurveda Day on a permanently prescribed calendar date. Pursuant to a Gazette notification issued by the Government of India in March 2025. Accordingly 23 September was designated as the fixed date for its annual observance, thereby replacing the earlier practice, followed since its inception in 2016, of observing Ayurveda Day on the movable lunar date of Dhanvantari Jayanti.¹ According to the Ministry of Ayush, the observance saw participation from more than 150 countries, evidencing the growing international recognition, acceptance, and global outreach of Ayurveda as a traditional system of medicine. Its observance in India increasingly finds Ayurvedic outpatient departments functioning alongside allopathic care within government hospitals, teleconsultation services extending its reach into regions with little other access to trained practitioners, and a widening programme of scientific research and international collaboration aimed at situating a centuries-old body of knowledge within a contemporary, evidence-based framework.² The observance is not merely ceremonial in character. It constitutes an annual public reaffirmation of a proposition reflected in

¹Ministry of Ayush, Government of India, observance of the 11th Ayurveda Day, 23 September 2026, theme 'Ayurveda for a Healthier Tomorrow'. This marked the first Ayurveda Day observed on the permanently fixed date prescribed by the Government of India through its Gazette notification issued in March 2025. Since its inception in 2016, Ayurveda Day had previously been commemorated annually on the lunar occasion of Dhanvantari Jayanti, coinciding with Dhanteras.'

²According to reported figures, the 11th Ayurveda Day, observed on 23 September 2026, witnessed an extensive programme of public engagement, with approximately 26,000 activities registered and more than 1.7 million participants across over 150 countries. The scale of these observances reflects the breadth of Ayurveda's contemporary public outreach and its growing international presence.

Indian law, international health policy, and established usage alike: that Ayurveda is a system of medicine forming part of a civilisational body of knowledge, rather than a proprietary method or commercial designation belonging to any individual trader. It is the legal significance of this proposition, and its implications for the protection and registrability of the term, that this note seeks to examine

Can the word ‘Ayurveda’, standing alone, ever be registered as a trade mark? The submission advanced here, grounded in the Trade Marks Act, 1999, in cognate Indian legislation, and in the international instruments to which India is party, is that it cannot. This is not a matter of policy preference. It is because the word fails, structurally and irremediably, the tests that trade mark law itself lays down for what may be owned as a badge of commercial origin.

I. “AYURVEDA”: MEANING, NATURE AND ITS IMPLICATIONS FOR TRADE MARK REGISTRABILITY

Trade mark law is not concerned with whether a term is ancient, revered, culturally significant, or commercially valuable. The essential question is whether, in the context of the relevant trade, the term is capable of distinguishing the goods or services of one undertaking from those of another.

In considering the legal character of the term “Ayurveda”, the inquiry must necessarily commence with its inherent nature, origin, and established meaning. Derived from the Sanskrit terms *ayuh*, signifying “life”, and *veda*, signifying “knowledge”, “Ayurveda” denotes considerably more than a mere commercial expression; it refers to a recognised system of knowledge and medicine possessing a distinct historical, cultural, and civilisational identity. The World Health Organization likewise records “Ayurveda” as the term by which physicians in ancient India, approximately between 2000 and 1000 B.C.E., identified the system of medicine developed through sustained observation and the therapeutic application of natural resources. Its historical and conceptual character, therefore, is central to understanding whether the term can perform the essential source-identifying function required of a trade mark. Its foundational texts, the Charaka Samhita and the Sushruta Samhita, are classical works

in the public domain, older than any law of trade marks and authored by no ascertainable commercial undertaking.³ That the word denotes a system, and not a source, is confirmed by ordinary usage. Merriam-Webster's dictionary defines 'Ayurveda' not as a brand but as a common noun: 'a form of alternative medicine that is the traditional system of medicine of India', practised through diet, herbal remedies, exercise, meditation, breathing, and physical therapy. That is a definition that maps with unusual precision onto the very services (health management, wellness retreats, therapeutic diet, meditation instruction) for which registration of the bare word is most often attempted.⁴ Peer-reviewed literature makes the same point in a different register, recording that Ayurveda has remained in unbroken practice in India for thousands of years, a continuity of common practice rather than a proprietary method devised and controlled by a single enterprise.⁵ A word that names an entire, ancient discipline of medicine is, definitionally, incapable of distinguishing one practitioner of that discipline from every other.

II. STATUTORY RECOGNITION IN INDIA: A SYSTEM OF MEDICINE, NOT A TRADER'S NAME

Indian law does not leave this question to mere inference or interpretation. Across more than eight decades of legislative development, "Ayurveda" has been consistently recognised in Indian law as the established designation of a distinct and regulated system of medicine. The Drugs and Cosmetics Act, 1940 accords the term a clear statutory identity by defining an "Ayurvedic, Siddha or Unani drug" with reference to

³The World Health Organization, *Benchmarks for Training in Ayurveda* (Geneva, 2010), pp. 14, 16, describes Ayurveda as an ancient Indian system of medicine developed through observation, experience, and the use of natural resources. It derives from the Sanskrit *ayuh* ("life") and *veda* ("knowledge"), and signifies the "science of life".

⁴Merriam-Webster Dictionary, entry "Ayurveda", describes it as India's traditional system of medicine, derived from Sanskrit *ayurvedah*—from *ayuh* ("life") and *vedah* ("knowledge"). The term is recorded as having its first known use in 1788.

⁵Peer-reviewed literature records that 'Ayurveda in India has remained in unbroken practice for thousands of years', underscoring its character as a continuously practised system of knowledge rather than a proprietary method developed or controlled by any single person or enterprise.

medicines prepared in accordance with the formulations prescribed in the authoritative texts of these systems, as enumerated in the First Schedule to the Act.

The First Schedule to the Drugs and Cosmetics Act, 1940 lists the classical texts that the definition relies on, among them the *Ashtanga Hridaya*, the *Ashtanga Samgraha*, the *Charaka Samhita* and the *Sushruta Samhita*. Chapter IVA of the Act deals only with Ayurvedic, Siddha and Unani drugs. Parliament has, in other words, chosen to regulate these medicines separately from other drugs.⁶

The National Commission for Indian System of Medicine Act, 2020 carries the point further. When it defines "Indian System of Medicine", it names Ashtang Ayurveda, Unani, Siddha and Sowa-Rigpa in terms. Ayurveda, then, is a system of medicine that the law itself recognises and regulates. It is not a label waiting to be claimed by whichever person or business reaches the register first.

That since November 2014, Ayurveda had a Ministry of its own, the Ministry of Ayush. The Ministry does not act alone. It is supported by the National Commission for Indian System of Medicine (NCISM), the Central Council for Research in Ayurvedic Sciences (CCRAS) and the Pharmacopoeia Commission for Indian Medicine & Homoeopathy (PCIM&H). Each has its own part to play, and together they see to the regulation of Ayurveda, the research that advances it, the standards that govern it and the preservation of the knowledge on which it rests. What emerges is a public health and knowledge system maintained by the State through legislation and oversight. It bears no resemblance to the brand or business identity of a private undertaking.⁷ Indian patent practice proceeds on the same footing. The recent

⁶ Section 3(a) of the Drugs and Cosmetics Act, 1940 specifically treats "Ayurvedic, Siddha or Unani drugs" as a separate statutory category, defining them by reference to formulations described in the authoritative texts listed in the First Schedule, among them the *Charaka Samhita*, *Sushruta Samhita*, *Ashtanga Hridaya* and *Ashtanga Samgraha*. Chapter IVA reinforces this position by providing a dedicated regulatory regime for such drugs, thereby confirming their distinct legal and regulatory standing.

⁷ Ayurveda is governed in India as a recognised system of medicine, and the Government has built a dedicated set of institutions to look after it. At its head stands the Ministry of Ayush, which came into being as a separate Ministry on 9 November 2014. Working alongside it are the National Commission for Indian System of Medicine (NCISM), the Central Council for Research in Ayurvedic Sciences (CCRAS) and the Pharmacopoeia Commission for Indian Medicine & Homoeopathy (PCIM&H).

Guidelines for Examination of Ayush Related Inventions issued by the CGPDTM on 23 September 2025 require examiners to search the Traditional Knowledge Digital Library before a patent is granted, so that no exclusive right is conferred over knowledge that is traditional in origin and already in the public domain.⁸ Indian statutes use "Ayurveda" consistently, and without qualification, as the name of a system of medicine. The same word cannot then be registered before the Trade Marks Registry as the private property of a single trader.

III. SECTION 9 OF THE TRADE MARKS ACT, 1999: WHY "AYURVEDA" IS INCAPABLE OF REGISTRATION

Section 9(1) of the Trade Marks Act, 1999 leaves little room for doubt. The provision shuts the door on three kinds of marks: those that have nothing distinctive about them; those made up entirely of words or signs that traders would naturally use to describe the kind, quality, purpose or other features of what they sell; and those that have passed into everyday language, or into the settled and honest usage of the trade, as the ordinary way of referring to such goods or services.

The word "Ayurveda" on its own, used for Ayurvedic health, therapeutic, dietary, educational or event-related services, is caught by all three clauses at once. There is no ground left on which the bare word could be registered.

The term is devoid of distinctive character because it denotes the system or discipline itself, rather than serving as an indicator of any particular undertaking or provider. It is equally descriptive in character, as it directly conveys the nature, methodology, and intended purpose of the services in respect of which registration is sought. At the same time, the term is customary in trade: for generations, "Ayurveda" has served as the ordinary and universally recognised expression by which such services are described,

⁸ The Guidelines for Examination of AYUSH-Related Inventions, issued by the CGPDTM on 23 September 2025, mandate that Patent Examiners search the Traditional Knowledge Digital Library (TKDL) prior to grant. This requirement reinforces the recognition of Ayurveda as traditional knowledge warranting protection and restricts its susceptibility to exclusive private appropriation.

taught, practised and promoted across India, and increasingly in the many foreign jurisdictions that formally recognise the discipline.

The registrability of “Ayurveda” cannot be established merely by demonstrating extensive use or acquired goodwill. The decisive question is not whether consumers may, through extensive use, associate the term with a particular trader, but whether the term is inherently capable of serving as an exclusive indicator of commercial origin. Since “Ayurveda” denotes the discipline itself, it must remain freely available for legitimate use by every bona fide practitioner, institution, educator, and service provider within that field. Consequently, even where the term forms part of an otherwise distinctive composite or device mark, registration cannot confer upon its proprietor any exclusive right, title, or monopoly in the word “Ayurveda” when considered independently.

IV. “AYURVEDA” AS TRADITIONAL KNOWLEDGE: THE PUBLIC DOMAIN AND LIMITS OF PRIVATE APPROPRIATION

India's concern that Ayurvedic knowledge should not be diverted into private ownership through the intellectual property system is not a defensive afterthought. It has been institutionalised for over two decades in the Traditional Knowledge Digital Library. As presented to the World Intellectual Property Organization at a seminar in Muscat in 2011, the TKDL then comprised 91,410 documented Ayurvedic formulations, transcribed from approximately thirty-four million pages of classical texts, compiled for the express purpose of ensuring that patent offices around the world could verify, before grant, that an invention did not merely restate what Indian tradition had already disclosed to the public. By January 2025, access to the TKDL had been extended to seventeen national and regional patent offices.⁹ The logic that animates the TKDL applies with equal, and arguably greater, force to trade marks. If a formulation drawn from Ayurvedic texts cannot be patented because it is already

⁹Traditional Knowledge Digital Library (TKDL): as presented at the WIPO Seminar, Muscat, 2011, the TKDL comprised 91,410 Ayurvedic formulations, transcribed from approximately 34 million A4-size pages of classical texts, compiled with a view to preventing the misappropriation of that knowledge through the intellectual property system. By January 2025, TKDL access had been extended to seventeen patent offices worldwide.

known to the public, a fortiori the very name of the system from which every such formulation is drawn cannot be registered as the exclusive badge of a single trader. A term that names a body of knowledge held in common by an entire tradition, and increasingly by an international community of practitioners and patients, is definitionally incapable of being appropriated as an indication of the commercial origin of one undertaking's goods or services.

V. THE INTERNATIONAL CONSENSUS: WHO, TRIPS, AND THE PARIS CONVENTION

India's domestic position is not an isolated or parochial one. It mirrors an international consensus expressed with increasing clarity over the past year. The World Health Organization's Global Traditional Medicine Strategy 2025 to 2034, adopted by the Seventy-eighth World Health Assembly in May 2025, calls for the protection of traditional medical knowledge, recognises the right of knowledge holders to safeguard that knowledge 'against misappropriation and unauthorized use', and directs Member States toward regulatory frameworks that preserve traditional knowledge while 'preventing misappropriation'.

That is language that speaks directly to the risk that a generic term for a traditional system might otherwise be enclosed by private registration.¹⁰ The WHO's own institutional architecture reflects the same understanding. Its Global Traditional Medicine Centre, established with the support of the Government of India, functions from the campus of the Institute of Teaching and Research in Ayurveda at Jamnagar. Its work, including the incorporation, from January 2024, of Ayurveda-based diagnostic codes into the WHO's own International Classification of Diseases,

¹⁰World Health Organization, Global Traditional Medicine Strategy 2025-2034, adopted by the Seventy-eighth World Health Assembly on 26 May 2025, emphasising 'the protection of and access to traditional medical knowledge' (p. 6), recognising the right of knowledge holders to safeguard traditional knowledge 'against misappropriation and unauthorized use' (p. 20), and calling for regulatory frameworks that support the preservation of traditional knowledge 'while preventing misappropriation' (p. 27). The Ministry of Ayush, Government of India, is acknowledged as having supported the Strategy's development.

proceeds on the footing that Ayurveda is a system to be studied, standardised, and integrated into public health, not a mark to be licensed.¹¹

That understanding was reaffirmed as recently as December 2025, at the Second WHO Global Summit on Traditional Medicine held in New Delhi, which adopted the Delhi Declaration on Traditional Medicine and presented Ayurveda, alongside the other Ayush systems, as a comprehensive discipline rather than a proprietary product.¹² This is not India's claim alone. Approximately thirty countries, including Nepal, Sri Lanka, Bangladesh, Mauritius, the United Arab Emirates, Oman, Saudi Arabia, Malaysia, South Africa, Brazil, Switzerland, Germany, and Hungary, officially recognise Ayurveda as a regulated medical discipline in its own right, and in every one of those jurisdictions the word names the discipline, not any trader within it.¹³ These facts bear directly on trade mark law because both India and the great majority of these States are bound by common international standards.

Article 15(1) of the TRIPS Agreement defines a trade mark by reference to its capacity to distinguish the goods or services of one undertaking from those of another. Article 15(2) further preserves the discretion of Members to refuse registration on additional grounds, while Article 17 expressly recognises the legitimacy of fair use of descriptive terms as a limitation upon the scope of trade mark rights. Complementing this framework, Article 6 quinquies B of the Paris Convention permits the refusal or cancellation of marks that lack distinctive character, are exclusively descriptive, or have become customary in the current language or in the bona fide and established practices of trade. The authoritative BIRPI commentary on that Article articulates the

¹¹World Health Organization Global Traditional Medicine Centre, established in 2022 with foundational support from the Government of India and functioning 'c/o Institute of Teaching and Research in Ayurveda, Jamnagar, Gujarat, India'. Its Annual Report 2025 records pilots integrating traditional medicine, including Ayurveda, into ICD-11-based national health information systems.

¹²Second WHO Global Summit on Traditional Medicine, New Delhi, 17-19 December 2025, jointly organised by the World Health Organization and the Government of India, adopting the Delhi Declaration on Traditional Medicine and presenting 'Ayurveda, Yoga, Naturopathy, Unani, Siddha, Sowa Rigpa and Homoeopathy (Ayush) as comprehensive systems' in its exhibition.

¹³Approximately thirty countries officially recognise the practice of Ayurveda as a medical discipline, including Nepal, Sri Lanka, Bangladesh, Mauritius, the United Arab Emirates, Oman, Saudi Arabia, Malaysia, South Africa, Brazil, Switzerland, Germany and Hungary. In each such jurisdiction, the word names the regulated discipline itself, not the undertaking of any particular practitioner or trader.

underlying rationale plainly: descriptive terms and generic names "must remain in the public domain", irrespective of whether any given member of the public perceives them as descriptive.¹⁴ The BIRPI Guide further observes that a mark may be refused where it is liable to mislead the public into believing that the goods or services possess qualities which they in fact lack. This proposition bears directly on the present matter, where a mark comprising "Ayurveda" is employed for services that are not, in reality, rendered in accordance with Ayurvedic principles.¹⁵

VI. CONCLUSION: GUARDING A HERITAGE, NOT GRANTING A MONOPOLY

The Section 9 analysis above does not stand on its own. It is consistent with a position the Government of India has taken on Ayurveda for over a decade, one that combines promotion of the discipline with its protection from private appropriation.

Domestically, Ayurveda is administered by the Ministry of Ayush, which became a separate Ministry in November 2014, with the support of the National Commission for Indian System of Medicine (NCISM), the Central Council for Research in Ayurvedic Sciences (CCRAS) and the Pharmacopoeia Commission for Indian Medicine & Homoeopathy (PCIM&H). These bodies are responsible for the regulation, research, standardisation and development of Ayurveda in India. For more than twenty years, the Government has also maintained the Traditional Knowledge Digital Library, which was set up to prevent Ayurvedic formulations from being claimed in private patents, and it has since applied the same approach to trade marks and allied rights through its examination guidelines. In 2025, a gazette notification fixed a permanent date for Ayurveda Day, so that the observance no longer shifts with the lunar calendar.

¹⁴Paris Convention for the Protection of Industrial Property (1967), Article 6quinquies B(ii) and (iii), permitting refusal or invalidation of trade marks that are devoid of distinctive character, or are descriptive, or have become customary in the current language or bona fide trade practice, or are contrary to morality, public order, or of a nature to deceive the public.

¹⁵Bureau International Reuni pour la Protection de la Propriete IntellectuelleBIRPI (WIPO's predecessor), *Guide to the Application of the Paris Convention*, commentary to Article 6quinquies B, recognises that descriptive terms must remain in the public domain and that registration may be refused or invalidated where a mark constitutes a generic or customary designation of the relevant goods. It further notes that marks capable of deceiving the public, including by suggesting non-existent qualities, may likewise be refused or invalidated (pp. 115–116).

The eleventh Ayurveda Day, held in September 2026, saw participation from more than 150 countries.

At the international level, the World Health Organization has named the Government of India as a supporter of the Global Traditional Medicine Strategy 2025–2034. India hosts the WHO Global Traditional Medicine Centre at Jamnagar and, together with the WHO, organised the Second Global Summit on Traditional Medicine in New Delhi in December 2025.

These measures show that the Government of India treats Ayurveda as a regulated system of traditional knowledge within a public statutory framework, and not as a commercial name that any one person may own. The refusal to register the bare word under Section 9 is therefore in line with public policy. It gives effect, in private law, to a position the Government has consistently maintained in every forum available to it.

Nothing in this prevents a practitioner, clinic or manufacturer from building goodwill and a brand. They may do so through a coined name, a house mark, a distinctive logo or a composite mark in which "Ayurveda" appears only as a descriptive element, without any exclusive right attaching to that word. What the law does not permit is exclusive ownership of the name of the system itself, enforceable against other genuine practitioners, institutions, hospitals and teachers who are equally entitled, by tradition and under statute, to use the same word to describe their work. Since "Ayurveda" is the generic name of the discipline, this is not a defect that careful drafting or long use can cure.

Section 9 is working as intended here. It keeps generic and descriptive terms available to all who have a legitimate need to use them, and ensures that a tradition of several thousand years, celebrated each September as a shared heritage, does not become the property of a single registrant through an entry on the trade mark register

This note sets out the general legal position under Indian and international instruments as they stand as of the date of writing and does not purport to address the

facts of any particular pending proceeding. It is intended for general academic and professional discussion and does not constitute legal advice.

The views expressed are the author's own. The author, Rahul Matharu, is an advocate, a graduate of Law Centre-II, Faculty of Law, University of Delhi, and currently works with the Legal and Litigation Cell, O/o CGPDTM.