

TRADEMARK FAQS

➤ **What is a Trademark?**

A trademark, popularly known as a brand name, is a unique symbol, logo or word(s) used to represent a business or its products / services. It enables the consuming public to distinguish the goods / services of one trader from another. It is strongly advisable that you register your trademark or brand name as soon as they are coined. Once registered, that same symbol or series of words cannot be used by any other organization, forever, as long as it remains in use and proper paperwork and fees are paid.

Over time, trademarks become synonymous with a company name, so that you don't even need to see the name to recognize a particular business. Think of the apple shape with the bite taken out that Apple uses as its logo, the swoosh logo that Nike features on all of its products, or the golden arches McDonald's registered decades ago.

The fact that we so easily associate symbols and words with companies and their brands is one of the biggest advantages of their use. When a customer sees a familiar logo or phrase, they have instant recognition, which can drive preference and, ultimately, sales.

➤ **What is the difference between a Trademark and a Service Mark?**

Trademarks fall into two general categories:- Trademarks and Service Marks.

Marks that identify goods or products of a trader to the general public are known as Trademarks.

Marks that identify services are known as Service Marks. A service Mark is a logo used by the service industries to distinguish its services from those of another provider (e.g. entertainment, transportation, or travel agents.)

➤ **Why is it important to get your Trademark registered?**

Once a Trademark is registered, that same symbol or series of words cannot be used by any other organization, forever, as long as it remains in use and proper paperwork and fees are paid.

It becomes a prima facie proof of ownership of the applicant. The proprietor of the registered Trademark will then have all the benefits, remedies and protection afforded by the Trade Marks Act., 1999

You also have the right to recover damages from any party found to have infringed / misused your mark, plus costs for the suit.

➤ **Who can apply for a Trademark?**

Individuals, Sole Proprietors, Partnerships, Companies, or lawful associates, provided they meet the requirements of the Trade Mark Act

➤ **What are the signs of a Trademark?**

- ✓ TM - Using the trademark symbol after a logo or phrase alerts competitors that you have filed for the trademark registration and claimed this symbol or phrase as your own
- ✓ [®] - Only trademarks that have been officially granted by the Trademark office can use the [®] symbol, which stands for registered trademark.
- ✓ SM - Companies that sell services, not products, have the option to use the service mark logo, but most use the TM instead for simplicity

➤ **What is the validity of a Trademark?**

Trademark is valid for a period of 10 years from the date of application and can be renewed thereafter for a further period of 10 years at a time.

➤ **Does a local Trademark registration give protection in overseas countries?**

No, a trade mark registered in India only gives protection in India. If you intend to export your goods overseas, a separate application must be made in each of the countries where you seek protection.

However, there is an option of getting registered in 28 countries together via Community Trademark (CTM) application. The countries covered under CTM are Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom

Further, an application can also be filed via Organisation Africaine de la Propriété Intellectuelle (OAPI) which is a central registration system of intellectual property for 17 French-speaking African states. The countries covered under OAPI include Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Congo Republic, Ivory Coast, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mali , Mauritania, Niger , Senegal, Togo, Comoros

➤ **Is there a limitation as to the color of a Trademark?**

A Trademark may be limited wholly or in part to any color combination, and any such limitation shall be taken into consideration by the tribunal having to decide on the distinctive character of the Trademark.

However, if the Trademark is registered without limitation of color, it shall be deemed to be registered for all colors

➤ **Is there any jurisdiction for filing Trademark application in India?**

Yes, India has four Trademark offices located at Kolkata, New Delhi, Mumbai and Chennai. Each office has a separate territorial jurisdiction. The appropriate office for all proceedings including filing of the application depends normally where the applicant/first mentioned applicant resides/has domicile/has place of business/has origin of invention. In case of foreign applicants, it depends on the address for service in India given by such applicant.