

TRADEMARK PROCESS

➤ Search

Conducting a search is the first step in the process of registration of Trademark application. It is advisable to conduct a search so that you can get to know about the availability of the proposed mark whether it is clear to adopt / already registered / similar Trademark is being used by some other person.

➤ Filing

A Trademark application (TM-A) can be filed for a single class or multi classes. Application claiming priority from a convention country can also be filed in India within 6 months from the priority date.

➤ Examination report

The Registrar will cause the application to be examined in accordance with the provisions of the Trademark Act. If an objection to the mark is raised, an official Examination Report will be issued by the Registrar within 3 months to 1 year of filing, depending upon the backlog of the Trademark Registry.

The Registry may accept or refuse the application subject to the provisions of the Act. A Trademark application can be refused / objected on relative or absolute grounds which mainly relates to similarity with already registered marks or distinctive character as the case may be. The applicant can put forward his case in writing as a reply to the Examination Report within 30 days from date of the examination report.

➤ Hearing –

If the examiner after securitizing the reply to the examination report finds it appropriate, then the trademark will be accepted & advertised in the Trademark

Journal. If the examiner is not satisfied with the reply then he may list the matter for the hearing on a **stipulated date and time**

➤ **Advertisement-**

After examination and upon acceptance of the response by the Registrar, the application is ordered for advertisement / publication in the Trademark Journal. An application is advertised in the Trademark Journal so as to invite the public for filing opposition against the registration of the trademark. Thus once a mark is accepted, the Registrar advertises the mark in the official Trademark Journal, which is published and available on the Registry's website every Monday.

➤ **Opposition-**

Once the Trademark is published in the Trademark Journal, any aggrieved person can oppose its registration by filing a notice of opposition with the Registry. The notice of opposition is required to be filed within the prescribed period of 4 months from the date on which the mark was published in the Trade Journal.

➤ **Registration & Renewal of trademark-**

If the application for registration after its advertisement is unopposed or if opposed, decided in favor of registration, the mark will be registered and a registration certificate will be issued. The registration of the Trademark remains valid for a period of 10 years from the date of filing that application and can be renewed thereafter for a further period of 10 years at a time.

➤ **Cancellation / Rectification of a registered trademark-**

If any person is aggrieved by an entry wrongly made or wrongly remaining on the register of trademark, he is entitled to file a petition for cancellation of registration or

rectification of the register for removal of the registered mark. Rectification of the registered trademark is a proceeding in which a party seeks to remove a registered trademark from the register.

Rectification can be filed only after a trademark is registered on the following grounds:-

- ✓ That the registration was made without sufficient cause or registration was obtained by misrepresentation of facts, similar to an earlier mark registered
- ✓ That the mark was wrongly remaining on the register in case it is against some legal provisions of the Act or likely to cause confusion
- ✓ Making any changes, amendments, or modification in connection with any registered trademark as per the recent advancement
- ✓ Non-use of any registered trademark for more than five years by the registered proprietor
- ✓ Non-renewal of the original or previous registration of the trademark
- ✓ Inclusion or addition of certain more class or goods or services, in case it is against the business extent of the registered trademark
- ✓ Non-conformity with one or more grounds stipulated in Section 9 and Section 11 of the Indian Trade Marks Act of 1999