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All you need to know about Trademarks in India

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INTRODUCTION

A trademark is an icon that separates a company's products from those of other businesses. A trademark can be made up of a single letter, a logo, a symbol, a pattern, or even numbers, as well as three-dimensional elements like shape, packaging, etc.

Trademarks in India are defined under the Trademarks Act, 1999. According to **Section 2(zb) of the Trademarks Act, 1999**, a "trademark" is a symbol that may be represented graphically and that can be used to differentiate the goods or services of one person from those of others. An item's packaging, shape, or colour scheme could all be considered trademarks.

Thus, the distinguishing feature of a trademark is its distinctiveness. Service Marks are trademarks that are used in connection with goods and services like travel, banking, etc. An authorised trademark may only be used by the registered owner.

TYPES OF TRADEMARK

Trademarks in India can be categorized into various types:

- Word Marks encompass words, letters, numerals, or combinations without artistic representation, offering flexibility in design and font usage.
- Device Marks include logos, labels, or geometric figures, often visually memorable and aiding brand recognition.
- Sound Marks are unique sounds that serve as trademarks, such as jingles or theme songs.
- Three-dimensional trademarks cover distinct shapes of goods or packaging, functioning as non-conventional trademarks.

- Colour trademarks represent goods and services using specific color combinations, requiring consumer recognition for distinctiveness.
- Smell Marks relate to distinctive smells associated with products, like perfumes.
- Lastly, Shape of Goods trademarks protect the distinctive shape of goods, excluding shapes resulting from nature, technical necessity, or substantial value.

The registration of non-conventional trademarks depends on consumer recognition and acquired distinctiveness, while considering the balance between applicants and other traders using similar elements in good faith.

REGISTRATION OF TRADEMARKS IN INDIA

There are 45 different trademark classes, with 34 different classes for items and 11 different classes for services. In order to ensure the registration of trademarks for goods and services, improve their protection, and stop the use of fake marks, the Trademarks Act, 1999 was passed.

Trademarks in India can be used indefinitely and are registered for ten years, but they can also be renewed on a regular basis.

The registration process for a trademark involves several steps.

- Firstly, the applicant must file a written application with the Registrar, accompanied by the necessary fees.
- The application can cover multiple classes of goods and services and should be submitted to the relevant Trade Marks Registry.
- The Registrar will then review the application and either accept or reject it, with the possibility of requesting amendments or modifications.
- If accepted, the application will be advertised in the Trademark Journal to invite objections.
- Interested parties have four months to submit written opposition, followed by a hearing where evidence is presented.
- If there are no valid objections or if the applicant successfully defends against them, the Registrar will proceed with the registration and issue a certificate. The entire process typically takes up to 18 months from the application filing date.

Registering trademark in India before starting a business is not required. Without a trademark, however, it is risky to grow your business internationally because someone else could abuse your

company's branding.

In order to safeguard its position and protect its trademark rights while giving it time to expand its business, a corporation should obtain a registration before starting a business in a foreign country. Before registering a trademark, it is crucial to understand the level of protection it offers the owner.

The reason is that each one of them involves particular components and requirements. A trademark is a valuable asset that a proprietor can utilise to monetize both his trademark and his product. Additionally, trademarks serve as a barrier between registered trademark owners and other market competitors.

At last, a trademark serves as a tool that allows the owner to employ the legal recourse provided to him to combat trademark infringement. As a result, prior to registration, a trademark's kinds must be given the highest consideration.

FUNCTIONS OF A TRADEMARK

A trademark serves multiple functions and purposes in the business world. It acts as a distinctive symbol that identifies a product or service and its source, reflecting the goodwill and reputation of a business.

By assuring consumers about the established quality and consistency of a product, a trademark builds trust and loyalty. It also serves as an effective advertisement, capturing attention and distinguishing a brand from competitors.

With legal registration, a trademark provides exclusive rights and prevents unauthorised use, safeguarding the brand's distinct identity. Ultimately, a strong and recognizable trademark helps establish a dedicated consumer base, promoting brand loyalty and preventing imitations from diluting the brand's success.

Trademark registration offers several benefits to businesses. Firstly, it enhances the value of the business by creating an intangible asset. It helps in building brand value and establishing a strong market position.

Additionally, registration serves as prima facie evidence of the trademark's validity, making it easier to enforce and protect the rights associated with the mark. The registered trademark owner enjoys exclusive rights to use the mark and can seek legal remedies in case of

infringement.

Trademarks in India are valid for 10 years and can be renewed, ensuring long-term protection. Moreover, registered trademark owners have the flexibility to transfer their rights through licensing or assignment, allowing for potential collaborations and business expansion.

CONCLUSION

Trademarks are essential for maintaining and increasing a brand's value. Businesses can create a distinctive brand identity and achieve a market advantage by comprehending the benefits of trademarks.

Legal defence, exclusive rights, and the capacity to enforce against infringement are all provided by trademark registration. Numerous trademark kinds, including word marks, device marks, sound markings, three-dimensional marks, colour marks, fragrance marks, and shape of goods marks, provide distinctive ways to distinguish and represent a brand.

Businesses must carefully traverse the trademark registration procedure, carrying out in-depth searches, submitting applications, and making sure all standards are met. Ultimately, trademarks are valuable assets for enterprises in today's marketplace because they help build consumer trust, brand awareness, and long-term success.

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