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TRADEMARK REGISTRATION IN INDIA

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ABSTRACT

A trademark is a unique visual trademark that protects a brand's corporate identity, enhances market trust, and stops the public from being misled. This document explains the division and sequential registration of trademarks as per the setup of the Indian Trademark Act 1999. It specifies the legal conditions that define different types of marks like Word Marks, Logo/Device Marks, Service Marks, three-dimensional Shape Marks, Audio/Sound Marks, and collective organizational identifiers. And, the article, in a sense of a continuous and legal statutory existence, follows the Registrar of Trademarks who handles the trademark lifecycle under Sections 18 to 23—going from filing requirements, the registrar's power to accept or withdraw (Section 19), public advertisement (Section 20), the strict four-month opposition period (Section 21), to post-registration amendment prohibitions (Section 22) and final certification. The paper also touches on the timeframes per Sections 25 and 26, which highlight the ten-year base period of validity and the essential six-month window allowed for trademark restoration.

INTRODUCTION TO TRADEMARK

A trademark is an important form of intellectual property that safeguards a brand's unique identity and market value. It can include a word, slogan, logo, symbol, letter, sound, or a combination of these elements, designed in a manner to distinguish a business's goods and services from those of its competitors. Ultimately, a trademark can be described as a distinctive signature, to make an enterprise stand out and build trust in a crowded marketplace.

There are different types of trademarks in India.

WORD MARKS

When a brand is identified purely by text, such as specific names, letters, or catchphrases—it falls under a word mark. These are important for keeping one business's offerings distinct from another in the consumer's mind. A well-known example is Nike, the name itself is the protected asset, independent of any specific font or styling.

LOGO MARKS (DEVICE MARKS)

It moves away from text to focus on visual representation, such as a symbol or graphic icon making a logo or device mark important. The Apple logo distinguishes their hardware without needing any text alongside it.

SERVICE MARKS

While the term trademark often brings physical products to mind, service marks exist specifically for the intangible side of the market. They allow service-oriented businesses—think airlines, hotels, or banking institutions—to protect their brand identity so that clients can easily source the provider.

SHAPE MARKS

Sometimes a product's physical, three-dimensional design is so unique that it acts as its own brand identifier. These are known as shape marks. To qualify, the form must be truly distinctive in the market. The classic Coca-Cola bottle is legally recognized as a core part of the brand's identity.

SOUND MARKS

Audio is just as recognizable as a visual logo. Sound marks protect specific audio clips or jingles that people immediately associate with a company. A modern case is the Netflix "ta-dum" sound. It is a registered mark because that short audio cue has become inseparable from the brand experience.

COLLECTIVE MARKS

Collective marks differ from the rest because they aren't used by a single company. Instead, they are utilized by members of an association or professional group to indicate their affiliation or a shared standard. The CA designation used by Chartered Accountants is a clear example, serving to identify all members who belong to that professional body.

TRADEMARK REGISTRATION

Getting a trademark is a way to protect not just the brand's look but also the reputation that comes with it. In India, the whole thing is controlled by the Trademark Act of 1999. To get started, the applicant needs to file a formal application supported with all relevant brand documents and logos with the Registrar of Trademarks. After that, the Registrar reviews the submission and has the last discretionary authority to grant or refuse the application according to whether it meets the legal criteria.

To look into the exact legal framework, the step-by-step statutory process for registration in India is explicitly laid out under Sections 18 through 23 of the Trademark Act of 1999.¹

¹ The Trade Marks Act, 1999, §§ 18–23 (India)

Section 18²: this section of the Act states A trademark under the Act has to file a single application before the Registrar's office, presenting a unique mark of the company or a brand, and should pay a respectable fee to the Registrar as mentioned here. Thus the Registrar has discretion to accept or ask for any of the amendments or modifications in the Even the registrar has the power to refuse to register the trade mark. For that the registrar has to give the reason for the same.

Section 19³: states that if the registrar feels that he has given his acceptance to register the trademark in a hurry or proper checking has not been done, the registrar also has the power to withdraw his acceptance any time before the actual registration of the trademark.

Section 20⁴: states that before registration the registrar has the power to advertise the trademark in the market so that it gives a bona fide chance to the other enterprises to check whether the trademark either matches or has a similar identity to their mark. If any of the enterprises or a brand in the market finds the trademark to be similar or identical to theirs, the registrar allows them to challenge the trademark of the new brand or a company.

Section 21⁵: If any other Enterprises in the market challenge or oppose the trademark of the party or an enterprise who is filing a registration before the registrar. The party who opposes has four months from the time of advertisement to challenge the trademark. Within two months of challenging the registrar has the power to communicate the same to the applicant of the registration. Then the registrar has the power to hear both parties, see all evidence presented by both parties, and it is the discretion of the registrar whether the objection is valid or not.

Section 22⁶: If the registrar wants to make any correction, amendment, or modification in the trademark, he has the power to do it Anytime before the registration but when the registration has been completed and the applicant has been awarded the sole authority of that trademark, the registrar loses the chance to amend, correct, or modify the trademark after the registration has been completed.

Section 23⁷: If the registrar is satisfied with all the conditions and all the documents to be presented before the registrar and if there is no objection or challenge by any other enterprises against the trademark which has to be registered, thus fulfilling all the essential points to register a trademark under the Act, The Registrar has the power to issue a certificate to the applicant of a registered trademark. Thus it gives an exclusive right to the applicant to be the sole owner to use that trademark for a particular brand or enterprise.

² The Trade Marks Act, 1999, § 18 (India)

³ The Trade Marks Act, 1999, § 19 (India)

⁴ The Trade Marks Act, 1999, § 20 (India)

⁵ The Trade Marks Act, 1999, § 21 (India)

⁶ The Trade Marks Act, 1999, § 22 (India)

⁷ The Trade Marks Act, 1999, § 23 (India)

DURATION OF THE TRADEMARK IN INDIA

Section 25⁸: states that a person who registered their trademark in India before the registrar's office under the Trademark Act 1999 has the power of sole ownership to use the trademark exclusively for the ten years. They also have the chance to renew the trademark for another ten years after the expiration of the first phase of ten years. Thus it gives the sole authority to the owner to use it and prevent others from infringing the trademark which has been registered in the name of a particular brand or enterprise.

Section 26⁹: states that even if a trademark of 10 years has expired and the person has forgotten to renew the trademark for another 10 years, the registrar has the power to remove the trademark. If the owner of the registered trademark gets the trademark renewed within 6 months of the last expired duration of the trademark, they can restore the trademark of their brand or enterprise and enjoy the similar exclusive sole authority power over their trademark.

⁸ The Trade Marks Act, 1999, § 25 (India)

⁹ The Trade Marks Act, 1999, § 26 (India)