FAQ TRADE MARKS

BASIC INFORMATION

1. What is a trademark?

A trademark (popularly known as brand name) in layman's language is a visual symbol which may be a word signature, name, device, label, numerals or combination of colours used by one undertaking on goods or services or other articles of commerce to distinguish it from other similar goods or services originating from a different undertaking. The legal requirements to register a trademark under the Act are:

- The selected mark should be capable of being represented graphically (that is in the paper form).
- It should be capable of distinguishing the goods or services of one undertaking from those of others.
- It should be used or proposed to be used mark in relation to goods or services for the purpose of indicating or so as to indicate a connection in the course of trade between the goods or services and some person have the right to use the mark with or without identity of that person.

2. How to select a good trademark?

If it is a word it should be easy to speak, spell and remember. The best trademarks are invented words or coined words or unique geometrical designs.
Please avoid selection of a geographical name, common personal name or surname. No one can have monopoly right on it.
Avoid adopting laudatory word or words that describe the quality of goods (such as best, perfect, super etc.)

It is advisable to conduct a market survey to ascertain if same/similar mark is used in market.

3. What is the function of a trademark?

Under modern business condition a trademark performs four functions

- It identifies the goods / or services and its origin.
- It guarantees its unchanged quality
- It advertises the goods/services
- It creates an image for the goods/ services.

4. Who can apply for a trademark and how?

Any person, claiming to be the proprietor of a trademark used or proposed to be used by him, may apply in writing in prescribed manner for registration. The application should contain the trademark, the goods/services, name and address of applicant and agent (if any) with power of attorney, the period of use of the mark. The application should be in English or Hindi. It should be filed at the appropriate office.
The applications can be submitted personally at the Front Office Counter of the respective office or can be sent by post. These can also be filed on line through the e-filing gateway available at the official website.

5. What are different types of trademarks that may be registered in India?

- Any name (including personal or surname of the applicant or predecessor in business or the signature of the person), which is not unusual for trade to adopt as a mark.
- An invented word or any arbitrary dictionary word or words, not being directly descriptive of the character or quality of the goods/service.
- Letters or numerals or any combination thereof.
- The right to proprietorship of a trademark may be acquired by either registration under the Act or by use in relation to particular goods or service.
- Devices, including fancy devices or symbols
- Monograms
- Combination of colors or even a single color in combination with a word or device Shape of goods or their packaging
- Marks constituting a 3- dimensional sign.
- Sound marks when represented in conventional notation or described in words by being graphically represented.

6. Who benefits from a trademark?

The Registered Proprietor of a trademark can create establish and protect the goodwill of his products or services, he can stop other traders from unlawfully using his trademark, sue for damages and secure destruction of infringing goods and or labels.

The Government earns revenue as a fee for registration and protection of registration of trademarks The Legal professionals render services to the entrepreneurs regarding selection registration and protection of trademarks and get remunerations for the same

The Purchaser and ultimately Consumers of goods and services get options to choose the best.

7. What are the benefits of registering a trademark?

The registration of a trademark confers upon the owner the exclusive right to the use the trademark in relation to the goods or services in respect of which the mark is registered and to indicate so by using the symbol (R), and seek the relief of infringement in appropriate courts in the country. The exclusive right is however subject to any conditions entered on the register such as limitation of area of use etc. Also, where two or more persons have registered identical or nearly similar marks due to special circumstances, such exclusive right does not operate against each other.

8.

9. What are the sources of trademark laws?

- The national statues i.e., the Trade Marks Act, 1999 and rules made thereunder.
- International multilateral convention.
- National bilateral treaty.
- Regional treaty.
- Decision of the courts.
- Office practice reduced in Manuals and guidelines and rulings of the Courts ~~Decision of Intellectual Property Appellate Board~~.
- Text books written by academician and professional experts.

10. What does the Register of trademark contain?

The register of trademark currently maintained in electronic form contains inter alia the trademark the class and goods/ services in respect of which it is registered including particulars affecting the

scope of registration of rights conferred; the address of the proprietors; particulars of trade or other description of the proprietor; the convention application date (if applicable); where a trademark has been registered with the consent of proprietor of an earlier mark or earlier rights, that fact.

11. Can any correction be made in the application or register?

But the basic principle is that the trademark applied for should not be substantially altered affecting its identity. Subject to this changes are permissible according to rules detailed in the subordinate legislation.

12. Can a registered trademark be removed from the register?

It can be removed on application to the Registrar on prescribed form on the ground that the mark is wrongly remaining on the register. The Registrar also can suo moto issue Notice for removal of a registered trademark?

13. What is the difference between a trademark and a patent?

Patent law protects inventions of novel and non-obvious items. A patent protects against subsequent similar inventions that are independently or dependently produced. Patents only last twenty years after the initial application date.

14. What is the difference between a trademark and a copyright?

Trademarks distinguish the goods and services of one source from another. Copyright laws cover the expression of ideas such as words, pictures and digital media. Unlike both copyright and patent law which are subject to duration limitations, trademarks are the subject of both state and federal laws and do not have a durational limit. Trademarks that are properly maintained and not abandoned will remain valid (indefinitely).

15. Why should you register a trademark?

The Registered Proprietor of a trademark can create, establish and protect the goodwill of the product or services and restrain other traders from unlawfully using the trademark. The Government also earns revenue in the form of fee for registration and protection of trademarks. This ultimately provides consumers with options to choose the best in terms of goods and services.

16. Can a sound be registered as a trademark in India, and does it require graphical representation?

Yes, sound is registrable as a trademark provided, it should be capable of being reproduced graphically and should be distinctive. For sound marks, the application must clearly indicate that it is a sound mark and the reproduction of the same must be submitted in the MP3 format not exceeding thirty seconds' length recorded along with a graphical representation of its notations.

17. How can we know whether similar marks have already been registered in respect of same type of goods or services in India?

A trademark search may be conducted in India on the Indian Trademark Registry's Website before applying for registration to check if any identical or similar marks already exist. The availability of the mark may be checked on said government free portal through selecting the relevant class of good or services from a list of 45 different classes. The search can be carried out for Wordmark, for device mark through Vienna code classification and for phonetic marks as well.

18. How long is the trademark valid for?

The registration of a trademark is valid for a period of 10 years, and may be renewed from time to time in accordance with the provisions of the Trade Marks Act, 1999.

19. What are the remedies that are available for trademark infringement?

Reliefs in the nature of injunction, damages, an account of profits, may be awarded, or fine and/or imprisonment may also be imposed.

20. Are well known marks protected in India?

Yes, well known marks are protected in India. There are specific provisions under the Trade Marks Act, 1999, and procedure to record well known trade marks in India is provided under the Trademarks Rules, 2017. Any person may file a request through e-module only for determination of a trade mark as well-known accompanied by a statement of case along with all the documents relied by the applicant in his claim. A list of well-known trademarks in India is maintained by the Registrar of Trade marks including both Indian and foreign trademarks.

21. How are international applications for trademark regulated in India?

The Trade Marks Act, 1999, stipulates special provisions for protection of trademarks through international registration under the Madrid Protocol.

Under this procedure, any person belonging to a country or organization of countries which is member of the Madrid Protocol can file an application for international registration.

This person must have a trademark registered or pending for registration in their home country, commonly known as the 'Basic mark'.

The person may file the application (commonly known as 'International Application') through their office and seek protection of their trademark in India.

The application needs to be certified and transmitted by that office to the WIPO. The Trade Marks Act, 1999, stipulates special provisions for protection of trademarks through international registration under the Madrid Protocol. Under this procedure, any person belonging to a country or organization of countries which is member of the Madrid Protocol and where he has a trademark registered or pending for registration (commonly known as ‘Basic mark’) may file the application for international registration (commonly known as ‘International Application’) through his office and may seek protection of his trademark in India. The application needs to be certified and transmitted by that office to the WIPO.

22. When is someone liable for infringing my trademark?

Trademark infringement occurs when someone copies or imitates your trademark or uses it in a matter that is likely to cause confusion. An owner of a famous trademark with distinctive qualities can receive an injunction against another who uses the trademark and either taints the mark’s reputation or impairs its distinctiveness.

23. What is a service mark?

A service mark is a word, name, or symbol used by a person to differentiate the services of one person from the services of another.

24. What is a certification mark?

A certification mark is a word, name, or symbol, used, to certify geographic origin, material, quality, or other characteristics of goods or services.

25. What is a collective mark?

A collective mark is a trademark or service mark used by members of an organization, indicating membership in a union, an association, or other organization.

26. What is trade dress?

Trade dress is the "total image" of a product that creates a consumer recognition of source identification. The includes the packaging, product configuration, size, color, texture, graphic and sales techniques.

27. What is trademark distinctiveness?

To register a trademark, you have to show that your mark is distinctive. That is, the ability of a particular trademark to perform an origin-identifying function.

28. What is trademark descriptiveness?

A trademark is considered descriptive if it simply describes or names characteristics associated with the goods or services upon which it is used. Descriptive trademarks merely describe some aspect of your goods or services without identifying or distinguishing the source of those goods or services.

29. Why conduct a search prior to filing a trade mark?

A trade mark search at the Trade Marks Office will establish whether there are any prior conflicting marks that may pose an obstacle to the registration of your trade mark. If potential problems are anticipated, we will be in a position to advise you on possible ways to resolve these issues at an early stage.

30. When to use the symbols ™ and ®?

The ™ symbol (or the words "Trade Mark") may be used alongside registered and unregistered trademarks. The ® symbol (or the words "Registered Trade Mark") should only be used in respect of a trademark that has been registered.

31. What is Trademark Classification?

Trademark classification refers to the process of categorizing trademarks into specific classes based on the nature of goods and services they represent. It provides a systematic framework for organizing and distinguishing trademarks, ensuring a clear and standardized approach to their protection via Trademark Registration.

In India, we follow the NICE classification system for Trademark Classification. This system is widely accepted and used across several jurisdictions around the world, including India, for classifying trademarks into specific classes of goods and services. It contains a total of 45 classes, out of which the first 34 (Classes 1 to 34) are meant for goods and the last 10 (Classes 35 to 45) are meant for services.

32. List of Goods and service classes used for Trademark

Classification of goods and services – Name of the classes

(Parts of an article or apparatus are, in general, classified with the actual article or apparatus, except where such parts constitute articles included in other classes).

Goods Classes

- Class 1. Chemical used in industry, science, photography, agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesive used in industry
- Class 2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordents; raw natural resins; metals in foil and powder form for painters; decorators; printers and artists
- Class 3. Bleaching preparations and other substances for laundry use; cleaning; polishing; scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions, dentifrices
- Class 4. Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels(including motor spirit) and illuminants; candles, wicks
- Class 5. Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; materials for stopping teeth, dental wax; disinfectants; preparation for destroying vermin; fungicides, herbicides
- Class 6. Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores
- Class 7. Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs
- Class 8. Hand tools and implements (hand-operated); cutlery; side arms; razors
- Class 9. Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire extinguishing apparatus
- Class 10. Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopaedic articles; suture materials
- Class 11. Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying ventilating, water supply and sanitary purposes
- Class 12. Vehicles; apparatus for locomotion by land, air or water
- Class 13. Firearms; ammunition and projectiles; explosives; fire works
- Class 14. Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and other chronometric instruments
- Class 15. Musical instruments
- Class 16. Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic

materials for packaging (not included in other classes); playing cards; printers' type; printing blocks

- Class 17. Rubber, gutta percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal
- Class 18. Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides, trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery
- Class 19. Building materials, (non-metallic), non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.
- Class 20. Furniture, mirrors, picture frames; goods(not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother- of-pearl, meerschaum and substitutes for all these materials, or of plastics
- Class 21. Household or kitchen utensils and containers(not of precious metal or coated therewith); combs and sponges; brushes(except paints brushes); brush making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes
- Class 22. Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes) padding and stuffing materials(except of rubber or plastics); raw fibrous textile materials
- Class 23. Yarns and threads, for textile use
- Class 24. Textiles and textile goods, not included in other classes; bed and table covers.
- Class 25. Clothing, footwear, headgear
- Class 26. Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers
- Class 27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings(non-textile)
- Class 28. Games and playthings, gymnastic and sporting articles not included in other classes; decorations for Christmas trees
- Class 29. Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats
- Class 30. Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking powder; salt, mustard; vinegar, sauces, (condiments); spices; ice
- Class 31. Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt
- Class 32. Beers, mineral and aerated waters, and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages
- Class 33. Alcoholic beverages(except beers)
- Class 34. Tobacco, smokers' articles, matches

Services Classes

- Class 35. Advertising, business management, business administration, office functions.
- Class 36. Insurance, financial affairs; monetary affairs; real estate affairs.
- Class 37. Building construction; repair; installation services.
- Class 38. Telecommunications.

- Class 39. Transport; packaging and storage of goods; travel arrangement.
- Class 40. Treatment of materials.
- Class 41. Education; providing of training; entertainment; sporting and cultural activities.
- Class 42. Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software.
- Class 43. Services for providing food and drink; temporary accommodation.
- Class 44. Medical services, veterinary services, hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.
- Class 45. Legal services; security services for the protection of property and individuals; personal and social services rendered by others to meet the needs of individuals.

33. Mark Distinctiveness and Descriptiveness as per the Trademark Act

- Section 9(1)(a) of the Indian Trademark Act' in India (Distinctiveness).
- Section 9(1)(b) of the Indian Trademark Act' in India (Descriptiveness).

25. Application Registration Mode

Available through both online and offline modes.

34. Indian Trademark Searching Database link.

https://tmrsearch.ipindia.gov.in/tmrpublicsearch/frmmain.aspx

TRADEMARK OPPOSITION

1. **What is trademark opposition?**

   Trademark opposition is a legal process where any person can challenge the registration of a trademark that has been published in the Trademark Journal.
2. **Who can file a notice of opposition?**

   Any person who believes they would be affected by the registration of a trademark can file a notice of opposition. This includes individuals, companies, trusts, and partnership firms.
3. **What are the grounds for filing trademark opposition?**
   The grounds for filing a trademark opposition are not explicitly listed in the Trademarks Act, 1999. However, there are several recognized reasons upon which an opposition can be based. These include but are not limited to:
   - Similarity to existing trademarks
   - Descriptive nature of the mark
   - Lack of distinctive character
   - Bad faith application
   - Potential to cause confusion among the public
4. **How do I file a notice of opposition?**

You can file a notice of opposition within 4 months from the date of advertisement in the Trademark Journal. Fill out Form TM-O, provide details of the application being opposed, grounds for opposition, and pay the required fees.

5. **What happens after filing a notice of opposition?**
   The Registrar serves a copy of the notice to the applicant. The applicant then has 2 months to file a counterstatement, responding to the grounds of opposition.
6. **What if the applicant does not file a counterstatement?**
   If the applicant fails to file a counterstatement within 2 months, he shall be deemed to have abandoned his application.
7. **Can I submit evidence during trademark opposition?**
   Yes, both parties can submit evidence supporting their case. The opposing party shall submit evidence within 2 months after receiving the counterstatement. The applicant can then submit evidence within 2 months after receiving the opposing party's evidence.
8. **Is there a hearing during the opposition process?**
   Yes, after evidence submission, a hearing is scheduled. Both parties are notified of the hearing date. If either party fails to attend, certain consequences may follow, such as dismissal of the opposition or abandonment of the application.
9. **How is the decision made in trademark opposition?**
   The Registrar considers all evidence and arguments presented by both parties. After the hearing, the Registrar will decide whether to proceed with trademark registration or reject the application. The decision is communicated to both parties in writing.
10. **What happens after the Registrar's decision?**
    If the decision favors the applicant, the trademark will be registered, and a registration certificate will be issued. If the decision favors the opposing party, the application will be rejected.
11. **Can I appeal the Registrar's decision?**
    Yes, there is a provision for appeal against the Registrar's decision. Specific procedures and timelines apply for filing an appeal.
12. **Where can I find more information on trademark opposition?**
    For detailed guidelines, forms, and latest updates on trademark opposition, visit [Official Website URL] or contact [Department/Registrar Contact Information].
13. **What happens if either party fails to file evidence within the specified time?** If either the opposing party or the applicant fails to file their evidence within the stipulated timelines, the opposition or application shall be deemed to have been abandoned.
14. **How can an applicant/opponent change their address?**
    An applicant or opponent can change their address by filing Form TM-M along with the proper fee.
15. **How many adjournments can be taken by each party?**
    As per Rule 50 of the Trademark Rules, 2017, no party shall be given more than two adjournments during the trademark opposition proceedings. Requests for adjournment must be filed using Form TM-M.
16. **Can the decision of the Registrar be reviewed?**
    Yes, an application to the Registrar for the review of his decision shall be made in Form TM-M within one month from the date of such decision or within such further period not exceeding one month thereafter as the Registrar may, on request, allow.
17.

18.

19. When can a trademark be rectified?

A trademark can be rectified either by the proprietor of the trademark, the Registrar, or any aggrieved person under certain circumstances. These include errors in the application form, trademark details, or entries in the register, among others.

20. Who can apply for trademark rectification?

- **Proprietor Initiated:** The proprietor can apply using Form "TM-P" along with prescribed fees.
- **Registrar Initiated:** The Registrar can initiate rectification proceedings of its own motion.
- **Aggrieved Person Initiated:** Any person whose trading interests are affected can apply using Form "TM-O" along with fees.

21. What are the grounds for trademark rectification?

Grounds for rectification include errors in application details, trademark particulars, or register entries, changes in applicant details or address, non-use of trademark for a specified period, and any other grounds accepted by the Registrar.

22. How is trademark rectification processed?

The process involves submitting the relevant form and supporting documents to the Trademark Registry, paying prescribed fees, and awaiting approval from the Registrar. In cases initiated by an aggrieved person, both parties may submit evidence, and the Registrar decides based on the presented arguments.

23. Where can rectification applications be filed?

Applications for rectification should be filed at the Trademark Registry where the original application was submitted or at the Honorable High Court, depending on the nature of the rectification sought.

24. What happens after a trademark is rectified?

Upon approval of rectification, the Registrar may cancel, vary, add, or remove entries in the trademark register as deemed necessary based on the rectification application and supporting documents.

25. How can one rectify a trademark that has been wrongly registered?

An aggrieved person can apply for rectification using Form "TM-O" by submitting reasons for rectification and supporting evidence. The process involves a notice to the trademark proprietor and subsequent affidavits and evidence from both parties to determine the outcome.

26. Is there a time limit for filing a rectification application?

While there is no specific time limit mentioned, rectification should be pursued promptly upon discovering errors or discrepancies in the trademark details to avoid complications.

27. Who decides on trademark rectification cases?

Trademark rectification cases are decided either by the Registrar of Trademarks or by the High Court, depending on the jurisdiction of the case.

PRAS

1. **What is PRAS?**

   Pre - Registration Amendment Section.

2. **What are the relevant provision of the Trade Marks Act and Rules dealing with correction or amendment in the application?**

   Section 22 of Trade Marks Act, 1999 and Rule 37 of Trade Marks Rules, 2017 deals with the correction or amendment in the application either before or after the acceptance of the application but before the registration of the mark.

3. **Which form is required to be filed by the applicant for any correction or amendment in the application.**

   As per Rule 37 of Trade Marks Rules, 2017, either before or after the acceptance of the application but before the registration of the mark, an applicant may apply in form TM-M(CORRECTION OF CLERICAL ERROR OR FOR AMENDMENT U/R 37) accompanied by the

   prescribed fee, for correction of any error in his application or amendment of his application.

4. **What is TM-M(CORRECTION OF CLERICAL ERROR OR FOR AMENDMENT U/R 37)?**

   TM-M(CORRECTION OF CLERICAL ERROR OR FOR AMENDMENT U/R 37) is a type of form which is required to be filed by the applicant with prescribed fee for correction of any error or amendment in the application.

5. **Under which heading a form TM-M is to be filed for correction or amendment in the application?**

   As per sch. 2 of Trade Marks Rules, 2017 request for correction or amendment is required to be made in form TM-M under the heading of (CORRECTION OF CLERICAL ERROR OR FOR AMENDMENT U/R 37).

6.

7. **What is the mode of filing of form TM-M ?**

Filing of form TM-M can be done either through offline mode (Physical filing) at the branch office or through online mode(E-filing).

8. **At what stage form TM-M(CORRECTION OF CLERICAL ERROR OR FOR AMENDMENT U/R 37) can be filed for correction or amendment in the application?**

   As per Rule 37 of Trade Marks Rules, 2017, an applicant can apply in form TM-M (CORRECTION OF CLERICAL ERROR OR FOR AMENDMENT U/R 37) either before or after the acceptance of the application but before the registration of the mark.

9. **Can form TM-M for correction or amendment be filed after the advertisement of the mark?**

   Yes, as per rule 37 of Trade Marks Rules, 2017 form TM-M can be filed either before or after the acceptance of the application but before the registration of the mark.

10. **Which form is required to be filed to change the Agent/Attorney Details in the application?**

    Form TM-M under the heading of (CORRECTION OF CLERICAL ERROR OR FOR AMENDMENT U/R 37) accompanied by the prescribed fee.

11. **Can the Trade Mark be amended by filing TM-M?**

    An amendment request having effect of substantially altering the Trade Mark are not permitted as per Rule 37 of Trade Mark rules, 2017.

12. **Can the Goods/services be changed by filing TM-M?**

    As per Rule 37 of Trade Mark rules, 2017, no such amendment is permitted which shall have the effect of substituting a new specification of goods or services not included in the application as filed.

13. **How to apply for Duplicate Registration Certificate?**

    As per sch. 2 of Trade Marks Rules, 2017 by filing form TM-M(DUPLICATE REGISTRATION CERTIFICATE) with prescribed fee.

14.

15. **Which form is required to be filed by the applicant for Duplicate Registration Certificate?**

    As per sec. 2 of Trade Marks Rules, 2017 request for Duplicate Registration Certificate is required to be made in form TM-M under the heading of (DUPLICATE REGISTRATION CERTIFICATE).

LEGAL DIVISION

13. I want to obtain Legal Proceeding Certificate (LPC) of a Trademark Application?

A. In order to obtain Legal Proceeding Certificate (LPC) form TM-M has to be filed.

14.

15. I have not received a Legal Proceeding Certificate (LPC). What Should I do?

A. Legal Proceeding Certificate is issued within thirty days (or within Seven days in case of expedited LPC) of receiving request at Trademark Registry. If within thirty days/Seven days it has not been issued than Legal Division of concern Trademark Registry may be contacted via writing an email or a letter.

16. I have not received the opinion requested under section 115(4) of Trademark Act.

A. Opinion under section 115(4) is issued only at the requested of police officer not below the rank of Deputy Superintendent of Police or equivalent. If no reply has been received than email may be sent to concern Trademark Registry or a letter may be written.

17. I have to serve a notice or advance copy of petition or Court order to Trademark Registry

A. Notice or advance copy of petition or Court order may be served to the Trademark Registry via email or giving physical copy at the concern Trademark Registry.

18. I have Court order in my favour wherein direction has been given to Trademark registry.

A. Court order may be emailed to Trademark Registry or physical copy of the order with a request letter may be given to concern Trademark Registry for compliance.

EDP

1. What is the full form of EDP ?
Electronic Data Processing.

2.What is the meaning of "Send Back to EDP" trademark status ?
The application does not meet formal requirements, error regarding data entry of application,and there may be technical or clerical error, incompleteness or inaccuracy or documents are not digitized properly then status would remain as "Send Back to EDP" until the error is rectified by the EDP Section.

3.What is the next step/status of application after Error Rectified by EDP Section ? Once rectified, the application advances further for earlier original status(Marked for Exam) of application or may proceed for Examination, Publication & then Registration as per the statute.

4.What is the Process of Physical Filing of Fresh Application ?

Properly Filled TM-A form with proper signature of Applicant along with necessary supporting documents(if any) with prescribed fee(UPI/DD).

5. What to do if documents(like TM-A,TM-M, Reply, Letter of authorization, Notice of opposition etc) are not yet uploaded in offline mode of filing application ? By informing concerned Branch office via Open House Help Desk at IP India Website.

6.What to do if my application is not yet digitized ?
By informing concerned Branch office via Open House Help Desk at IP India Website.

7.How to correct/rectify my application if error is found in data entry of application ? By informing concerned Branch office via Open House Help Desk at IP India Website.

8.What is the meaning of Divisional Application ?
According to Rule 2(h) of The Trade Marks Rules,2017 an application containing a request for the Division of goods/services in class for registration of Trade mark & Division Application made by Division of single application for registration of Trademark for Separate classes of goods/services.

9.

10.Through which Form Division of Application can be filed ?
According to Rule 23(3) of The Trade Marks Rules,2017 Division of Application can be filed through Form TM-M(Division of Application).

11.Under which Section & Rule Division of Class can be filed ?
Take a view to Proviso of Section 22 of The Trade Marks Act, 1999 & Rule 108 of The Trade Marks Rules,2017.

12.How to divide a pending trademark application ?
In applying for division of a trademark application, the original applicant shall submit a copy of the division application by way of filing TM-M with required fees and relevant documents The division may result in the original trademark application being divided into several new independent applications. A new application number is then assigned to each divided trademark and the examination of each divided trademark may be processed accordingly.

13.Whether filing date of child application is same as Parent Application ?
Yes , Rule 108(2) of Trade Marks Rules,2017 says the registrar shall treat each divisional application as a separate application for registration with the same filing date as the initial application.

14. After the Division Whether Child application shall be treated as fresh application ?
No, Rule 108(5) of Trade Marks Rules,2017 says no new registration shall be effected when a

single application is divided. On the contrary , application already filed shall be merely separated or divided into individual files.

15. In what condition child application can not be divided from Parent Application ?
Child application can not be divided due to following reasons-

- Proper Fee not paid.
- Division of goods of same class.
- Division of different class (not matched with Parent application).
- POA not submitted or Incomplete POA.(If any).
- Status of Parent application is Refused/ Abandoned.

SHOW CAUSE HEARINGS

1. When will my application be scheduled?

Ans. Your application will be scheduled for show cause hearing in due course as per the sequence

2. I filed the reply long ago but still don't know when the hearing will be scheduled.
Ans.Your application will be scheduled for show cause hearing in due course as per the sequence

3. The link to show cause hearing is not sent to me.
Ans.Go to the official website of the Intellectual Property Office of India (IP India).Look for a section or link labelled "Dynamic Utility" and then click on Cause List Trade Marks". This is where hearings and schedules are typically listed.Use any identifiers you have (like application number, applicant name, email sent on, agent name, hearing date etc.) to locate your specific application on the cause list.Once you find your case, there should be a link associated with it for the hearing details. Click on this link to join the hearing room.

4. My hearing was concluded on../../…. Date but the status is not changed.

Ans. The application will be processed in the order it was received, according to the standard procedures of the organization or department concern.

5. I don't find my application number in the dynamic utility cause list.

Ans. Visit the adjournment list after 11:00 am. This list contains details about hearings or proceedings that have been adjourned to a later date.If you do not find your application number on the adjournment list and you have concerns or questions about the status of your application, you are instructed to raise a ticket on the Open House Grievance Portal. This portal serves as a platform where you can formally submit your grievance or issue for further review and assistance.

6. **I am unable to connect to the hearing room.**

Ans. IT department to respond*

7. **I have not received notice of the scheduled hearing.**

Ans. IT department to respond*

8. **I have been waiting for long but the hearing officer not letting me enter the hearing room.**

Ans.Please wait for your turn; the hearing officer may be occupied conducting another hearing at the moment