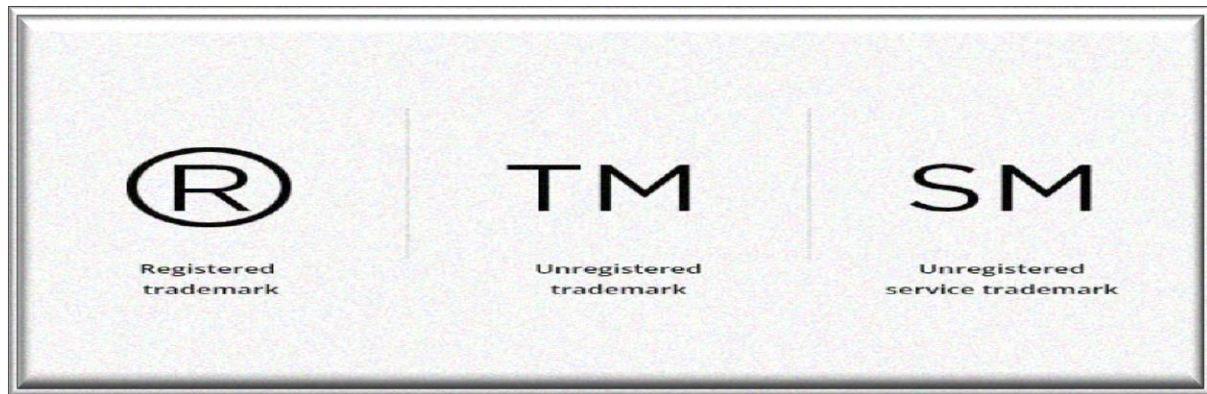




Trademark: Encash Your Brand



Do you own a company or want to start one, and you're wondering if trademark registration in India is really necessary?

How much effort and time did you put into your business? For your product or service? Or improving your brand's value? Have you worked hard to establish the name of your company as a reputable and trustworthy in the minds of your customers?

How would you feel if your company name was used without your permission?

Conversely, you may have discovered that the name you've chosen for your business is already registered with another company.

Even in the worst-case scenario,

You've spent years nurturing a brand and customer loyalty in your customers' mind, only to discover that you're infringing on someone else's already-registered trademark, and you won't be able to use that name in the future.

Would you like to avoid potentially damaging scenarios for your company's reputation? And your brand name to be utilised by someone else without your prior consent?

Which could imply that all of your efforts in creating a company's brand name (image) have been for nought! Then consider how to protect your company's name, identity, brand, logo, image, and so on.

If used and promoted properly, a trademark; which is one of the intellectual rights, can become a company's most valuable asset. As a result, considering trademark registration in India is highly critical.



Brief Timeline of what you will get to know about the term Trademark:

1. What does it mean to have a trademark?
2. Who is eligible to file a trademark application?
3. What are the documents needed to register a trademark?
4. Benefits of a Registered Trademark.
5. Procedure –Trademark Registration.
6. Checklist, Fee and Other Details.

What does it mean to have a trademark?

- In simple terms, a trademark is a brand or emblem that represents your company. Apple, McDonald's, Samsung, Paytm and other well-known companies are among them.
- To distinguish goods or services or other items of purchasing and selling identical goods or services from multiple businesses, the trademark owner uses a distinguishing symbol, such as a word signature, name, device, label, numerals, slogans, symbols or colour combination.
- Trademarks are used by manufacturers and service providers to identify their goods and services.
- Under the Trademark Act of 1999, Trademarks are registered with the Controller General of Patents, Designs, and Trademarks, Ministry of Industry and Commerce, Government of India.
- The Supreme Court stated in *Dau Dayal vs. the State of UP*, AIR 1959 SC 433, stated that "the object of trademark law is to protect the rights of persons who manufacture and sell goods with distinctive trademarks to protect themselves from intruders passing off their goods fraudulently and with counterfeit trademarks as the manufacturers'."

Who is eligible to file a trademark application?

Anyone who claims to be the owner of a trademark can apply, whether they are an individual, a proprietor, or a legal entity including a Company. You can file your trademark application and start using the "TM" symbol within a few days. Formalities at the trademark registry can take anywhere from 8 to 24 months to complete. You can use the ® (Registered sign) next to your trademark once it has been registered and a registration certificate has been issued.



A registered trademark is valid for Ten years from the filing date and can be renewed for next Ten years from the date of expiration of the original registration or of the last renewal of registration, as the case may be by filing the prescribed fee.

What are the documents needed to register a trademark?

- ❖ To begin, the applicant must sign an Authorization Letter authorising the Trademark Agent for the purpose of registration of their trademark on their behalf. (Form 48: An attorney is authorised to file a trademark application on behalf of the applicant with the Trademark Registrar.)
- ❖ A User Affidavit is a must to have, when previous or prior use claim is made.
- ❖ Information such as the Applicant's name, type and nature of business, goals, Mark, slogan, logo, and Address of applicant, Email ID and Mobile Number.
- ❖ There is no need for a logo when submitting a trademark application for a tagline with simple words; however, if a logo is used, it could be in coloured format and within the prescribed dimensions.

Benefits of a Registered Trademark:

Once a brand has established itself, trademark registration provides numerous benefits such as:

- Your small contribution will assist in protecting a trademark for future generations and creating a distinct identity that links consumers to a specific brand.
- It enables you to prove that you own a trademarked word, logo, sound, image, or even a colour combination.
- It protects your "brand" by preventing similar names and marks from being registered by other businesses in the respective area.
- It is an intangible asset for the company that increases investors' confidence.

Procedure – Trademark Registration

The entire trademark registration process can be completed online.

Gather the documents you'll need for your Mark to be registered:

- Proof of registration: Written business, identification verification of the company's directors, and proof of the company's address. The proprietor's id evidence, such as Copy of PAN card or an Aadhaar card, may be submitted in the case of a sole proprietorship business. However, proof of the Legal Entity(s) address is required in the case of businesses along with basic details such as Email ID and Mobile Number.
- It is necessary to have a soft copy of the trademark image.



- The evidence of claim for the proposed mark, which can be used in another country as well.
- The applicant agrees to be represented by a power of attorney.

Obtaining a trademark registration:

After submitting your online application, you will receive an acknowledgement from the government website. You'll be able to place your Trademark (TM) sign next to your brand name once you've received your declaration.

Examining the trademark application:

If your application is confirmed, the Registrar will check that you followed the specific restrictions on the use of your brand name, as well as current law. Furthermore, any existing or pending registration brands should not conflict with one another.

The Examiner may issue an Examination report to the applicant for further clarification or any amendment (if required to be made) related to the Application, If the Examiner is not satisfied with the additional documents and clarification filed by the applicant, he/she will be ordered for appearance before registrar and the status of trademark will be shown as "Ready for show cause Hearing".

Trademark registration in the Trademark's Journal

The Registrar will publish your Trademark in the Indian Trademark Journal once the examination procedure is completed. And the mark would be available in public domain for the opposition to be made by any person for the period of 4 Months from the date of the advertisement or re-advertisement of an application for registration. Your brand name would gain acceptance after that.

Issuance of The Trademark Registration Certificate

If no opposition is filed within aforementioned period, the Registrar will accept your trademark application. The Registrar then issues the Registration Certificate, under the Trademark Registry's seal.

As soon as your certificate is printed, you can use the registered trademark symbol alongside your brand name.



Checklist for Trademark Registration:

Forming an opinion on a trademark:

Your company's Logo or Mark should be distinct and stand out on its own. The next step is to figure out which class the trademark belongs to; it can currently be classified into 45 classes depending on different types of goods and services.

Products are classified into class 1-34 and Services are classified under class 35-45.

Look for a trademark:

Check whether your chosen Mark or Logo (Device) is similar to one that has already been registered after you've chosen an acceptable mark for your business. You can do so by visiting



the online website of the Comptroller General of Patents, Designs, and Trademarks, via public search option.

Registration application:

Application for the Registration of Trademark could be made by filing the Form TM-A.

One must select the category of Applicant before filling any detail related to the Mark, i.e. Individual/Sole Proprietor, Start Up, Small Enterprises, Others for persons or entities not falling under the aforesaid categories.

Fee would be dependable on the category of the Applicant, which could be look like as below:

If you are not a government-recognized start-up, small business, or individual, you will be subject to pay **INR 9,000/-**.

AND

If you are an individual/Sole Proprietor, a government-recognized small business, or a start-up, you will fall into this category, and will subject to pay **INR 4,500/-** for filing of registration application.

One must be careful not to make any mistakes when filling out the E-form, as this could cause application delays or even rejection. All fields must be filled Properly, and a trademark image must be uploaded if application is related to the Device mark.

Conclusion:

Images, patterns, and even verbal statements can be used as trademark. A trademark helps to protect a company's intangible assets from infringement and exploitation because it is considered intellectual property.

Do not let anyone reap the fruit of your Hard work and brand value.