



Frequently Asked Questions

Ques.41 Which Trademark cannot be registered?

A mark shall not be registered as a Trademark if-

1. the mark is likely to deceive the public or cause confusion;
2. the matter contained or comprised in the mark is likely to hurt religious susceptibilities of any class or section of the citizens of India;
3. it contains or comprises of scandalous or obscene matter;
4. its use is prohibited under the Emblems and Names Act, 1950.

Ques.42 How much fees will i have to pay for Trademark registration?

The government fees for Trademark registrations are as under:

- Where applicant is Individual/Start-up/Small Enterprise the fees for E-Filing would be 4500 whereas for the physical filing fees would be 5000.
- In all other cases fees for E-Filing would be 9000 and for physical filing fees would be 10000.

Ques.43 What are the documents required for Trademark registration?

Documents required for trademark registration are as follows:

- Name of owner of trademark;
- Address of owner of trademark;
- Nature of business – name of products or services specifically;
- Trademark/ Logo;
- Using date of trademark;
- Mail ID;
- Mobile Number;
- MSME/ Start-up registration certificate.

Ques.44 Can I use the TM symbol in my LOGO after I applied for the registration of the Trademark?

Yes, The TM symbol is used when an application for Trademark is made with the Trademark registry. The TM symbol is thus used to indicate the fact that a Trademark application exists with respect to the Trademark and serves as a warning for infringers and counterfeiters.

Ques.45 How much time will it take to get my Trademark registered?

Trademark Registration is a lengthy process and it takes around 18-24 months to obtain registration in a straight-forward case, without any objections or oppositions. However, the Trademark application number is usually issued within one or 2 days after filing.

Ques.46 What is Trademark Watch service?

Trademark registration is a long process which has to pass through various steps. Trademark watch provides the services of keeping a close watch at the each stage of the Trademark registration process and even after that and do the needful as and when needed to prevent the client from missing out on any important stage which can affect the registration of the Trademark.

Ques.47 What options are available when the Trade Mark Application gets rejected?

- To understand the remedies for the refusal of the application, it is essential to know the grounds on which the Trade Mark Application was rejected. For this purpose, the applicant should request a copy of the grounds for refusal. Once the copy is received, within 30 days of the refusal notice, the applicant can file a review petition.
- Section 127 (C) of the Trade Marks Act 1999 empowers the Registrar, on an application made in the prescribed manner, to review their own decision regarding the registration. This review application must be filed in form TM-M within one month from the date of the application or within an additional one month as allowed by the Registry. The review application should be accompanied by a statement setting out the grounds for the review.
- The review of the decision is generally considered by the same officer who passed the initial decision. After giving the parties an opportunity for a hearing, the Registrar will then dispose of the review petition, either allowing the Trademark to be advertised in the journal or maintaining the refusal. If the applicant is still unsatisfied with the outcome, they can appeal to the Intellectual Property Division of the High Court.

Ques.48 What Trademarks cannot be registered?

A Trademark has to have one basic feature that is it should be unique and create a brand identity for a product. So if a Trademark is such that does not create any brand for a product can't be Trademarked.

In general,

- Generic words can't be Trademarked. For example you can't Trademark the words like TV, Fridge, scooter, car etc.
- The names of the cities and countries cannot be Trademarked.
- The names of Gods and Goddesses and the names of religious books cannot be Trademarked. For example you can't Trademark Lord Ram or Ramayana
- Surnames cannot be Trademarked under normal circumstances. For Example you can't Trademark Sharma
- Names of Constitutional Posts or Government posts can't be Trademarked. For examples you can't Trademark Prime Minister of India
- Words which denote illegal or Immoral acts can't be Trademarked. For example you can't Trademark *Let's cheat or Let's grope
- Words which are prohibited under names and emblems act can't be Trademarked. For example, you can't Trademark the official sign of Government of India.

Ques.49 What is the step-wise guide for Trade Mark Registration in India?

Following is the step-wise guide for Trademark Registration in India:

- **Step 1: Trade Mark Search:**

This step is of utmost importance before filing a Trademark application, as it aids the owner in determining whether their Trademark is unique and distinctive and whether there exists another Trademark that closely resembles the owner's mark. Merely having a unique brand name in mind does not guarantee that it is not already registered by another business, making the Trademark search an essential and unavoidable process. This search can be conducted either through the Trademark Office or via the Online Portal. On the Online Portal, you can select a specific class and search the database accordingly.

• **Step 2: Prerequisite Documents: The following are the documents required during Trademark Registration:**

- Name of owner of trademark;
- Address of owner of trademark;
- Nature of business – name of products or services specifically;
- Trademark/ Logo;
- Using date of trademark;
- Mail ID;
- Mobile Number.
- MSME/ Startup registration certificate

• **Step 3: Examination of Trade Mark Application:**

After the submission of the Trademark Application, the Examiner must submit an examination report which may or may not include any objections that can be absolute, relative or procedural.

- **Step 4: Respond to the Examination Report:**

Within 30 days of receiving the examination report, you must file a reply to assert the arguments in favor of the application and address any objections that may have been raised. This period provides ample opportunity to address objections and resolve any concerns raised during the examination process. If the application is not yet accepted after fulfilling the conditions, then a hearing can be requested. If the examiner believes that the Trademark should be registered then, it will be published.

- **Step 5: Acceptance and Publication:**

After a thorough examination, the Trade Mark is published in the Indian Trade Mark journal. The purpose of this advertisement and publication is to invite objections from anyone who may oppose the registration of the Trade Mark, providing a fair opportunity for such opposition. In case of opposition, the applicant is required to present a case justifying why the registration should be granted to them. Upon receiving an opposition, a counter-statement must be filed within two months using Form TM-O.

In the event of a refusal, the examiner declines to register the Trade Mark.

OR

If the Trade Mark Registrar approves the application without any objections, a Trade Mark Registration Certificate will be issued, bearing the Trade Mark Registry Seal.

Ques. 50 Whether we can file a single application for multiple classes?

Yes, we can file a single application under multiple classes mentioning the proposed class and their description in the application. The procedure for filing a multiclass trademark application is similar to the procedure of filing an application under a single class. It should be noted that the government fee for filing a multiclass application is to be paid per class.

Thank You!

We will guide you to get all the documents and Trademark Registration in India online seamlessly. Please click on the following link to connect with our consultants.

<https://bkacs.com//>