

TRADEMARK REGISTRATION IN INDIA

What is Trademark?

"Trade mark" means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include a word, phrase, symbol or design, or combination of words, phrases, symbols or designs.

Trademark registration can be done for the following:

- Any word, title, symbol, heading, label, name, signature, numeral or any combination thereof
- Any Slogan, Base or Punch Line, etc. which are used to describe any product better

Advantages of Trademark Registration

1. Protects your hard earned goodwill in the business
2. Protects your Name / Brand Name from being used in a same or similar fashion, by any other business firm, thus discourages others from cashing on your well built goodwill
3. Gives your products a status of 'Branded Goods'
4. Gives an impression to your customers that the company is selling some standard Products or Services
5. The exclusive right to the use of the trade mark in relation to the goods or services in respect of which the trade mark is registered.
6. To obtain relief in respect of infringement (misuse by others) of the trade mark.
7. Power to assign (transfer) the trade mark to others for consideration.

Procedure/Steps for Trademark Registration

1. Filing of an application for registration by a person claiming to be the proprietor of a trademark, in the office of the Trade mark Registry, within the territorial limits of the place of business in India.
2. Examination of the application by the Registrar to ascertain whether it is distinctive and does not conflict with existing registered or pending trademarks and examination report is issued.
3. Publication of the application after or before acceptance of the application in the Trademark Journal.

BMC Consultancy Services Pvt. Ltd.

Office No. 401/402, IV Floor, Vidhyadhar Heights, Plot No. 243, Narayan Peth, Nr. Kulkarni Petrol Pump, Laxmi Road, Pune 411 030.
Tel. : +91 20 6400 5120 Cell : +91 99234 60822 email : info@bmcin.com website : www.bmcin.com

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4. After publication if any person gives notice of his opposition to the registration within three months which may be extended to the maximum of one month.
5. If the opposition has been decided in favour of the applicant of the registration of trademark, the Registrar shall register the Trademark.
6. On the registration of the Trademark the Registrar shall issue to the applicant a Trademark Registration Certificate.

Term/Duration of a Trademark in India

The term of registration of trademark is 10 (Ten) years, but may be renewed subject to the payment of the prescribed fee, in accordance with the provisions of the Trademarks Act, 1999. An application for renewal of a trademark can be filed within six months from the expiry of the last registration of trademark.

Use of the 'TM' and ® symbols

Generally, one who has filed an application (pending registration) can use the TM (trademark) designation with the mark to alert the public of his exclusive claim. The claim may or may not be valid. The registration symbol, ®, may only be used when the mark is registered.

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