

A Guide for Trademark Protection

1. Trademark protection arises through:

a. Simple effective use in commerce?	Yes.
b. Registration?	Yes.
c. Cautionary notice?	No.
d. Intensive use (notoriety)?	Yes.
e. Public recognition?	Yes.
f. Well-known character?	Yes.
g. Others?	N/A

2. Registrable types of mark:

a. Individual mark?	Yes.
b. Collective mark?	Yes.
c. Certification mark?	Yes.
d. Well-known mark?	Yes.
e. Others?	N/A

3. Registrable forms of mark:

a. Word mark?	Yes.
b. Figurative mark with word elements?	Yes.
c. Figurative mark?	Yes.
d. Shape mark?	Yes.
e. Shape mark with word elements?	Yes.
f. Position mark?	No.
g. Pattern mark?	No.
h. Color (single) mark?	No.
i. Color (combination) mark?	Yes.
j. Sound mark?	Yes.
k. Motion mark?	Yes.
l. Multimedia mark?	No.
m. Hologram mark?	No.

n. Others?	N/A
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4. Possibility of claiming a foreign priority:

a. If yes, what is the time limit?	<p>Yes, you may claim a foreign priority.</p> <p>In accordance with the Paris Convention, a foreign priority may be claimed in India, within 6 months from the date of the first application made in the convention country.</p>
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5. Classification of goods and services:

a. Nice classification adopted?	Yes. The current version is the current edition of the International Classification of Goods and Services (NICE Classification) published by the WIPO; presently Eleventh Edition, Version 2021.
b. Local subclass system?	No.

6. Possible claims against new application:

a. Opposition proceedings implemented in trademark law?	Yes.
b. If yes, is the basis for opposition a prior registered trademark?	Yes.
c. If yes, is the basis for opposition a prior pending trademark application?	Yes.
d. If yes, is the basis for opposition a non-registered trademark in use?	Yes.
e. If yes, is the basis for opposition a non-registered notorious or famous mark?	Yes.

f. If yes, is the basis for opposition a prior company name/trade name?	No.
g. If yes, is the basis for opposition absolute grounds?	Yes.
h. Others?	N/A

7. Observations from third parties:

a. Prior registered mark?	Yes.
b. Prior pending trademark application?	Yes.
c. Prior non-registered trademark in use?	Yes.
d. Prior non-registered notorious/famous mark?	Yes.
e. Prior company/trade name?	No.
f. Absolute grounds?	Yes.
g. Others?	N/A
h. Mandatory formalities preliminary to filing application?	No.
i. Similarity search	No.
j. If yes, what is the time frame (weeks/months) and approximate cost?	N/A
k. Others?	No.
l. If yes, what is the time frame (weeks/months) and approximate cost?	N/A

8. Class system:

a. Single class system?	Yes.
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b. Multiclass system?	Yes.
c. Separate applications for goods and services mandatory?	No.

9. Possible restrictions on goods/services:

a. If yes, please specify.	Any mark similar to a geographical indicators, customary to current language, which hurts religious sentiments, contains obscene matter, prohibited under Emblems and Names Act, 1950 and prohibited under the List of International Non Proprietary Names (INN).
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10. Special claims/regulations:

a. Claim of previous use possible?	Yes.
b. If yes, is proof required (affidavit, use specimens, etc.)	Yes.
c. If yes, through which kinds of proceedings can the proof of use be requested (opposition, cancelation, renewal proceedings, etc.)?	Upon filing of the trademark application an Affidavit of Use is to be submitted along with proper evidence, to prove and claim prior use.
d. Disclaimer:	Yes.
e. Previous registration in country of origin required:	No.
f. Changes in the mark appearance during the application proceedings possible	No.
g. Restrictions regarding trademark owner (e.g. trademark protection not eligible for owner from	No.

particular countries).	
h. If yes, please specify.	N/A
i. Is there any legal term from which the trademark must be used in order to avoid a possible cancellation?	Yes.
j. If yes, please specify.	A trademark filed on Proposed to be used basis should be put to use within five years of such filing, else the same would be considered as non-use and shall be a ground for cancellation/rectification proceedings.
k. Other (if yes, please specify):	N/A

11. Filing documents required:

a. Power of attorney	Yes (notarization and scanned copies permitted).
b. Evidence of pre-registration in country of origin	No.
c. Priority documents (if priority claimed)	Yes (notarization and scanned copies permitted).
d. Other (if yes, please specify)	Yes, documents pertaining to 'small entity status' of the Applicant, to claim reduced official fee.

12. Late filing of documents:

a. Is late filing of documents permitted?	Yes.
b. If yes, please indicate the time limit	One month from receipt of the 'Formality Check Notice', if received.
c. Official late filing fee due?	No.

13. Means for representation of the mark:

a. Figurative mark with word elements	Logo in .JPEG format.
b. Figurative mark	Logo in .JPEG format.
c. Shape mark	Different views of the shape of goods in .JPEG format.
d. Shape mark with word elements	Different views of the shape of goods in .JPEG format.
e. Position mark	N/A
f. Pattern mark	N/A
d. Color (single) mark	N/A
e. Color (combination) mark	Color strips based on percentage of use in .JPEG format along with evidence to show usage on the product in .pdf format.
f. Sound mark	Image of musical notes in .JPEG format.
g. Motion mark	Images of different stages of the movement in .JPEG format.
h. Multimedia mark	N/A
i. Hologram mark	N/A

14. Local legal representatives for foreign applicants:

a. Are local legal representatives mandatory for foreign applicants?	Yes.
b. Possibility of having representatives domiciled in another country?	No.
c. If yes, please specify the countries.	N/A

15. Examination:

a. Is there formal examination?	Yes.
b. 1. If yes, does the formal	Yes, formal examination takes place prior

examination take place prior to the publication of the application?	to the publication.
c. Is there examination on absolute grounds?	Yes.
d. Is there examination on relative grounds?	Yes.
e. Can relative grounds be objected by the Trademark Office or only by the prior rights' owners?	Yes.
f. Are letters of consent admissible to overcome ex-officio citations of prior marks?	Yes.
g. If yes, is notarization or legalization required?	Yes, notarization is required.
h. Is there an examination timeframe if no official objections are raised?	Yes.

16. Publication:

a. Publication before registration?	Yes.
b. Publication after registration?	No.
c. Publication in trademark Gazette?	Yes.
d. Publication in local newspapers?	No.
e. Official publication fee due?	No.

17. Registration:

a. Certificate of Registration in paper form?	No.
b. Certificate of Registration in electronic form?	Yes.
c. Term of protection of the mark? Please include term details.	Yes, ten years.

d. As from priority date?	Yes.
e. As from filing date?	Yes.
f. As from registration date?	No.
g. As from actual registration date?	No.
h. As from date of issuance of Certificate of Registration?	No.
i. Other (if yes, please specify):	N/A
j. End of grace period of use? Please include term details.	Yes, five years.
k. As from official registration date?	No.
l. As from actual registration date?	No.
m. As from end of opposition deadline?	No.
n. As from conclusion of opposition proceedings (if any)?	No.
o. Other (if yes, please specify):	Yes, from date of application.
p. How long can we expect a decision on the application by BPTO?	TM Office is required to complete the procedure within 18 months from the date of filing; unless opposed.

18. Official fees due at the time:

a. Filing	Yes.
b. Publication	No.
c. Registration	No.
d. Other (if yes, please specify):	Yes, any amendment and renewal.
e. Link to the official website of the Trademark Office where the fees are accessible and updated.	https://ipindia.gov.in/form-and-fees-tm.htm

19. Documents required:

a. Power of attorney	Yes (notarization and scanned copies)
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	permitted).
b. Original registration certificate	No.
c. Affidavit of use	No.
d. Evidence of use	No.
e. Others (if yes, please specify)	N/A

20. Is the late filing of documents admissible?

a. Late Filing of Documents?	No.
b. Official late filing fee due?	Yes, as directed by the TM Office.

21. Is there a renewal grace period provided for by law? If yes, please indicate the timing.

a. Renewal Grace Period	Yes, within one year from expiration.
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22. Special maintenance requirements:

a. First declaration of use?	Yes.
b. Time to file?	No.
c. Extensions permitted?	No.
d. If yes, please indicate the number allowed (as the maximum accepted).	N/A
e. Documents required (affidavit/ declaration, notarized/ legalized, evidence of use, subject to official fees)?	Yes (affidavit/declaration, notarized/legalized, evidence of use, subject to official fees).
f. Second declaration of use? If other, please specify.	No.
g. Time to file?	No.
h. Extensions permitted?	No.
i. If yes, please indicate the number allowed (as the maximum accepted).	N/A
j. Documents required (affidavit/ declaration, notarized/ legalized, evidence of use, subject to	No.

official fees)?	
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23. Recording of changes/limitation:

a. Limitations of lists of goods/services?	Yes.
b. Possible at any stage or only after registration?	Yes.
c. Official fees due?	Yes.
d. Change in name or address of owner?	Yes.
e. Possible at any stage or only after registration?	Yes.
f. Documents required (original or scanned)?	Yes, scanned followed by original.
g. Official fees due?	Yes.
h. Change in ownership?	Yes.
i. Possible at any stage or only after registration?	Yes.
j. Documents required (original or scanned)?	Yes, scanned followed by original.
k. Official fees due?	Yes.
l. Change of representative?	Yes.
m. Possible at any stage or only after registration?	Yes.
n. Documents required (original or scanned)?	Yes, power of attorney; scanned followed by original.
o. Official fees due?	Yes.

25. Link to the official website of the Trademark Office where the official fees are accessible and updated.

<https://ipindia.gov.in/form-and-fees-tm.htm>

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