

Major Components Covered Under TM-M

Draft of the Trademark (Amendment) Rules, 2015 proposing amendment to Trade Marks Rules, 2002 was issued by Ministry of Commerce and Industry on November 19, 2015 and came into force on March 6, 2017. These amended rules may be called as “**The Trademark Rules, 2017**” (further referred as “**Amended Rules**”)

The amended rules have liberated the trademark process overall by diminishing the number of forms to just 8 instead of 74. The main motive is to simplify the entire trademark registration process and make it quick. It is expected to accelerate the overall process of trademark administration. The 2017 amended rules include form that could be used for multiple types of applications, as different from the 2002 rules, which had specific and designated formats for each type of application.

This article lays stress upon the components covered under **FORM TM-M** and how the said rules have combined **22 forms in this one single form**. According to the new rules, form TM-M majorly covers the commonly used applications related to:

1. Application for any amendments or correction in application- **TM-16**
2. Application for certified copies of documents- **TM-46**
3. Application for expedited examination- **TM-63**
4. Divisional Application- **TM-53**
5. Application for extension of time- **TM-56**
6. Application for authorization of agent- **TM-48**

The form TM-M also covers application related to **inspection of documents** and also request for **inclusion of a mark in list of well-known trademark**.

Request for Amendment in Trademark Application

As per the amended rules the registered proprietor can make an application in form **TM-M**, to the registrar, for any correction or amendment in the trademark application.

The correction or amendment can be of the following kind:

- Correct any error or change in name, address or description of registered proprietor of trademark.
- Alteration of the address of principal place of business or residence in India.
- Cancellation of entry of trademark on the register.
- To strike out goods or classes of goods or services from those with respect to which the trademark is registered.
- To enter, alter or substitute an address of a registered proprietor or a registered user who has no place of business in India.

If the registrar thinks that such an amendment of application or correction of any error in the application is justified, he may allow such request at any time, before or after the acceptance of the application of registration. (TM-16, 33, 34, 35, 36, 50 as per old rules)

Inclusion of a mark in list of Well-known Trademarks

The new Rule 124 allows any trade mark owner to file a request in Form **TM-M** requesting the Registrar to declare a trademark 'well-known'. As per Rule 124 a new procedure has been brought up to recognize well known trademarks. It means that a trademark can be included into this list of well-known trademarks after payment of fees of Rs 1 lakh.

This procedure is different from the one laid down in 2002 rules which included opposition, rectification or infringement proceedings to deduce the mark as 'well-known'. Previously, it was the alleged infringer or opponent who initiated the events leading to the proceedings that can result in a trademark being declared 'well known'. The new Rule 124 allows the trademark owner to make a beginning without initiation of any infringement or opposition proceedings.

The rule does inflict certain duties on the general public as they are free to object and such objections are to be filed within 30 days from the date of invitation of such objection.

Certified Copy

The copy of any entry in the register of the registrar or any documents such as notice of opposition, affidavits, regulations governing registration of collective mark or certification mark, any indexes of registered trademarks or name or proprietors or registered users etc., are to be certified by the registrar and sealed with the seal of Trade Marks Registry.

Any person, on application to the registrar in form **TM-M** and payment of fees, can take the certified copies of the any entry in the register or of the documents mentioned above. (TM-46 as per old rules)

Extension of Time

Post amendment, the registered proprietor can make an application in form **TM-M** in a prescribed manner and with prescribed fee, to the registrar, for extension of time for doing any act.

The application should contain well stated reasons and sufficient cause for extending the time. If the registrar is satisfied that it is justified to extend the time, he may do so up to 1 month and communicate the same to the registered proprietor. (TM-56 as per old rules)

Inspection of Documents

The documents of which entry is made in the register, notice of opposition to the registration of trademark application, counter-statements, affidavit filed by parties, regulation governing collective marks or certification marks and any amendments to it, any indexes and such other documents that are notified by central government, are open to public inspection at the Trade Mark Registry.

Any person may request the registrar, through application in form **TM-M** and prescribed fee, to issue a certified copies of any document required for inspection.

Divisional Application

The applicant can make an application in form **TM-M** for the division of a single pending application. The registrar may divide such application into two or more separate applications on payment of a divisional fee. (TM-53 as per old rules)

Expedited Examination of an Application

After the applicant receives the official number of application he may request for expedited processing of application through form **TM-M** accompanied with prescribed fee. Such application is examined within 3 months from the date of submission of application. (TM-53 as per old rules)

Review of Registrar's Decision

The registered proprietor can make an application in form **TM-M** to the registrar for the review of his decision, within one month from the date of the decision. The application should be accompanied by a statement stating the grounds on which the review is sought. (TM-57 as per old rules)

Request for Statement of Grounds of Decision

If the applicant wishes to appeal to any decision of the registrar related to the examination, objection to acceptance, hearings, or expedited processing of application, he may within 30 days from the communication of the decision, apply in form **TM-M** to the registrar requesting him to state the grounds of decision in writing. (TM-15 as per old rules)

Preliminary Advice by Registrar

Any person may seek advice by the registrar as to the distinctiveness of the trademark proposed to be registered. In order to obtain such an advice the applicant shall make an application in form **TM-M** with respect to the good and services of the trademark applied for. The application should be accompanied with prescribed fees and one representation of the trademark. (TM-55 as per old rules)

Duplicate Registration Certificate

The registered proprietor may request the registrar, through application in form **TM-M**, to issue the duplicate copies of the certificate of registration accompanied with the prescribed fee. The registered proprietor shall also submit an unmounted representation of the mark as given in the application form at the time of registration. (TM-59 as per old rules)

Particulars of Advertisement of a Trademark

Any person may request the registrar in form **TM-M** to furnish the particulars of advertisement of trademark. The application shall include the number and date of journal in which the said trademark was advertised. (TM-58 as per old rules)

Certificate of validity

The registered proprietor may request the registrar in form **TM-M** to add an entry in the register as a note stating that the certificate of validity has been granted by the Intellectual Property Appellate Board. (TM-47 as per old rules)

Authorization of Agent

The registered proprietor may make an application in form **TM-M** in order to authorize an agent. Such an authorization would mean that service of any document related to the matter to the agent would mean service to the person authorizing him. All communications are addressed to such agent and all appearances before the registrar are made by such agent. (TM-48 as per old rules)

Amendment of Regulations related to Collective Trademarks and Renewal

The registered proprietor of a collective trademark may make an application in form **TM-M** when there is any amendment in the regulations governing use of collective marks. Such acceptance of request by the registrar shall be advertised in the journal. (TM-42 as per old rules)

Alteration of Deposited Regulations of Certification Trademarks

The registered proprietor of a certification trademark may make an application in form **TM-M** to alter the deposited regulation. Such acceptance of request by the registrar shall be advertised in the journal. (TM-42 as per old rules)