



E- Handbook

On



**TRADEMARK
REGISTRATION**

*“A great trademark is appropriate, dynamic,
distinctive, memorable & unique”*

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1) What is Trademark?

A trademark is a visual representation of a name, word, label, device or numeric characters utilized by a business to differentiate its goods and/ or services from other similar goods and/ or services deriving from a different business. A trademark works as an exclusive identity of the goods and/ or services that a person is offering/ selling from other such goods/ services.

2) Types of trademarks that can be registered in India

- ❖ Words and service marks
- ❖ Shape marks
- ❖ Logos and symbols
- ❖ Collective marks
- ❖ Series Marks
- ❖ The Certification mark



Tendered trademarks that are similar or identical to an already existing registered trademark cannot get registered. Besides this, trademarks that are deceptive, generic, offensive, similar, contains exclusively protected emblems, etc. cannot be registered either.

3) Where to Register?

In India, trademarks get registered by the *Controller General of Patents Designs and Trademarks, Ministry of Commerce and Industry, Government of India*. (<https://ipindia.gov.in/trade-marks.htm>)

Trademarks in India are registered under the Trademark Act, 1999 (<https://ipindia.gov.in/acts-rules-tm.htm>) and Trademark Rules 2017 (<https://ipindia.gov.in/Rules-trademark.htm>) and authorises the trademark owner with a right to sue for damages when contraventions of trademarks occur.

Office address- <https://ipindia.gov.in/contact-us.htm>

4) Validity of Trademark Registration?

Following the registration of the trademark, ®, ™ symbol can be used by the owner and the said trademark registration will be valid for a fixed period of 10 years. However, the registered trademarks approaching their expiry can be easily renewed by applying for a trademark renewal application for an extended period of another 10 years.

5) Are trademarks registered in India valid worldwide?

Trademarks are territorial, and hence, would require separate filing in each country where you intend to have it protected. However, there are international conventions such as the Madrid protocol that serves as a centralised registration system for trademark grants in all member countries.

6) Fee for filing Trademark in India

In India, the registration fee for trademarks ranges between Rs. 4500 to Rs. 9000.

For start-ups, small enterprises, individuals and proprietorships, the lower trademark registration fee of Rs. 4500 is applicable and for all other business entities, the trademark registration fee as set by the government is Rs. 9000.

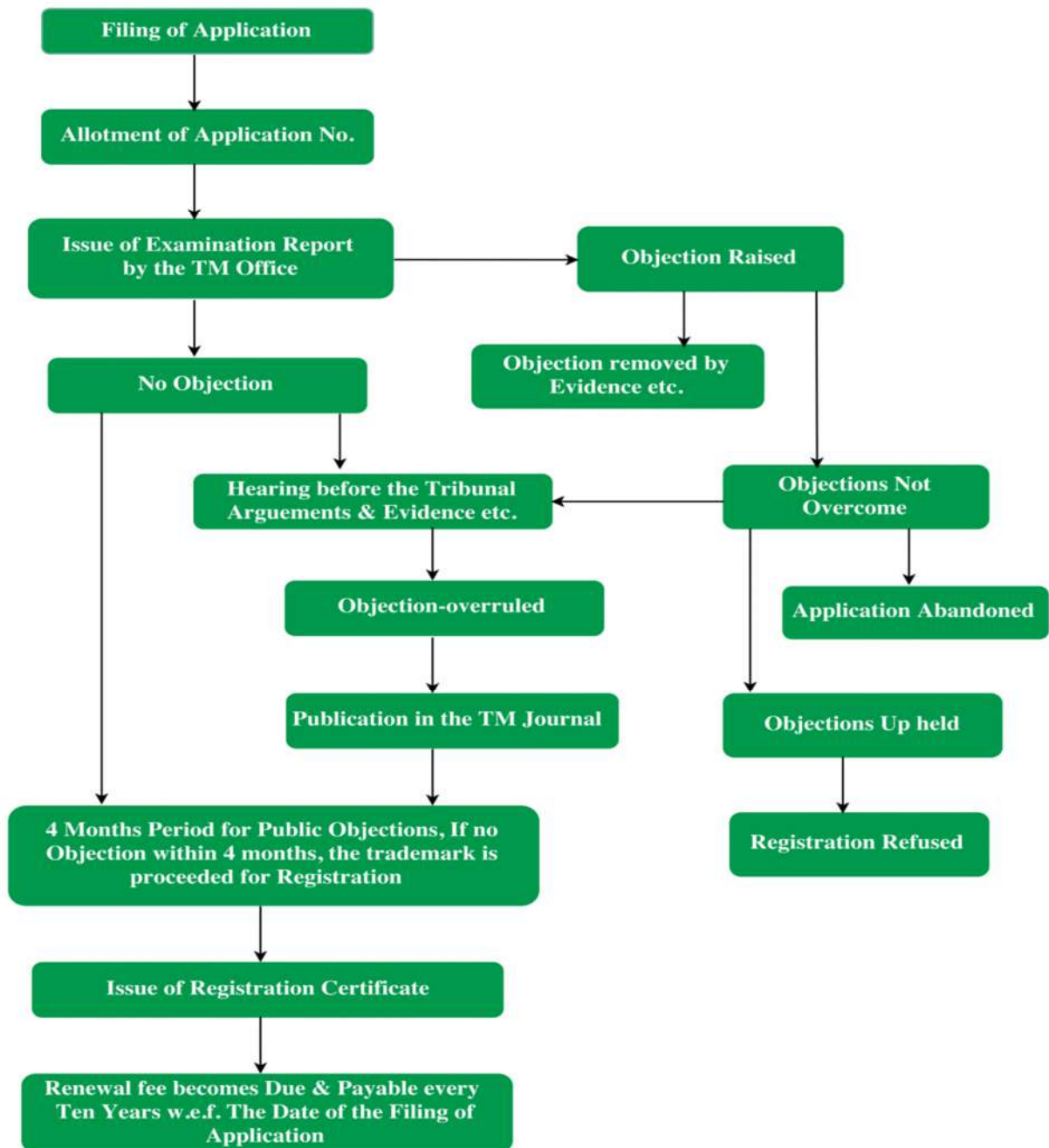
For more information on Fee click- <https://ipindia.gov.in/form-and-fees-tm.htm>

7) Benefits of Trademark Registration



8) Step By Step Procedure to Register A Trademark

The process to get a trademark registered involves *filing of the trademark registration application, examination of the trademark, publication or advertisement of the trademark, opposition (objections) if raised/ found, registration of the trademark and renewal of the trademark after every 10 years.*



Procedure for Trademark Registration in India

Step 1: To search for a trademark

The applicant must be careful while choosing his/ her trademark. Since, there are already tons of different types of trademarks available, once a trademark is chosen, it is essential to carry out a public search on the trademarks database which is available with the Trade Marks Registry to make sure that the trademark is unique and that there is no other trademark which is either similar or identical to his/ her trademark.

The trademark search discloses all the types of trademarks that are already available in the market, either registered or unregistered. The search further tells whether the applied trademark has a competition for the same trademark.

Search Link- <https://ipindiaonline.gov.in/tmrpublicsearch/frmmain.aspx>

Step 2: To file the trademark application

The application for registration of the trademark can either be filed in a single- class or a multi- class totally depending on the goods and services the business pertains to.

The registration application is Form *TM-A* (<https://ipindia.gov.in/writereaddata/Portal/Images/pdf/FORM-TM-A.pdf>) which can be either filed online through the official IP India website or physically at the Trade Marks Office which depends on the jurisdiction of the trademark.

The application for trademark registration has to be supported with multiple documents with complete details of the trademark for which the registration is sought. Moreover, in case the applicant is claiming prior use in the trademark, then a user affidavit has to be filed supporting the usage along with the evidence of its prior usage.

Step 3: Examination of the trademark application by the government authority

Post the filing of the trademark application, a mandatory examination report is issued by the Examiner after an extensive examination of the

trademark application in consonance with the guidelines of the Trade Marks Act, 1999.

The examination report by the authority may or may not disclose some objections which can be either, absolute, relative or procedural. This examination report by the Trademark Authority is issued within a period of 30 days of having filed the registration application.

A reply to the examination report is required to be filed within a period of 30 days after receiving the report asserting the arguments and evidence against any objections to waive them off.

Step 4: Post- examination

After the filing of the reply to the examination report, the Examiner (Trademark Authority) may appoint a hearing if the Examiner is not entirely satisfied by the reply filed or in case the objections are not met. After the said hearing, the Examiner may accept the mark and subsequently forward the application for publication in the journal or reject the said application if any objection still persists.

Step 5: Advertisement of the trademark

Once the registration application has been accepted, the said trademark is advertised and also published in the *Trade Marks Journal* for a period of 4 months. The aim behind the publication and advertisement is to invite the general public to filing an opposition against the registration of the mark.

The Trade Marks Journal is available on the official Registry website which gets updated every Monday of the week- <https://ipindia.gov.in/journal-tm.htm>

Step 6: Opposition from general public

Post the advertisement and publication of the trademark in the journal, any aggrieved person can file a notice to oppose against the registration of the advertised/ published trademark. This notice to oppose the trademark has to be filed vide *Form TM- O* within 4 months of the mark ®™ publication in the Trademark Journal. In case the applied for trademark is opposed/ objected, then the due process of law has to be followed which includes filing the counter-

statement application, evidence as well as hearing in order to get the trademark registered.

Step 7: Registration of the trademark

The final step towards the entire procedure is registration where the application proceeds to registration after conquering the objection and/ or the opposition against the said registration of trademark.

Besides this, in case there has been no objection against the registration of the trademark during the advertisement/ publication period of 4 months, then the trademark is issued an auto- generated registration certificate within 1 week TM ® time. Once the registration complete, it is valid for a period of 10 years after which it would be required to be renewed within a prescribed time period.

9) Documents required for a trademark registration

A trademark registration is a significant procedure via which a brand/ business can be safeguarded from undesired use as well as infringement.

Note: In the course of the registration of the trademark application procedure, it is not mandatory to submit original documents. Scanned copies of the original documents suffice the requirement.

Documents required in Individual & Sole proprietorship

Any person (applicant) whether an Indian National or a Foreign National can very conveniently register a trademark in India. Since there is no necessity to form a legal entity or a business entity to get a trademark registered. Besides this, the documents needed to get a trademark registered in the name of a proprietorship are identical to that of an individual as under:

- Copy of the proposed logo, ideally in black and white (which is optional). However, in case the logo is not provided, the trademark application can be filed for the word.
- Duly signed Form- 48. This form is an authorisation from the applicant to a Trademark Attorney to file the trademark registration application on his/ her behalf.

- Copy of the identity proof of the individual applicant or the proprietor which may include: passport, Aadhaar card, PAN card, etc.
- Copy of the address proof of the individual applicant or the proprietor which may include latest electricity bill, phone bill, etc.

Documents required in partnership / LLP / company - Small Enterprises or Start-ups

Now, to fall under the category of a small enterprise, the individual applicant is required to have to provide the Udyam Registration (UR) certificate. Also, in addition to the UR, the following mentioned details are required.

Partnership / Company / LLP

In the event of a partnership firm or an LLP, the entrepreneur/ applicant is required to submit the following documents:

- Scanned copy of the logo (optional)
- Duly signed Form- 48
- Udyam Registration Certificate
- Partnership Deed or the Incorporation Certificate
- Copy of identity proof of signatory/ applicant
- Copy of address proof of signatory/ applicant

Documents required for other applicants in a trademark registration

All other applicants, including companies that do not have Udyam registration will have to submit the following documents to obtain trademark registration in India.

- Scanned copy of the logo (optional)
- Duly signed Form- 48
- Partnership Deed or the Incorporation Certificate
- Copy of identity proof of signatory/ applicant
- Copy of address proof of signatory/ applicant

