

TRADE MARK (TM):

Before discussing on how and by whom the trade mark application should be filed and handled, lets understand what does it actually mean. Simply "trade mark" means a mark used or proposed to be used in relation to goods or services for the purpose of indicating or so to indicate to a connection in the course of trade between the goods or services, as the case may be, and some person having the right, either as proprietor or by way of permitted user, to use the mark whether with or without any indication of the identity of that person.

In India TM application may be filed either physically or online by visiting following link

<http://ipindiaonline.gov.in/trademarkefiling/user/frmlogin.aspx>

There is no second opinion and this is a fact of the day that in India filing process of TM is quite simple and that's the primary reason that either the applicant himself wants to file it or at the most interested in hiring the services of person (professional or not) who will charge less. And there are innumerable persons are available who are ready to file TM application in a cost similar to the cost of getting some documents notarized.

BUT

It is an illusion that registering a trademark is almost instantaneous, and it can be quite deterring especially at the objection or approval stage.

At times self-filers of TM end up spending more money to pay an IP professional to fix their self filed TM application, or even to re-file it . In such scenario it would cost much more than it would have costed if had filed by some quality professional.

We need to appreciate that it is imperative that before filing TM registration application one should conduct detailed search for the proposed name and then only to apply for the TM, otherwise it may ultimately lead to

1. Rejection: The TM application may be rejected on the basis of one or more of mentioned grounds mentioned in what can not be registered as TM.

2. Conflicts: If the applicant files without having done an earlier rights search and wrongly believes that the TM has endorsed using his TM by registering it. Initial TM searches to identify any major issues or obstacles is always advisable before pursuing registration.

3. Prosecution: Incorrect and improper details filled in TM application may render the registration worthless.

4. Registration in wrong class or in the name of wrong applicant: While it may be the desire of every TM applicant to list every product or service imaginable on the application, but neither practical nor permitted. One has to explain in detail, the products or services its TM will apply and registration will apply to only these products or services. Filing of TM application in wrong name can straight away lead to rejection of application and in that case instead of saving you will end up spending twice.

You know but just a gentle reminder that :

TM creation, management, and protection are critical to any business targeting at commercial success. TM protects company's brand and a wrong step by a company can derail the registration process and lead to cancellation or revocation of one's TM rights and either your competitor or user of similar TM may also take advantage of this.

TM professional will take care the comprehensive steps needed prior to filing, at the filing and after filing. This is his / her duty to help you in selecting a TM properly and in accordance with prevailing statutory provisions and shall ensure that TM is applied correctly and in right class. Will do the follow up and will help you till your TM gets registered.

Hiring an quality TM professional, to avoid future problems is a wise decision to make and start taking it as an investment and not as an burdened expense. But with these words i leave it to your wisdom and decision.

FCS SAPNA KHANDELWAL