



Department of Industrial Policy & Promotion
Ministry of Commerce & Industry
Government of India

IPR FACILITATION FOR **START-UPS**



**INTELLECTUAL
PROPERTY INDIA**
Patents | Design | Trade Marks
Geographical Indications

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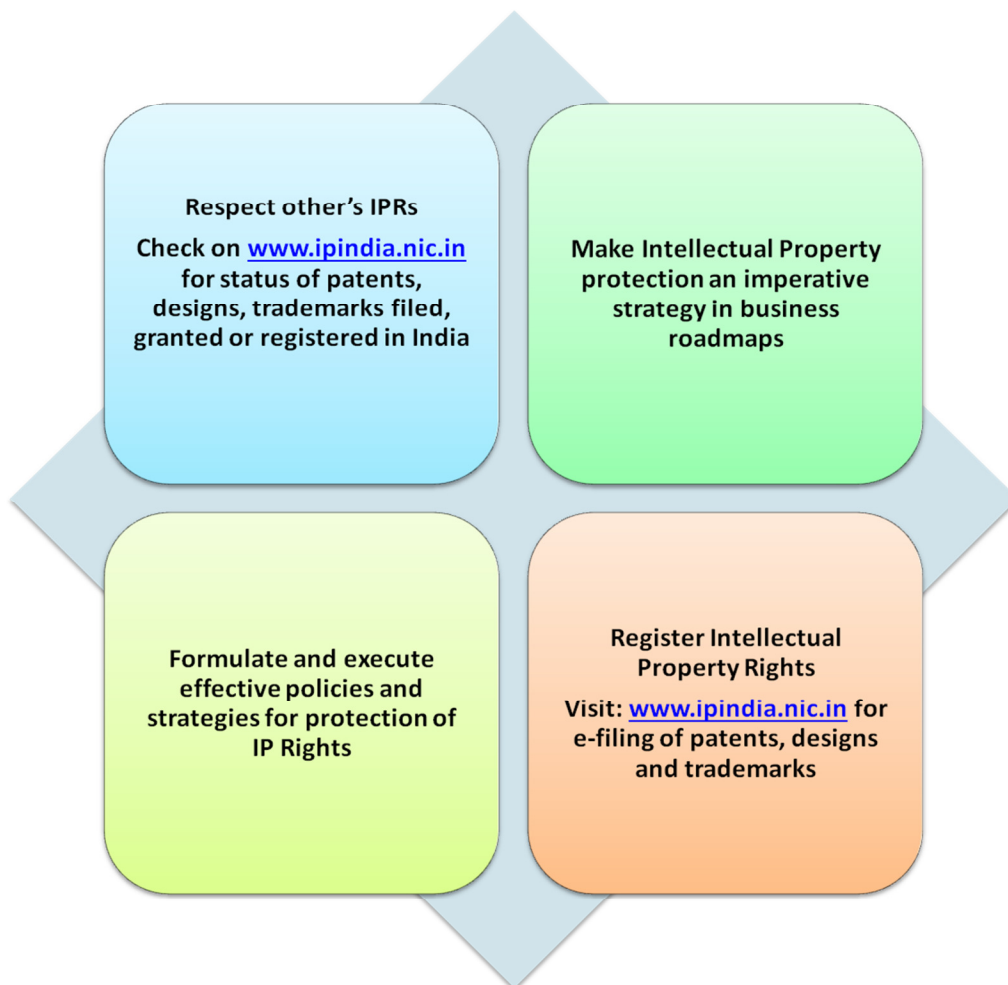
INITIATIVES FOR NURTURING INNOVATION AND CREATIVITY THROUGH SCHEME FOR START-UPS

Start-ups have been recognised as power houses of innate but immense power of innovation, technology and ideas. The Government of India launched the ambitious scheme 'StartUp India, StandUp India' by announcing action plans and initiatives to support early stage start-ups.

As part of this policy, the Government of India has approved and started the "**Scheme for Facilitating Start-UPs Intellectual Property Protection (SIPP)**" to nurture their innovation and creativity and promote awareness and encourage IPR protection amongst Start-UPS. The Scheme envisages to nurture and mentor innovative and emerging technologies among Start-UPS and assist them in protecting and commercialize it by providing them access to high-quality IP services and resources.

PROTECTION AND EXPLOITATION OF IPR

Although there can be no set rules for a start-up to successfully exploit its IPR, the following is a graphical representation of how a start-up can protect its IPR.



The following content aims to guide the start-ups regarding the various procedures followed by the Office of Controller General of Patents, Designs and Trademarks with respect to intellectual property rights especially patents, designs and trademarks.

PATENTING PROCEDURE

1. What is a Patent?

Patent is a statutory right for an invention granted for a limited period of time to the patentee by the Government, in exchange of full disclosure of his invention for excluding others, from making, using, selling, importing the patented product or process for producing that product for those purposes without his consent.

2. Does Indian Patent give protection worldwide?

Patent protection is territorial right and therefore it is effective only within the territory of India. However, filing an application in India enables the applicant to file a corresponding application for same invention in convention countries, within or before expiry of twelve months from the filing date in India. Therefore, separate patents should be obtained in each country where the applicant requires protection of his invention in those countries. There is no patent valid worldwide.

3. Is it possible to file international application under Patent Cooperation Treaty (PCT) in India?

It is possible to file an international application known as PCT application in India in the Patent Offices located at Kolkata, Chennai, Mumbai and Delhi. All these offices act as Receiving Office (RO) for International application. The addresses of these offices are available on the website of CGPDTM i.e. www.ipindia.nic.in.

4. What can be patented?

An invention relating either to a product or process that is new, involving inventive step and capable of industrial application can be patented. However, it must not fall into the categories of inventions that are non-patentable under section 3 and 4 of the Act.

5. Who can apply for a patent?

A patent application can be filed either by true and first inventor or his assignee, either alone or jointly with any other person. However, legal representative of any deceased person can also make an application for patent.

6. How can I apply for a patent?

A patent application can be filed with Indian Patent Office either with complete specification or with provisional specification along with fee as prescribed in schedule I. In case the application is filed with provisional specification, then one has to file complete specification within 12 months from the date of filing of the application. There is no extension of time to file complete specification after expiry of said period.

7. Is there provision for filing patent application electronically by online system?

From 20th July, 2007, the Indian Patent Office has put in place an online filing system for patent application. More information for filing online application is available on the website of Patent

Office i.e. www.ipindia.nic.in. As per Patents (Amendment) Rules 2014, there is a fee concession for e-filing, as 10 % higher fee is charged if the application is filed in hard copy format

8. What are the criteria of patentability?

An invention to become patentable subject matter must meet the following criteria -

- i) It should be novel.
- ii) It should have inventive step or it must be non-obvious
- iii) It should be capable of Industrial application.
- iv) It should not fall within any of the provisions of section 3 and 4 of the Patents Act 1970.

9. Should application for patent be filed before or after, publication of the details of the invention?

The application for patent should be filed before the publication of the invention and till then it should not be disclosed or published. Disclosure of invention by publication before filing of the patent application may be detrimental to novelty of the invention as it may no longer be considered novel due to such publication. However, under certain conditions, there is grace period of 12 months for filing application even after publication.

10. Can any invention be patented after publication or display in the public exhibition?

Generally, a patent application for the invention which has been either published or publicly displayed cannot be filed. However the Patents Act provides a grace period of 12 months for filing of patent application from the date of its publication in a journal or its public display in an exhibition organised by the Government or disclosure before any learned society or published by applicant. The details of conditions are provided under Chapter VI of the Act (Section 29-34).

11. How a Patent Specification is prepared?

A patent specification can be prepared by the applicant himself or his registered and authorized agent. The patent specification generally comprises of the title of the invention indicating its technical field, prior art, drawbacks in the prior art, the solution provided by the inventor to obviate the drawbacks of the prior art, a concise but sufficient description of the invention and its usefulness, drawings (if any) and details of best method of its working. The complete specification must contain at least one claim or statement of claims defining the scope of the invention for which protection is sought for.

12. What is a provisional specification?

Indian Patent Law follows first to file system. Provisional specification describes the nature of the invention to have the priority date of filing of the application in which the inventive idea has been disclosed. It must be followed by a complete specification describing the details of the invention along with a statement of claims within 12 months after filing of the provisional application. If the complete specification is not filed within the prescribed period, the application is treated as deemed to have been abandoned.

13. Is it necessary to file a provisional application?

Generally, an application filed with provisional specification is known as provisional application which is useful in establishing a priority date for your invention. Moreover, filing of a provisional application is useful as it gives sufficient time to the applicant to assess and evaluate the market potential of his invention before filing complete specification. However, it is not necessary to file an application with provisional specification and one can file application directly with complete specification.

14. Does the Patent Office Keep information of the invention Secret?

Yes. All the patent applications are kept secret up to 18 months from the date of filing or priority date whichever is earlier and, thereafter, they are published in the Official e-Journal of the Patent Office which is published every week on the IPO website. After its publication, public can inspect the documents and also may take the photocopy thereof on payment of the fee as prescribed.

15. Is there any provision in the law for early publication?

Yes, the applicant can make a request for early publication in Form 9 along with the prescribed fee. After receiving such request the Patent Office publishes such application within a period of one month provided the invention contained thereon does not relate to atomic energy or defence purpose.

16. Is patent application once filed is examined automatically?

The patent application is not examined automatically after its filing. The examination is done only after receipt of the request of examination either from the applicant or from third party.

17. When the request for examination can be filed?

The request for examination can be filed within a period of 48 months from the date of priority or date of filing of the application whichever is earlier. For more details kindly refer to rule 24B of the Patents Rules 2003, as amended.

18. Is there any provision for early examination?

There is no provision for filing a request for early examination. The applications are examined in the order in which requests for examination are filed. However, an express request for examination before expiry of 31 months can be made in respect of the applications filed under Patent Cooperation Treaty known as National Phase applications by payment of the prescribed fee.

19. What happens to a patent application once it is examined?

After examination, the Patent office issues an examination report to the applicant which is generally known as First Examination Report (FER). Thereafter, the applicant is required to comply with the requirements within a period of twelve months from the date of FER. In case the application is found to be in order for grant, the patent is granted, provided there is no pre-grant opposition filed or pending. If a pre-grant opposition is pending, the further action is

taken after disposing of the pre-grant opposition. A letters patent is then issued to the applicant.

20. What happens when applicant is not able to meet the requirement within the prescribed time?

If the applicant is not able to meet the requirement of patent office within 12 months and does not submit the documents which were sent to him for compliance within the said period, the application is deemed to have been abandoned.

21. What are the various stages involved in the grant of patent?

After filing the application for the grant of patent, a request for examination is required to be made

by the applicant or by third party and, thereafter, it is taken up for examination by the Patent office. The First Examination Report is issued to the applicant to give him an opportunity to correct the deficiencies in the application and meet the objections raised in the said report. The applicant must comply with the requirements within the prescribed time otherwise his application would be treated as deemed to have been abandoned. When all the requirements are met, the patent is granted and notified in the Patent office Journal. However before the grant of patent and after the publication of application, any person can make a representation for pre-grant opposition.

22. Where the information relating to patent application is notified?

The information relating to the patent application is published in the Patent office e-Journal issued on every Friday. This is available in electronic form on the website of the Patent Office.

23. What are the contents of the Patent office Journal?

The Patent office Journal contains information relating to patent applications which are published u/s 11A, post grant publication, restoration of patent, notifications , indexes, list of non-working patents and notices Issued by the Patent Office relating to Patents, etc.

24. Where could one find a copy of the Patent office Journal without purchasing the publication?

The Patent office e- Journal is freely available on patent office site i.e. www.ipindia.nic.in.

25. Does patent office help in finding users for patent?

The Patent Office has no role in the commercialization of patent. However, the information relating to patents is published in the e- journal of the Patent Office in the official website which is freely accessible to the public worldwide. This certainly helps the applicant to attract potential user or licensee. The patent office also compiles a list of patents which have not been commercially worked in India.

26. How can one find out that an invention is already patented?

The person concerned can perform a preliminary search on Patent Office website in the Indian patent data base of granted patent or Patent Office journal published every week. The public

can conduct search free of charge on the website of Patent Office. The person concerned can also make a request for such information under section 153 of the Act.

27. What is the term of patent?

Term of every patent in India is 20 years from the date of filing of patent application, irrespective of whether it is filed with provisional or complete specification. However, in case of applications filed under PCT, the term of 20 years begins from International filing date.

28. Is there any difference in the amount of fees to be paid by an individual or a legal entity for filing a patent application?

Yes, the application filing fees for an individual person (natural person) is Rs.1, 600/- and for small entity the fee is Rs. 4000. For a legal entity, other than individual and small entity, the fee is Rs.8, 000/-, upto 10 claims and 30 pages. However, in case the number of pages exceed beyond 30, the natural person has to pay Rs.160/- and Small Entity Rs. 400 for each extra page, whereas a legal entity, other than individual and Small Entity, has to pay Rs.800/- per extra page.

Similarly, if the number of claims exceed beyond 10, then natural person has to pay Rs.320/- and a Small Entity Rs. 800 for each additional claim,. A legal person other than Small Entity /natural person has to pay Rs.1600/- for each additional claim.

29. What are obligations of the patentee after the grant of patent?

After the grant of patent, every patentee has to maintain the patent by paying renewal fee every year as prescribed in the schedule I. For first two years, there is no renewal fee. The renewal fee is payable from 3rd year onwards. In case the renewal fee is not paid the patent will be ceased.

30. Does the Patent Office help to select a patent attorney or agent to make patent search or to prepare and prosecute patent application?

Yes, Patent Office is publishing the list of facilitators who are willing to play a role in filing patent applications for start-ups and act as a patent agent on their behalf. Their fees for this purpose have also been notified. The list of facilitators is available in IPO website www.ipindia.nic.in and has also been uploaded in the Start-up Hub in DIPP website.

Designs Procedure

1. What is meant by 'Design' under the Designs Act, 2000 ?

'Design' means only the features of shape, configuration, pattern or ornament or composition of lines or colour or combination thereof applied to any article whether two dimensional or three dimensional or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye, but does not include any mode or principle or construction or anything which is in substance a mere mechanical device, and does not include any trade mark, as define in clause (v) of sub-section of Section 2 of the Trade and Merchandise Marks Act, 1958, property mark or artistic works as defined under Section 2(c) of the Copyright Act, 1957.

2. What is meant by an article under the Designs Act, 2000 ?

Under the Designs Act, 2000 the "article" means any article of manufacture and any substance, artificial, or partly artificial and partly natural; and includes any part of an article capable of being made and sold separately;

3. What is the object of registration of Designs?

Object of the Designs Act to protect new or original designs so created to be applied or applicable to particular article to be manufactured by Industrial Process or means. Sometimes purchase of articles for use is influenced not only by their practical efficiency but also by their appearance. The important purpose of design Registration is to see that the artisan, creator, originator of a design having aesthetic look is not deprived of his bonafide reward by others applying it to their goods.

4. What are the essential requirements for the registration of 'design' under the Designs Act, 2000?

(1) The design should be new or original, not previously published or used in any country before the date of application for registration. The novelty may reside in the application of a known shape or pattern to new subject matter. *Practical examples are:*

The known shape of "Kutub Minar" when applied to a cigarette holder the same is registrable. However, if the design for which application is made does not involve any real mental activity for conception, then registration may not be considered.

(2) The design should relate to features of shape, configuration, pattern or ornamentation applied or applicable to an article. Thus, designs of industrial plans, layouts and installations are not registrable under the Act.

(3) The design should be applied or applicable to any article by any industrial process. Normally, designs of artistic nature like painting, sculptures and the like which are not produced in bulk by any industrial process are excluded from registration under the Act.

(4) The features of the design in the finished article should appeal to and are judged solely by the eye. This implies that the design must appear and should be visible on the finished article, for which it is meant. Thus, any design in the inside arrangement of a box, money purse or almirah may not be considered for showing such articles in the open state, as those articles are generally put in the market in the closed state.

(5) Any mode or principle of construction or operation or anything, which is in substance a mere mechanical device, would not be registrable design. For instance, a key having its novelty only in the shape of its corrugation or bend at the portion intended to engage with levers inside the lock associated with, cannot be registered as a design under the Act. However, when any design suggests any mode or principle of construction or mechanical or other action of a mechanism, a suitable disclaimer in respect thereof is required to be inserted on its representation, provided there are other registrable features in the design.

(6) The design should not include any Trade Mark or property mark or artistic works as defined under the Copyright Act, 1957.

5. When does the Applicant for Registration of Design get the registration certificate?

When an application for registration of a Design is in order, it is accepted and registered and then a certificate of registration is issued to the applicant.

However, a separate request should be made to the Controller for obtaining a certified copy of the certificate for legal proceeding with requisite fee.

6. What is a Register of Designs?

The Register of Designs is a document maintained by The Patent Office, Kolkata as a statutory requirement. It contains the design number, class number, date of filing (in this country) and reciprocity date (if any), name and address of Proprietor and such other matters as would affect the validity of proprietorship of the design and it is open for public inspection on payment of prescribed fee & extract from register may also be obtained on request with the prescribed fee.

7. What is the effect of registration of design?

The registration of a design confers upon the registered proprietor 'Copyright' in the design for the period of registration. 'Copyright' means the exclusive right to apply a design to the article belonging to the class in which it is registered.

8. What is the duration of the registration of a design? Can it be extended?

The duration of the registration of a design is initially ten years from the date of registration, but in cases where claim to priority has been allowed the duration is ten years from the priority date.

This initial period of registration may be extended by further period of 5 years on an application made in Form-3 accompanied by the prescribed fee to the Controller before the expiry of the said initial period of Copyright.

The proprietor of a design may make application for such extension even as soon as the design is registered.

9. What is the date of registration?

The date of registration except in case of priority is the actual date of filing of the application. In case of registration of design with priority, the date of registration is the date of making an application in the reciprocal country.

10. How one can ascertain whether registration subsists in respect of any design?

For ascertaining whether registration subsists in respect of a design, a request should be made to the Patent Office, Kolkata. If the serial number of the registered design is known, the request should be made on Form 6, otherwise on Form 7, together with fees. Each such request should be confined to information in respect of a single design.

11. What is piracy of a Design?

Piracy of a design means the application of a design or its imitation to any article belonging to class of articles in which the design has been registered for the purpose of sale or importation of such articles without the written consent of the registered proprietor. Publishing such articles or exposing terms for sale with knowledge of the unauthorized application of the design to them also involves piracy of the design.

12. What is the penalty for the piracy of a registered Design?

If anyone contravenes the copyright in a design he is liable for every offence to pay a sum not exceeding Rs. 25,000/- to the registered proprietor subject to a maximum of Rs. 50,000/- recoverable as contract debt in respect of any one design. The registered proprietor may bring a suit for the recovery of the damages for any such contravention and for injunction against repetition of the same. Total sum recoverable shall not exceed Rs. 50,000/- as contract debt as stated in Section 22(2)(a). The suit for infringement, recovery of damage etc should not be filed in any court below the court of District Judge.

13. Is marking of an article compulsory in the cases of article to which a registered design has been applied?

Yes, it would be always advantageous to the registered proprietors to mark the article so as to indicate the number of the registered design, except in the case of Textile designs. Otherwise, the registered proprietor would not be entitled to claim damages from any infringer, unless the registered proprietor establishes that he took all proper steps to ensure the marking of the article, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of the copyright in the design.

14. Can the Registration of a Design be cancelled ?

The registration of a design may be cancelled at any time after the registration of design on a petition for cancellation in form 8 with the prescribed fee to the Controller of Designs on the following grounds:

- That the design has been previously registered in India or
- That it has been published in India or elsewhere prior to date of registration or
- The design is not new or original or
- Design is not registrable or
- It is not a design under Clause (d) of Section 2.

15. Is it mandatory to make the article by industrial process or means before making an application for registration of design?

No, design means a conception or suggestion or idea of a shape or pattern which can be applied to an article or intended to be applied by industrial process or means. Example: a new shape which can be applied to a pen, thus capable of producing a new appearance of a pen on the visual appearance. It is not mandatory to produce the pen first and then make an application.

16. Why is it important for filing the application for registration of design at the earliest possible?

First-to-file rule is applicable for registrability of design. If two or more applications relating to an identical or a similar design are filed on different dates only first application will be considered for registration of design.

17. Can the same applicant make an application for the same design again, if the prior application has been abandoned ?

Yes, the same applicant can apply again since no publication of the abandoned application is made by the Patent Office, provided the applicant does not publish the said design in the meanwhile.

18. How to get information on registration of design ?

After registration of designs the most relevant view(s) of the article along with other bibliographic data will be available in the official website.

19. Whether it is possible to transfer the right of ownership ?

Yes, it is possible to transfer the right through assignment, agreement, transmission with terms and condition in writing or by operation of law. However, certain restrictive conditions not being the subject matter of protection relating to registration of design should not be included in the terms and condition of the contract/agreement etc. An application in form-10, with the prescribed fee for registration of the transfer documents is required to be made by the beneficiary to the Controller within six months from the date of execution of the instruments or within further period not exceeding six months in aggregate. An original/notarized copy of the instrument to be registered is required to be enclosed with the application.

20. What is meant by priority claim ?

India is one of the countries party to the Paris Convention so the provisions for the right of priority are applicable. On the basis of a regular first application filed in one of the contracting state, the applicant may within the six months apply for protection in other contracting states, latter application will be regarded as if it had been filed on the same day as the first application.

21. How it is possible to restore the lapsed design due to non-payment of extension fee within prescribed time?

Registration of design will cease to be effective on non-payment of extension fee for further term of five years if the same is not paid before the expiry of original period of 10 years. However, new provision has been incorporated in the Act so that lapsed designs may be restored provided the following conditions are satisfied:

Application for restoration in Form-4 with the prescribed fee is filed within one year from the date of lapsed stating the ground for such non-payment of extension fee with sufficient reasons.

If the application for restoration is allowed, the proprietor is required to pay the the prescribed extension fee and an additional fee and finally the lapsed registration is restored.

22. Are the registered designs open for public inspection ?

Yes, registered designs are open for public inspection only after publication in the official journal on payment of prescribed fee on a request in Form-5.

23. How does a registration of design stop other people from exploiting ?

Once a design is registered, it gives the legal right to bring an action against those persons (natural/legal entity) who infringe the design right, in the Court not lower than District Court in order to stop such exploitation and to claim any damage to which the registered proprietor is legally entitled. However, it may please be noted that if the design is not registered under the Designs Act, 2000 there will be no legal right to take any action against the infringer under the provisions of the Designs Act, 2000.

The Patent Office does not become involved with any issue relating to enforcement of right accrued by registration, similarly The Patent Office does not involve itself with any issue relating to exploitation or commercialization of the registered design.

24. What is an artistic work which are not subject matter of registration ?

An artistic work as defined under Section 2(c) of the Copyright Act, 1957 is not a subject matter for registration which reads as follows:

"Artistic works" means: -

- A painting, a sculpture, a drawing (including a diagram, map, chart or plan) on engraving or a photograph, whether or not such work possesses artistic quality.
- An work of architecture and
- Any other work of artistic craftsmanship.

25. What is meant by classification of goods mentioned in the Third Schedule ?

In the third Schedule of Design Rules, 2001 the classification of goods has been mentioned. The classification is based on Locarno Agreement. Only one class number is to be mentioned in one

particular application. It is mandatory under the Rules. This classification has been made on the basis of Articles on which the design is applied.

Example: If the design is applied to a toothbrush it will be classified under class 04-02. Similarly if the design is applied to a calculator, it will be classified in class 18-01. Subsequent application by the same proprietor for registration of same or similar design applied to any article of the same class is possible, but period of registration will be valid only up to period of previous registration of same design.

26. Does the Patent Office help to select an agent to prepare and prosecute design application?

Yes, the Patent Office is publishing the list of facilitators who are willing to play a role in filing design applications for start-ups and act as an agent on their behalf. Their fees for this purpose have also been notified. The list of facilitators is available in IPO website www.ipindia.nic.in and has also been uploaded in the Start-up Hub in DIPP website.

TRADEMARKS PROCEDURE

1. What is a trademark?

A trademark (popularly known as brand name) in layman's language is a visual symbol which may be a word signature, name, device, label, numerals or combination of colours used by one undertaking on goods or services or other articles of commerce to distinguish it from other similar goods or services originating from a different undertaking.

The legal requirements to register a trademark under the Act are:

- The selected mark should be capable of being represented graphically (that is in the paper form).
- It should be capable of distinguishing the goods or services of one undertaking from those of others.
- It should be used or proposed to be used mark in relation to goods or services for the purpose of indicating or so as to indicate a connection in the course of trade between the goods or services and some person have the right to use the mark with or without identity of that person.

2. What is the function of a trademark?

Under modern business condition a trademark performs four functions-

- It identifies the goods / or services and its origin.
- It guarantees its unchanged quality
- It advertises the goods/services
- It creates an image for the goods/ services.

3. Who can apply for a trademark and how ?

Any person, claiming to be the proprietor of a trademark used or proposed to be used by him, may apply in writing in prescribed manner for registration. The application should contain the trademark, the goods/services, name and address of applicant and agent (if any) with power of attorney, the period of use of the mark. The application should be in English or Hindi. It should be filed at the appropriate office.

The applications can be submitted personally at the Front Office Counter of the respective office or can be sent by post. These can also be filed on line through the e-filing gateway available at the official website.

4 What are different types of trademarks that may be registered in India?

- Any name (including personal or surname of the applicant or predecessor in business or the signature of the person), which is not unusual for trade to adopt as a mark.

- An invented word or any arbitrary dictionary word or words, not being directly descriptive of the character or quality of the goods/service.
- Letters or numerals or any combination thereof.
- The right to proprietorship of a trademark may be acquired by either registration under the Act or by use in relation to particular goods or service.
- Devices, including fancy devices or symbols
- Monograms
- Combination of colours or even a single colour in combination with a word or device
- Shape of goods or their packaging
- Marks constituting a 3- dimensional sign.
- Sound marks when represented in conventional notation or described in words by being graphically represented.

5. Who benefits from a trademark?

- The Registered Proprietor of a trademark can create establish and protect the goodwill of his products or services, he can stop other traders from unlawfully using his trademark, sue for damages and secure destruction of infringing goods and or labels.
- The Government earns revenue as a fee for registration and protection of registration of trademarks
- The Legal professionals render services to the entrepreneurs regarding selection registration and protection of trademarks and get remunerations for the same
- The Purchaser and ultimately Consumers of goods and services get options to choose the best.

6. What are the benefits of registering a trademark?

- The registration of a trademark confers upon the owner the exclusive right to the use the trademark in relation to the goods or services in respect of which the mark is registered and to indicate so by using the symbol (R), and seek the relief of infringement in appropriate courts in the country.
- The exclusive right is however subject to any conditions entered on the register such as limitation of area of use etc.
- Also, where two or more persons have registered identical or nearly similar marks due to special circumstances, such exclusive right does not operate against each other.

7. What are the formalities and government fees for major trademark transactions ?

- For filing new applications there are prescribed forms depending on the nature of application such as Form TM-1, TM-2, TM-3, TM-8, TM-51 etc. Fees: Rs.4000/-
- To file a Notice of Opposition to oppose an application published in the Trade Marks Journal (Form TM-5). Fees: Rs. 2,500/- for each class covered
- For Renewal of a Regd. trademark (Form TM-12). Fees: Rs.5,000/- Surcharge for belated renewal (Form TM-10).Fees: Rs. 3,000/-
- Restoration of removed mark (Form TM-13) Fees: 5,000/-
- Application for rectification of a registered trademark (Form TM-26) Fees: Rs. 3,000/-

- Legal Certificate (Form TM-46) (Providing details of entries in the Register) Fees: Rs.500/-
- Preliminary advise of the Registrar as to the registrability of a mark (Form TM-55). Fees: Rs.500/-
- Copyright search request and issuance of certificate (Form TM-60) Fees: Rs, 5,000/-.

8. What are the sources of trademark laws?

- (1) The national statutes i.e., the Trade Marks Act, 1999 and rules made thereunder .
- (2) International multilateral convention.
- (3) National bilateral treaty.
- (4) Regional treaty.
- (5) Decision of the courts.
- (6) Office practice reduced in Manuals and guidelines and rulings of the Courts
- (7) Decision of Intellectual Property Appellate Board.
- (8) Text books written by academician and professional experts.

9. What does the Register of trademark contain?

The register of trademark currently maintained in electronic form contains inter alia the trademark the class and goods/ services in respect of which it is registered including particulars affecting the scope of registration of rights conferred; the address of the proprietors; particulars of trade or other description of the proprietor; the convention application date (if applicable); where a trademark has been registered with the consent of proprietor of an earlier mark or earlier rights, that fact.

10. Can any correction be made in the application or register?

Yes. But the basic principle is that the trademark applied for should not be substantially altered affecting its identity. Subject to this changes are permissible according to rules detailed in the subordinate legislation.

11. Can a registered trademark be removed from the register?

Yes. It can be removed on application to the Registrar on prescribed form on the ground that the mark is wrongly remaining on the register. The Registrar also can suo moto issue Notice for removal of a registered trademark.

12. Does the Trade Marks Registry help to select a trademark agent to prepare and prosecute trademarks application?

Yes, Trade Marks Registry is publishing the list of facilitators who are willing to play a role in filing trademark applications for start-ups and act as a trademark agent on their behalf. Their fees for this purpose have also been notified. The list of facilitators is available in IPO website www.ipindia.nic.in and has also been uploaded in the Start-up Hub in DIPP website.



**INTELLECTUAL
PROPERTY INDIA**
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CONTACT DETAILS:

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