



Trademark TM Standard Operating Procedure

A trademark application can be filed at the Trademark Offices or online at IP India in the prescribed form TM-A. Once submitted, an application undergoes different stages like trademark examination and publishing in the trademarks journal, before ultimately being accepted or rejected.

What is a Trademark?

A trademark is synonymous with the brand name. It can be a name, logo, device, symbol or a word which is used to represent products or services of a business entity. It is a part of Intellectual Property and is registered under the Trademarks, Act, 1999.

According to Section 28 Act, registering a trademark gives the proprietor exclusive rights of its usage, and you can also ask for relief in case of any infringement.

What can you register as a Trademark?

Before you file a trademark application, it's important to decide what you wish to register as a trademark. The types of trademarks available in India for registration are –

- Word Marks
- Device Marks
- Product Marks
- Service Marks
- Collective Marks
- Certification Marks

Shapes, colours and sounds can also be applied for trademark registration in India.



How to file a Trademark in India?

A trademark in India can be filed by the applicant or by his/her attorney. Below are a few steps which will simplify the complete process for you.

Step 1. Trademark Search

Before filing a trademark application, an online trademark search can be performed in the Indian Trademark Registry Database. It helps to identify any similarity from an already registered or applied mark. This can either be done by the applicant or by the attorney filing on his/her behalf. These are a few methods you can consider to conduct a trademark search for your mark

Preliminary Trademark Search

During an initial trademark search, a mark is searched for any identifying marks or marks which are visually confusing or phonetically similar to the applied mark.

It eliminates any possibilities of objection, infringement or opposition during or after the registration of the mark. It will also determine the strength of your mark in the market. The applicants can perform the initial trademark search by themselves.

Comprehensive Trademark Search

This method has a broader scope of eliminating all the factors that might hamper the registration of your mark. Only professional attorneys can conduct an extensive search since they can access the data from multiple platforms like company names, state trademarks, publications, domain name database and social media search.

Bonus: Trademark Image Search

You can check the authenticity of names or words and devices through the above methods. However, a logo can also be searched for its distinctiveness.

Trademark Image Search is a tool which is scale, position and background invariant. It compares different logos by visual similarities, design copies or their uniqueness.

Developed by Quick Company in India, it is of a one-of-a-kind tool which can even search for logos applied under different classes. To know more about how to find if a logo is trademarked.



How to find if a Logo is trademarked?

The trademark Image Search tool is the solution to make sure the logo you wish to trademark is not taken by someone else. It will help you to search from a database of different logos in India.

Before applying for the trademark, it is crucial to search thoroughly for the logo you wish to associate with your business. Trademark Image Search helps you to know if the proposed logo is already trademarked and display visually similar logos.

What is Logo Search?

Once you have decided on a particular logo which you wish to use, it is essential to get it registered. But, before you initiate the registration process, it is critical to know its distinctiveness.

A logo is a mirror to the products or services you wish to market, and therefore, it should always be relatable. Trademark Logo Search is a tool which is scale, position, and background invariant. It compares different logos and provides similar results.

The tool helps every business to find

- If there are any similar logos.
- If the Design is copied.
- Uniqueness of a shape.
- Visually similar trademarks especially in case of objection.

Why is Logo Search important?

To secure a brand, it becomes critical to make sure that the logo you wish to register is distinct and not taken by anyone. It safeguards you from infringing on anybody's rights and restrain from the opposition during the registration process.

Logo Search provides you with the opportunity to search in a vast database of different logos, which are already applied under different classes. It is necessary to conduct a logo search if you do not wish to get trapped in an objection, opposition or infringement case.



How to find if your logo is taken?

To search your logo on the tool

- Go on Trademark Image Search.
- Click on upload file and attach the image you wish to check.

The search results will display all the similar logos along with the class under which they are registered.

Conclusion

Once you have applied for your trademark, you can use 'TM' with the particular logo. It usually refers that the logo has been applied for trademark registration while 'R' is used for already registered logos or designs.

Step 2: Preparing the Application

A trademark application can be prepared by the applicant or even by his/her attorney. Here's a checklist for trademark registration you must consider while preparing the application.

- Name of the Applicant
- The entity of the applicant, i.e., Individual, LLP, Partnership, Company or any other legal entity.
- Name and designation of the authority – the person filing on behalf of the applicant.
- Details of the mark, i.e., the type of mark applied for registration.
- Date of usage of the mark in India or outside India.
- Description of goods or services under which the mark will be registered.

Step 3: Filing the Application

Once the application is prepared, it can be filed at the Trademark Registration Office through e-filing or by speed posts. A single application can be used to file a trademark in multiple classes. The applications are received at the Trademarks Registry Office on all working days while e-filing can be done at all hours. (24x7)

While applying for a trademark, make sure –

- The documents must be handwritten, printed or typewritten in Hindi or English.
- The documents must contain the signatures of the applicant with a date or of the authority filing on behalf of the applicant.
- Date and place of filing.
- In the case of e-filing, digital signatures will be required for signing the documents.



In case more than one person is filing the trademark, it must be signed by each applicant if an agent or attorney is not applying it.

The filing of the trademark application takes about one or two working days. Once an application is filed, you will get an application number to track the status of your application.

All the applications that are sent through speed posts must be submitted along with the prescribed fee either in the form of cash, bank draft or cheque drawn from the bank where the Registry Office is established. The cheques and bank drafts must be crossed.

E-filing has a separate payment gateway available on the IP India website.

How much does trademark registration cost in India?

There are various stages a trademark application undergoes, each stage there is a government fee that needs to be paid.

Application for registration	Physical Filing	E-filing
For Individuals	5000	4500
For Companies	10,000	9,000

Note: The fee mentioned above includes only the government fee. Professional fees of the CA's or Attorneys may vary depending on firms/professionals.

A 'TM' symbol can now be used by the applicant to identify that his/her mark is in the process of trademark registration.

Bonus: Don't forget these requirement

There are a few compliances which can slow down the speed of your trademark registration in case you miss out on these filing requirements.

- The prescribed fee must be paid along with the concerned documents or else the documents will not be taken into any account.
- Dishonoured or non-realization of cheque/demand draft will also be treated as non-payment of the fee.
- The application must not be left unsigned.
- All the information provided by the applicant must be checked for authenticity.
- Mention the correct trademark class during the filing process.



What happens after you file an application?

Once you file an application, it goes through several stages of examination at the Trademark Registry Office. The steps are -

1. Examination

After the successful filing of the trademark applications, they are allotted to a trademark examiner to check for any discrepancies in the form or filing procedure. The allotment is done according to the date and time of the submission of the applications. Form TM-63 can be filed if you want your application to be examined on a priority basis.

The examiner can accept or object the trademark application based on different provisions mentioned in the Trademark Law. The examination of the application can take 12-18 months.

{Section 9 and 11 of the Act elaborates the different grounds on which an application can be objected.}

In case of any objection

The applicant is issued an examination report in case and an objection is raised by the examiner. The applicant has to revert with a reply within one month to the examiner.

The examiner can list the application for hearing in the court in case he/she is not convinced by the applicant's reply to the examination report.

In case of Acceptance

Once the application is accepted for registration, it goes for publishing in the Trademark Journal.

2. Accepted and Advertised

The mark is available for opposition to the general public once it is published in the journal. This is done for 90 days so that any party can oppose the mark on the basis of similarity or deceiving the customers.

In case there is no opposition.

If the mark is not opposed by any party within the stipulated time, then the application proceeds for registration.

In case there is an opposition.

The court gives a fair chance of hearing both the parties in case a third party has raised an opposition to the applied mark.



Form and Fees

Payable For	Form Filed	Govt. fees (INR)
The opposition to the applied mark	TM-O	NA
For Physical Filing	NA	3000
For e-filing	NA	2700

Note: The fee mentioned above includes only the government fee. Professional fees of the CA's or Attorneys may vary.

Registration of the mark

The applicant is issued a registration certificate with a seal of the Trademark Office claiming successful registration of the applied mark as a trademark. The certificate is sent to the concerned address via speed post from the Registry Office.

The applicant can now use the symbol ® with his/her brand name after receiving the registration certificate.

At the end,

The Trademark Registration is valid for 10 years after which you require to renew the registration to extend its protection. Trademark Renewal helps you to protect the trademark for another TEN Years and enjoy the exclusive rights as a registered proprietor.