

# TRADEMARKS



## What is a Trademark ?

**A Trademark is any mark, word, name, symbol, design or device or any combination used by a person:**

- **To identify and distinguish the goods of such person, including a unique product, from those manufactured or sold by others.**
- **To indicate the source of the goods, even if that source is unknown.**

**A trademark is an intangible asset.**

# Famous Trademark Examples



## Difference Between Trademark, Patent and Copyright

Trademark	Patent	Copyright
Gives exclusive use of Image/ Phrase	Gives owner right relating to Invention	Gives Owner right to the material
Protection of Unique name that makes a brand distinct from other	Protection of Inventions that are novel, original and has industry utility	Protect original creative expressions like literary works, artistic works
Valid for 10 years and can be renewed afterwards	Validity for 20 years	Valid for lifetime of author + 60 years after his/her death
McDonalds, Burger King	New Invention in Pharmaceutical company	Books, articles, songs, photographs, sculptures

## **Why is Trademark Registration Important ?**

**Trademark registration is important and necessary for a business because:**

- **It showcases your unique identity.**
- **It helps you build trust and loyalty among your customers.**
- **It offers legal protection for your brand's identity.**
- **It is an asset in itself.**
- **It prevents unauthorized usage of your brand's identity.**

## What trademarks are NOT registerable ?

- Any trademark, which is **identical or deceptively similar** to an existing registered trademark or trademark for which application for registration has been made, cannot be registered.
- Also trademark that would likely cause deception or confusion or is offensive may not be registered.
- Geographical names, common names, common trade words and common abbreviation can also not be registered as a trademark.

# What can you register as a Trademark ?

## **1. Name:**

- (a) Product Name**
- (b) Business Name**
- (c) Person's Name/Surname**
- (d) Abbreviations**

## **2. Logo/Symbol**

## **3. Tagline**

## **4. Other options:**

- (a) Color Mark**
- (b) Sound Mark**

## Trademark Classes

- There are **45** trademark classes (out of which, classes **1 to 34** categorizes goods or products and classes **35 to 45** categorizes services) and all the goods and services are categorized across these classes. You need to be very careful while picking the classes as it will determine the validity of your trademark for your business' products/services.

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Examples of trademark classes are as follows:

- • **Class 9** – which includes computer software and electronics
- • **Class 25** – which includes clothing
- • **Class 35** – which includes business management and advertising
- • **Class 41** – which includes education and entertainment.



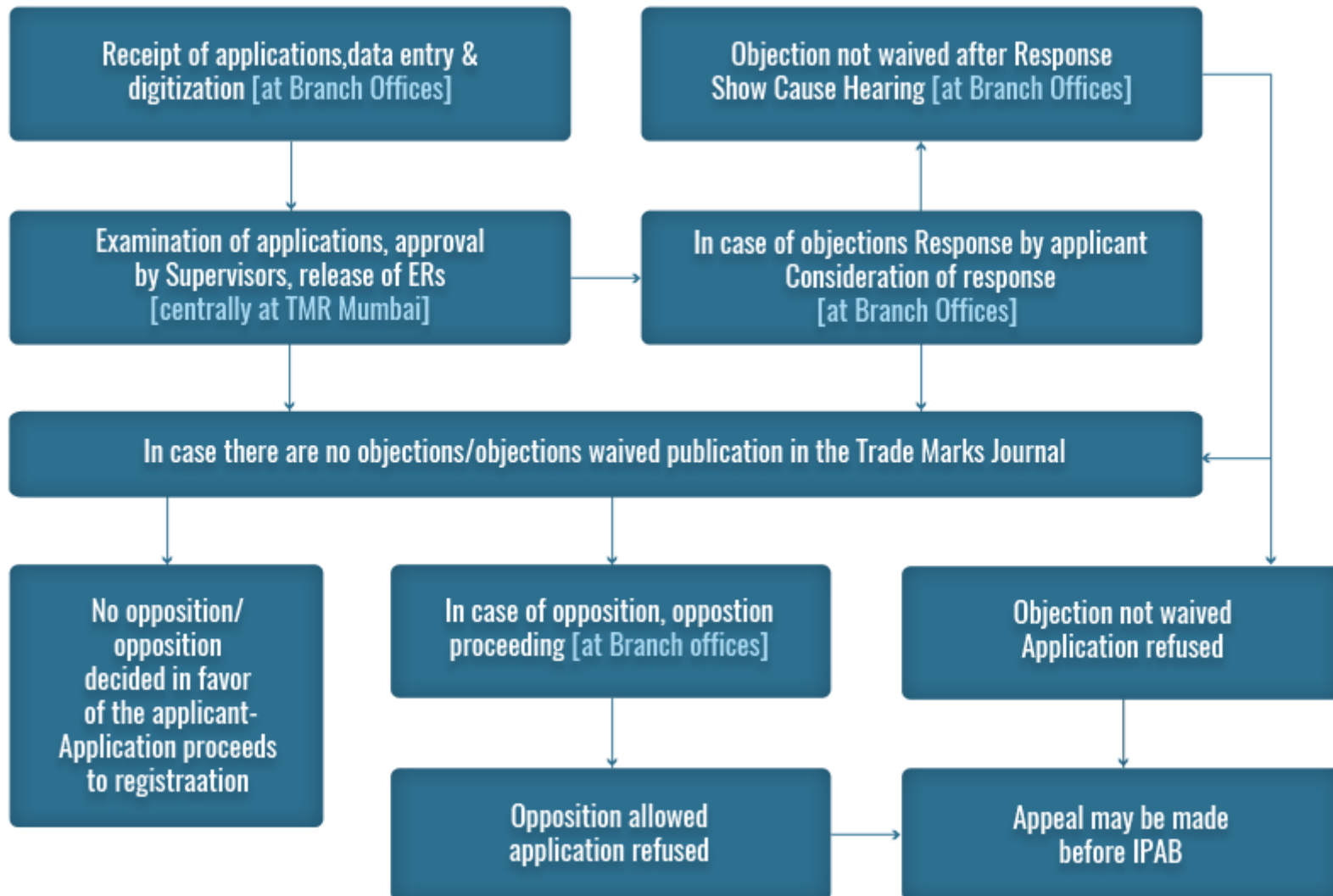
## Details & Documents required

- ❖ **Applicant's name**
- ❖ **Business type**
- ❖ **Business objectives**
- ❖ **Brand/logo/slogan name**
- ❖ **Registration address**

### The documents required are:

- ❖ **Signed Form-48**
- ❖ **Identification proof of the signatory**
- ❖ **Address proof of the signatory**
- ❖ **Business proof (depends on the type of business)**
- ❖ **Udhyam Registration Certificate, if any**

# Trademark Application process



## Trademark Search

**Trademark Search is the foremost step in the process flowchart.**

**In the trademark search, an applicant or a professional search for a similar or identical Trademark registered or filed.**

**Here we have to use the database of the Trademark Registrar to conduct the search.**

**This is the primary step and, therefore, should be done carefully.**

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## Trademark Application Preparation and filing

- ▶ If your Trademark is unique, you can begin the application procedure.
- ▶ The basic details of applicant
- ▶ Logo or the other mark in high resolutions that you want to register as a Trademark in India
- ▶ Specific Class from the **Trademark Nice Classification**
- ▶ Date since trademark is in use
- ▶ Information regarding goods or services
- ▶ Nature of Business of applicant or Trademark Owner
- ▶ Address of Trademark Owner or the Applicant

## Trademark Application Allocation Number

- ▶ **After trademark registration application submission, the system will assign you a unique application number.**
- ▶ **You get this allotment number within one or two working days after the successful submission of a trademark application.**
- ▶ **This unique number allows you to track the application status through the entire registration process flow chart.**
- ▶ **It is important to note that this number should always be kept handy. The reason is if the Trademark Registrar finds any error in the application or Trademark, they can reject your application. You can then use this allocation number for replying to the objections.**

## Vienna Codification Process of Trademark

- ❖ It is a popular system to track the duplication of trademarks.
- ❖ The Trademark Registration Department uses Vienna codification to check the originality of trademarks under 29 categories that have many sub-categories.
- ❖ The Vienna Codification Process of Trademark usually takes up to 3-5 business days.
- ❖ It can take even longer as it is an internal process, and the applicant can and does not need to do anything else here.

## In- Depth Examination of the Trademark

- The next step is an In-depth Examination of the Trademark. Here a Trademark Officer is responsible for conducting an examination of the Trademark.
- The Trademark Officer would check the trademark application for accuracy and produce a trademark examination report.
- The Trademark Officer can approve the trademark registration application and allow it to be published in the trademark journal, or they might challenge the trademark registration application. Now here are the two possible outcomes:
- In case of **OBJECTIONS** from the official, you can apply for Trademark Objection Reply online and submit the response in a timely manner. If the official is satisfied with your response, they will continue the process.
- In case of no **TM Formality Check Fail**, the official will move the application to the official gazette or official journal of India. The **trademark journal** is published weekly and covers all of the trademarks that the Trademark Registrar has approved.
- After the Trademark is publicized in the official journal, it gives individuals and the business entities the right to object to the trademark registration (**Trademark Opposition**) if they feel it would affect them with a valid reason.
- If the Trademark is opposed, you have to apply for a **Trademark hearing** in front of the Trademark Hearing Officer.



## Trademark Acceptance

- ❖ Once the trademark registration application is “**Accepted**” by the Trademark Registrar, the proposed trademark is published in the Trademark Journal for **objections from general public.**
- ❖ If there are no objections filed within **90 days** of that publication, the trademark will typically be registered. If the trademark registration application is opposed by a third-party, hearing will be called for by the Trademark Hearing Officer.
- ❖ Both the trademark applicant and the opposing party have the chance to appear at the hearing and provide justifications for registration or rejection of the trademark application.
- ❖ Based on the hearings and the evidence presented, the Trademark Hearing Officer will determine if the trademark registration application should be accepted or rejected.

# Trademark Objections

(NOT FOR LEGAL USE)

As on Date : 09/04/2022


Status : **Objected**

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TM Application No.	4329339
Class	43
Date of Application	23/10/2019
Appropriate Office	DELHI
State	DELHI
Country	India
Filing Mode	e-Filing
TM Applied For	MUMS GRACE NUTRENO Pvt. Ltd.
TM Category	TRADE MARK
Trade Mark Type	DEVICE
User Detail	Proposed to be used
Certificate Detail	
Valid upto/ Renewed upto	
Proprietor name	(1) VANDANA

- In some cases, the trademark examiner might see certain problems or issues with the registration of your trademark. These issues can be either the filing of an incorrect trademark form, incorrect name/details, etc.
- When an objection is raised, the status on the register will show as '**Objected**'. Then there could be a trademark hearing scheduled and this will be communicated to you by a notice.
- The process typically takes 2-4 months from when the objection is first raised. Once completed, the chances for approval, while not guaranteed, are much higher.

## Trademark Registration Final Step

- Once all the objections or oppositions are successfully resolved, you will get the Trademark Registration Certification.
- The Trademark Certificate indicates that your Trademark is now registered, and only you have the exclusive right to use it.
- You can now also start using the  symbol to highlight your trademark registration.

## Trademark Renewal

- ❖ The trademark can be renewed perpetually after every **10** years. Hence, your logo or brand name registration can be protected perpetually.
- ❖ The process of trademark renewal in India needs to be started **6 months prior expiry** by paying the trademark renewal fee in a prescribed form.
- ❖ Additionally, the request for a trademark renewal can be made even after expiration but within 6 months after expiry of registration by paying late renewal fees along with a prescribed form.
- ❖ If not renewed even after 6 months from the date of expiry, the trademark mark will be **removed** from the Trademark Register. However, even after removal of trademark, it can be restored by filing an application for **restoration** of the trademark to the Registrar and paying additional fees after six months and within one year from the date of expiry.

## Application Form & Fees

S. No.	On what payable	For Physical Filing	For E-filing	Form
1.	Application for registration of trademark ( <b>where the applicant is an Individual/startup/small enterprise</b> )	5,000	4,500	Form TM-A
2.	Application for registration of trademark ( <b>in all other cases</b> ) (Note: <b>Fee is for each class and for each mark</b> )	10,000	9,000	Form TM-A

What does  &  signify?

TRADEMARK



What is the  
difference  
between the  
TM and R

## What does & signify ?

### Trade Mark



TM means a brand / trade name which is yet to be registered or the application is pending for registration for registration before the registration authorities.



### Registered



R means registered trade mark or the registration process is completed and valid certificate of registration is issued by the registration authorities.

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# **Thank You!!**

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