



An Overview of Trademarks: Types of Trademarks and its Registration Process in India

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Trademarks are essential tools for distinguishing the goods and services of one enterprise from those of others, while protecting brand identity, commercial goodwill and consumer confidence. This article examines the concept, evolution and legal framework of trademark protection in India under the Trademarks Act (1999). It provides an overview of various types of trademarks, including word marks, service marks, logos, collective marks, certification marks, shape marks, series marks and geographical indications. The article also discusses the trademark registration process and its importance in securing exclusive rights and preventing infringement. Special attention is given to the growing significance of non-conventional trademarks and the challenges associated with their registration and protection. Further, the doctrine of deceptive similarity and its role in preventing consumer confusion are examined. Recent judicial decisions involving well-known trademarks such as *Haldiram's* and *Boroline* highlight the evolving nature of trademark enforcement in India. Overall, the article emphasizes the importance of effective trademark protection in promoting fair competition, safeguarding consumer interests and supporting sustainable business growth in an increasingly competitive marketplace.

Keywords: Trademark, Intellectual Property Rights (IPR), Trademark Registration, Brand Protection, Non-Conventional Trademarks, Well-Known Trademarks, Geographical Indications.

Introduction

A trademark is a distinctive sign, symbol, word, design, colour, shape, sound, or combination thereof that identifies and differentiates the goods or services of one enterprise from those of others. The concept of trademarks originated from ancient civilizations where artisans and merchants used marks on their products to indicate ownership and quality. Modern trademark law developed during the Industrial Revolution with the growth of mass production and competitive markets. International recognition of trademark rights was strengthened through the Paris Convention (1883) and later the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in 1994.

In India, trademark protection is primarily governed by the Trade Marks Act, 1999, which provides legal safeguards against infringement, passing off, dilution and deceptive similarity. The primary objective of trademark law is not only to protect business goodwill but also to prevent consumer confusion in the marketplace. With globalization and technological advancement, branding strategies have evolved beyond traditional marks such

as names and logos to include non-conventional trademarks like colours, sounds, shapes, smells, motions, textures and holograms.

Recent studies have highlighted the increasing importance of non-conventional trademarks in establishing unique brand identities. However, their registration often faces challenges due to the requirements of distinctiveness and graphical representation. Research on deceptive similarity further emphasizes that trademarks resembling existing marks in appearance, pronunciation, or meaning can mislead consumers and dilute brand value. Judicial interpretations and international practices continue to shape the evolving trademark landscape. Therefore, understanding both conventional and unconventional trademarks, along with the doctrine of deceptive similarity, is essential for ensuring effective intellectual property protection and promoting fair competition in today's dynamic commercial environment.

Types of Trademarks in India

The Trademarks Act (1999), allows the registration of various types of trademarks such as word marks, service marks, collective marks, certification marks, series marks logos/symbols and many other. As per Section 28 (1) of the Trade Marks, Act (1999), a trademark protects exclusive rights to the registered proprietor to use the mark in relation to the goods or services and also, obtain relief in case of infringement.

1. Word Marks

Word Marks are the most common types of trademarks that are registered in India. These refer to any marks that are used to identify the products and services of a trading company or service-providing company. If the **name of your product or service is text-based** (contains text only) it will be registered under Word Marks.



For Example - The word Nestlé® is a registered as a Word-Mark.

2. Service Marks

Service Marks represent the service which a company or business deals in. They **distinguish different services** available in the market and is filed under trademark classes 35-45.



For example - FedEx is a registered courier delivery service provider.

3. Logos and Symbols

A logo is a printed/painted figure/design/character and do not consist of any letters/words/numerals. For word marks that are also used as a logo, the trademark needs to be registered **both as a word mark and a device marks**.



In India, the registration for both these aspects can be made in a single application.

For example - Apple has a registered logo which is used on each of their products.

4. Shape of Goods

The shape of goods are categorized in Trade Dress (appearance of a product) wherein, other than a logo or label a product can also be distinguished based on its packaging.



For example - The bottle of Coca-Cola is distinguished from other brands on the basis of its bottle's shape.

5. Series Marks

Service marks are trademarks which have a common syllable, prefix or suffix, thus denoting as a family of marks sharing a '**common name**'. They should differ only as to matters of non-distinctive characters (goods, price, quality or size). **For example** – McDonald's have a series of 'Mc' registered as **word mark** which represents their different product range such as **Mc Chicken, Mc Veggie etc.**



6. Collective Trademarks

These marks are linked with a group of people and not one single product or service. These trademarks are primarily owned by an organization, institutes or any association. They can be used by members of the organization to represent them as one the part. They are “*Badges of origin*” which indicates the specific source of the individual, his/her products and services.

For Example - A chartered accountant can use the “CA” device as he is a registered member of the Institute of Chartered Accountants.



7. Certification Mark

The certification mark is created to show a specific quality standard that the company has met. This means that the public will be aware that the trader’s **goods or services** are certified as it has met a particular standard, as defined by the certifying body that owns the certification mark. Certification marks are used to define “**Standard**” of goods and services.

For Example - FSSAI - Certification for the quality of packaged food products.



8. Geographical Indicators

A geographical indication is used on products to show the unique nature, reputation and quality the products possess based on the place of origin. The Geographical Indicators are awarded by the GI Registry and is granted to natural, agricultural, manufactured and handicraft products that come from a specific geographical origin.

For Example -Darjeeling Tea is a GI under the Intellectual Property Rights.



Trademark Registration and its Importance

Trademark Registration is a legal procedure described under the Trade Marks Act, 1999. Once a trademark is registered, no one can use it without the owner’s prior permission. It is required to protect the authenticity and quality of goods or services in the market. It should not be taken lightly and must be done as soon as possible without delays.

Registration procedure

On filing a Trademark application, the registry issues an official receipt that has the filing date and application number. Then the Indian Trademarks Office examines the application, as to ensure it can be registered under the Trademarks Act and if any objection to registration is raised, registry issues an examination report to the applicant. The applicant is then required to file a written response or is required to give evidence of acquired distinctiveness and thereafter a hearing with the examiner is posted. If post examination and hearing, the registrar is of the view that the trademark can be allowed, Letter of Acceptance is issued to the applicant after which the trademark is published in the Trademark Journal. Post publication, it is open for opposition for 4 months from date of publication. If no objection is raised in these 4 months, certificate is issued and in case of objection, both parties are given opportunities to be heard. Trademark Registration is a tedious process and it usually takes around 18-24 months to acquire registration in cases with no objections or oppositions. Once the trademark is registered, it is valid for a period of 10 years from the date of application. The registration can then be renewed indefinitely as long as the renewal fees are paid every 10 years.

Importance of trademark registration

- Exclusive individual rights over a trademark to utilize, distribute or assign it.
- Legal protection against the fake and fraudulent products along with the right to sue the infringers.
- Protects the authenticity and quality check of concerning goods and services.

- Acts as an identity of a particular business amongst the customer.
- It creates an intangible asset for the owner.
- It can be transferred, sold, or franchised.
- Protects trust and goodwill in the market.
- Protects the loyalty of its customers.
- A trademark protects your brand.
- Acts as a tool preventing everyone from riding on the back of one's business goodwill.
- Protects uniqueness of brands.
- Speaks for its brand and attracts customers. A registered trademark can always easily identify which brand your product belongs to. For instance, anyone can easily identify any gadget with a silver-colored half-bitten apple, be it a laptop or a phone, belonging to the brand Apple.
- Low maintainable: Registered trademark needs low maintenance. Once a trademark is registered, it will remain valid for the next 10 years and even after that, one can renew it by paying a professional fee of Rs. 9,000.
- A registered trademark makes an identity of a brand that remains with it forever.

Recent Trends and Cases of Illegitimate use of Trademarks

Case 1: Haldiram India Pvt. Ltd. v. Berachah Sales Corporation & Ors.

In April 2024, the Delhi High Court recognized 'Haldiram's' as a well-known trademark in the case of *Haldiram India Pvt. Ltd. v. Berachah Sales Corporation & Ors.* The court permanently restrained the defendants from using the name 'Haldiram' or any mark deceptively similar. Additionally, ₹50 lakhs in damages were awarded to the plaintiff and the Registrar of Trademarks was directed to list 'Haldiram's' as a well-known trademark.

Case 2: G.D. Pharmaceuticals Private Limited v. Cento Products (India)

In August 2024, the Delhi High Court declared 'Boroline' a well-known trademark in the matter of *G.D. Pharmaceuticals Private Limited v. Cento Products (India)*. The court prohibited the defendant from producing or selling products under the name 'Borobeautey', citing significant similarities to 'Boroline'. A cost of ₹2 lakhs was imposed on the defendant and the Registrar was instructed to include 'Boroline' in the list of well-known trademarks.

Conclusion

In an increasingly competitive and brand-oriented economy, trademarks have become vital assets for protecting business identity, reputation and commercial value. Beyond distinguishing goods and services, trademarks foster consumer confidence, preserve goodwill and promote fair competition in the marketplace. The growing recognition of both conventional and non-conventional trademarks reflects the evolving nature of branding in modern commerce. However, the expansion of digital platforms and global markets has also increased the risk of infringement and unauthorized imitation, highlighting the need for effective registration and enforcement mechanisms. Recent judicial decisions recognizing well-known trademarks demonstrate the commitment of Indian courts to safeguarding brand rights and preventing misuse. Therefore, a strong and adaptive trademark regime is essential for protecting intellectual property, encouraging innovation, maintaining market integrity and supporting sustainable economic growth in an increasingly dynamic business environment.

References

1. Trade Marks Registry. (2024). *The Trade Marks Act, 1999 and Trade Marks Rules, 2017*. Ministry of Commerce and Industry, Government of India, New Delhi, India.
2. Narayanan, P. (2017). *Law of Trade Marks and Passing Off* (7th ed.). Eastern Law House, Kolkata, India.
3. World Intellectual Property Organization (WIPO). (2023). *Making a Mark: An Introduction to Trademarks for Small and Medium-Sized Enterprises*. Geneva, Switzerland.

4. Bently, L., Sherman, B., Gangjee, D. and Johnson, P. (2022). *Intellectual Property Law* (6th ed.). Oxford University Press, Oxford, UK.
5. Cornish, W., Llewelyn, D. and Aplin, T. (2019). *Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights* (9th ed.). Sweet & Maxwell, London, UK.
6. Bainbridge, D. I. (2021). *Intellectual Property* (11th ed.). Pearson Education Limited, Harlow, UK.
7. Vashishth, V. and Vashishth, A. (2019). *Intellectual Property Rights: Text and Cases* (2nd ed.). LexisNexis Butterworths, New Delhi, India.
8. Ramakrishna, B. and Kumar, H. S. (2021). Protection of Non-Conventional Trademarks in India: Challenges and Opportunities. *Journal of Intellectual Property Rights*, 26(4), 213–221.
9. Saha, C. N. and Bhattacharya, S. (2020). Trademark Protection and Brand Management in India: Emerging Trends and Legal Challenges. *Journal of Intellectual Property Rights*, 25(5), 271–279.
10. World Intellectual Property Organization (WIPO). (2024). *Understanding Industrial Property*. Geneva, Switzerland.