

IP Hotline

February 09, 2012

TRADEMARK REGISTRY TAKES A STEP FORWARD TOWARDS EXPEDITING TRADEMARK REGISTRATION PROCESS IN INDIA

With an aim to speed up the trademark registration process in India, the Trademark Registry of India ("Registry") has recently issued a public notice¹ stating that trademark applications will not be processed if complete and correct information is not provided in the application. This is because; incomplete applications were causing impediments in the registration process, resulting in delay and backlog in clearing the applications.

INFORMATION TO BE FURNISHED

In order to plug the deficiencies, the Registry, vide the public notice, has set out the details to be mentioned in the trademark application, which need to be provided by the applicants or trademark agents at the time of filing:

- **A correct and comprehensive description of the goods or services for which the mark is sought to be registered** : Words such as 'all goods/ services', 'etc', 'all other goods/ services included in class', 'goods/services not limited to', which were commonly used earlier to keep the scope of registration in a particular class as wide as possible, can no longer be used in the description of classes.
- **The details of the applicant - for example, in case of a proprietary firm, the application should mention details of the proprietors of the firm; in case of a partnership firm, names of the partners; in case of a trust, name of managing trustee; in case of a society, name of person representing the society, should be stated in the application** : This will ensure that the Registry has records of all the persons having an interest in the trademark. Separately, in case of change in the constitution of partnership and change in the managing trustee, or person representing society, the change needs to be brought on records of the Registry.
- **Complete details of the date of use of mark in India - i.e day, month and year from which the mark was first used in India (unless the mark is filed on a 'proposed to be used' basis)** : Providing such information in the application will be particularly helpful in deciding trademark opposition/trademark infringement matters, where prior usage of the mark becomes a deciding factor. The applicant can take the benefit of the use by the predecessors in title.
- **Applications which include any non-English word or characters (including Hindi language characters or words) should be filed with the appropriate translation or transliteration of such characters or words in English language** : India is a multi-linguistic state and trademarks are filed in vernacular languages as well. The translation of non-English words in English will enable members of the public to ascertain if a mark, conflicting with their trademark, has already been applied for with the Registry. The search of the register will thus become more effective.
- **Applications should be accompanied with a clear image of the trademark** : This will enable members of the public to ascertain if a mark, conflicting with their trademark, has already been applied for with the Registry.

The public notice states that if the aforementioned criteria are not complied with, then the application will not be processed unless all the requested information is provided.

ANALYSIS

The aforementioned directives of the Registry are in line with the trademark registration system of WIPO (Madrid system) and other countries such as United States and European Union which require an applicant to give the description of goods or services for which the mark is actually used or proposed to be used, together with the details of the date, month and year from which the mark was first used in the country.

The Registry, taking a cue from the practices followed by other jurisdiction, has tried to sync the practices of trademark filing in India with what is followed by the other counties in the world, so as to expedite trademark registration process and also bring more clarity to the process of prosecution of trademark.

The aforementioned directives are definitely a welcome move from the Registry, which is leaving no stone unturned to ensure that trademark registration isn't a time consuming process anymore.

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You can direct your queries or comments to the authors

¹ CG/F/Public Notice/2011/ 81

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