



PRIMER on IPR – TRADEMARKS

What to do? When to
do? And Why?

INK IDEÉ
ink your idea

PATENT AND TRADEMARK ATTORNEYS

FORMS OF IP

TRADEMARKS: ownership of brand name, company name, logo

PATENTS : ownership of technology and science

COPYRIGHTS : ownership of content, creative work

DESIGN REGISTRATIONS : ownership of aesthetic work on products

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WHERE DO TRADEMARKS HELP?

A trade mark, essentially, protects a brand name and logo, product name and logo, company name and logo, website name and logo, application name logo, and the like names and logos. It is a distinctive sign or indicator used by an individual, business organization, or other legal entity that the products or services to its consumers with which the trade mark appears originate from a unique source, and to distinguish its products and / or services from those of other entities. A trademark protects a name brand or logo that is used in a commercial application to distinguish one company from another.

Check the Register of Companies is not enough! Even obtaining a domain name is not enough! Conduct a jurisdiction-wise trade marks' search (most searches are free, if you know where to look)

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FREE SEARCH

Check the Trade Mark Registry (for the country in which you wish to practice your trade):
Select your class:

http://ipindiaservices.gov.in/tmrpublicsearch/classfication_goods_service.htm

Conduct a search, class-wise, by inputting your text in permutations and combinations:

<http://ipindiaservices.gov.in/tmrpublicsearch/frmmain.aspx>

Search Portal, Singapore: <http://tmsearch.ipos.gov.sg/eTMSearch/eSearchOption.jsp>

Look at the mark and corresponding goods and services that have been declared.

Conduct an online search. If an unregistered mark exists, it is still dangerous territory to venture into.

Search Portal, USA: <http://www.uspto.gov/trademarks/process/search/>

Search in foreign jurisdictions, too, where you intend to scale your business. Always think, globally. Individuals and Companies have spent tremendous amounts of money in legal fees in order to secure rights, overseas, when they did not think globally (e.g. Parle in Australia, Hakoba in USA, Hilton in Mount Abu).

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PROFESSIONAL HELP

A TRADE MARK AGENT or a TRADE MARK ATTORNEY is licensed to represent a client before the State (Trade Mark Registry and Offices of that state).

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SECURING RIGHTS

The following can be registered as a trade mark but a mark must be distinctive and capable of distinguishing your goods or services from similar ones of other traders:

- letters
- words
- names
- signatures
- labels
- shapes
- colours
- sounds

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HOW TO DETERMINE INFRINGEMENT?

Always be on the lookout for similarities in the market. These may be visual similarities for logo marks, phonetic similarities for word marks, literal similarities for word marks, and the like.

Gather evidence of dates of inception, use, continuous use, market size, market similarity, class similarity, goods and services.

Conduct an online Search – Google it. Create news alerts.

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ACTS ASSOCIATED WITH TRADE MARKS

Trade Marks Act, 1999 and the Trade Mark Rules, 2002

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SYMBOLS

TM – when trade mark is applied for

® - when trade mark is granted

ADDRESSES and CONTACT DETAILS:

INDIA (MUMBAI): #12, Pinnacle Corporate Park, 10th Floor, BKC CST Link Road, BKC,
MMRDA Area, Bandra (East), Mumbai 400051, Maharashtra

SINGAPORE: #03-05 Ayer Rajah Crescent Singapore,
Blk 71, 139951

INDIA (PUNE): B-1, Elite 27, Bhumkar Chowk, Mumbai Pune Bypass Road, Pune,
Maharashtra

Phone: +91-9833739912 (IN); +65-82351500 (SG)

E-mail: chirag@inkidee.com

WEBSITE: www.inkidee.com