

March 16, 2017

Trade Marks Rules, 2017

With a view to encourage e-filing and scrap some redundant and obsolete provisions under the existing Trademark Rules, the Department of Industrial Policy and Promotion has with effect from 6 March, 2017 notified the new Trade Marks Rules, 2017 ("**Rules**").

Some of the salient features of these Rules can be summarised as under:

1. **Fee Structure:** In order to encourage the individuals, start-ups and the small/ medium enterprises, the fees for these persons is almost fifty percent less than for the others. The trademark filing fees for an applicant who is either an individual or a Start-up or a Small Enterprise shall be - INR 4500 per mark per class. Whereas, for all the other applicants it shall be INR 9000 per mark per class. Although it may be noted that the fees for trade mark application per class has been increased from INR 4,000 to INR 9,000.
2. **E-Service of documents:** To digitalize the trademark prosecution and communication process, every applicant ought to furnish a valid e-mail address and the communications sent through e-mails shall be considered as valid service.
3. **E-filing:** A discount of 10% is provided for e-filing of trademark applications to promote digitization and go paperless. Digital signatures are also recognised and accepted for the purpose of e-filings.
4. **Lesser Paperwork:** The Number of forms has been cut down from existing 74 to 8 forms.
5. **Expedited processing:** On payment of additional fees, the applicant can make a request for expediting the registration and the application will be taken for out of turn examination, hearing and registration. Further, it may be noted that such application mandatorily needs to be made online.
6. **Hearing via video conferencing:** Any hearing could be conducted through video conferencing or any other audio visual communication.
7. **Reduced Adjudgments:** No party to the proceedings shall be entitled to more than two adjournments and each adjournment shall not be for more than 30 days. Further, if the opposition party is not present at the adjourned hearings as well, the Registrar may proceed for the registration. These steps shall substantially reduce the pending applications at the Trademark office.
8. **Well-known marks:** Any person can make a request to enlist its mark as a well-known mark by providing the statement of case, evidence and documents in support thereof. The fee for such application is INR 1,00,000. Once being satisfied, the Registrar shall maintain a list of such well-known trademarks.
9. **Sound marks:** The Rules allows the sound marks to be registered. The application for the registration of such a trademark should be submitted in the MP3 format not exceeding thirty seconds' length recorded on a medium which would allow easy and clear audible replaying and the same shall also have to be accompanied with a graphical representation of its notations.

10. **3D Marks:** Three dimensional marks such as for the shapes of goods or for its packaging can also be now registered.
11. **Filing of statement of User:** Examiner at his discretion could call for filing of the statement of User for a trademark. However, under the Rules now, it is mandatory to file affidavit along with the supporting evidence to claim use.
12. **Application for renewal of trademark:** Under the Rules, application for renewal of registration of a trademark may be filed within one year before the expiration of the registration of the trademark whereas . earlier, the application for renewal could be filed only six months prior to the expiration of the trademark.
