

## **Trademark Rules 2017 – Changes and Salient Features**

The Department of Industrial Policy and Promotion (DIPP) has notified a new set of trademark rules which have replaced the old rules instituted way back in 2002. The aim is clearly to provide a strong thrust towards simplifying the whole trademark registration process and digitalizing the entire administration by providing incentives for digital filing and electronic communication.

Salient features are as under:

- i) Expedited Processing of Trademark Application:** DIPP has, under Rule 34, extended the provisions relating to expedited processing of an application for registration of a trade mark up to registration stage, which was available up to only examination stage till now. Request for expedited processing of application may be made in Form TM-M and on payment additional fees.
- ii) Strong push for digitization:** Several steps have been taken to promote digital drive. Under Rule 18, the service of notices and all other communication through email by the Trade Mark office will amount to complete service. E-mail has been made an essential part of address for services to be provided by the applicant or any party to the proceedings, and steps for service of documents from applicants to the registry and vice versa through electronic means have been introduced to expedite the process. To encourage e-filing of applications, 10 % concession fee shall be offered for online filing as compared to physical filing.

- iii) **Classification of applicants and differential fee structure:** There has been substantial increase in the official fee for filing forms and applications under the new rules, however, a considerable rebate of around 50% has been provided for **Individuals/ Startups/Small Enterprises** as compared to **Others**. The trade mark application fee for Individuals/ Startups/Small Enterprises is Rs. 5000 for physical filing and Rs. 4500/- for e filing, whereas for others, the fee is Rs. 10,000/- for physical filing and 9000/- for e filing.
- iv) **Renewal of registration:** The time period for filing application for renewal of the registration of a trademark under Form TM-R along with the prescribed fee has been increased to one year from six months, before the expiration of the last registration of the trademark.
- v) **Reduction in number of trademark application forms:** The number of trademark application forms has been reduced to 8 from 74, which will simplify the process of trademark filing and promote ease of doing business. Applications for single class, multi-class, collective marks etc. are now through the same form. Contested proceedings like opposition, rectifications etc. are also through a single form.
- vi) **Provisions for recognition of “well-known marks:** Rule 124 provides the provisions for determining and declaring a trade mark as “well-known”. Any person can make a request to enlist a mark as a well-known mark along with statement of case and relevant evidence and documents. The official fee for the same is Rs. 1, 00,000/-. Before determining a trade mark as well-known, the

Registrar may invite objections from the general public to be filed within thirty days from the date of invitation of such objection.

- vii) **Applicant's affidavit required to claim the "use"**: The new Rules have made it mandatory for the Applicant to file an Affidavit along with the supporting evidence to claim use of the mark. The trade mark applications which need to be filed claiming usage in India are now required to be substantiated by an affidavit verifying such claimed use of the mark with supporting documents.

The Trade Mark Rules, 2017 can be accessed from the link below:

[http://www.ipindia.nic.in/writereaddata/Portal/News/312\\_1\\_TRADE\\_MARK\\_S\\_RULES\\_2017\\_English.pdf](http://www.ipindia.nic.in/writereaddata/Portal/News/312_1_TRADE_MARK_S_RULES_2017_English.pdf)