



AGARWAL & CO.

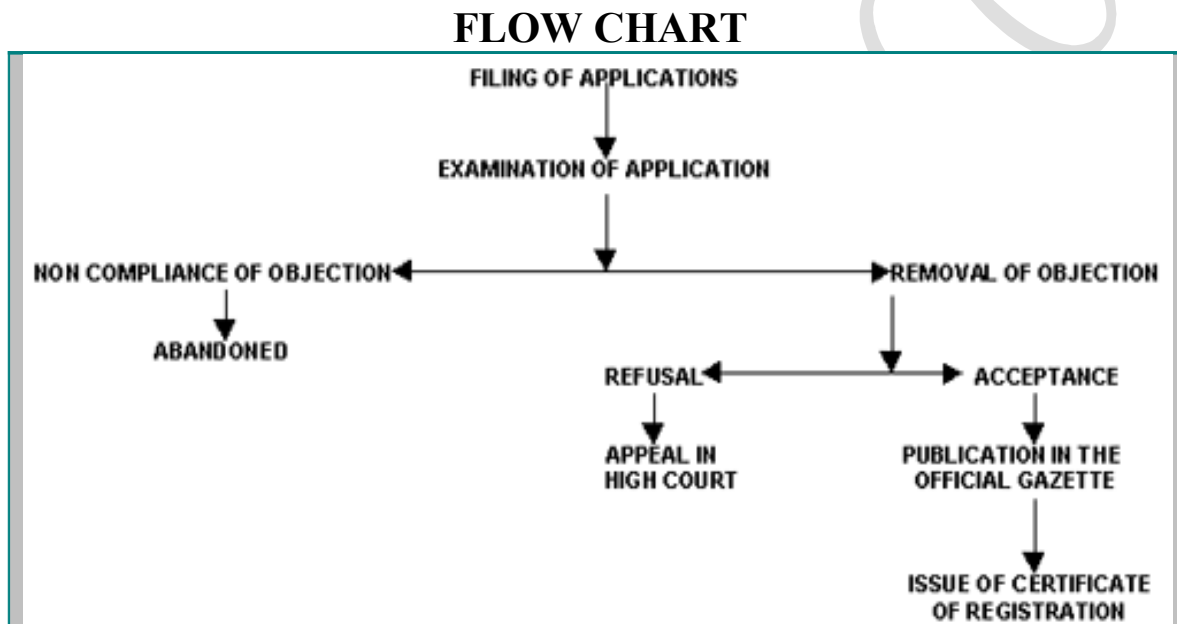
Solicitors & Advocates
Trademarks, Copyright & Patent Attorneys
94, Ajanta Apartment, 36, I.P. Extension,
New Delhi – 110 092 INDIA

www.agarwalandco.com; contact@agarwalandco.com

☎ +91 11 2273 2540, Fax - +91 11 2272 1340

TRADEMARK APPLICATION PROCESS

Process of filing a Trade Mark Application in India and Grant of Trademark Registration Certificate involves the following steps as shown below herein the flow chart:



NAME SEARCH:

It is recommended to conduct a Trademark name availability search in order to check if any similar Trademark has been filed in India, which may oppose your registration. The cost of the search is generally quite insignificant in comparison to the costs of re-branding if there is difficulty in using the Trademark because it infringes the right of others.



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FILING OF APPLICATION BEFORE THE TRADE MARKS OFFICE:

The next step in getting a trademark registration is the filing of Trade Mark Application in Form 1, with the logo or word mark (as may be applicable), along with the applicants' particulars, including his address (incase of a company, the registered address of the company). A duly notarized Power of attorney, on stamp paper has also to be submitted.

Examination:

The Trademark Office will examine the registrability of the application, which includes distinctiveness, existing similarity with prior registrations, and completion of supporting documents, if accepted, the Trademark Office will issue an acceptance order and the Trademark is ordered for publication. We shall need additional evidence at the time of examination of the mark and prior to its publication in the Trade Mark Journal to prove distinctiveness of the mark. Examination generally occurs within 3-4 months of filling of Trademark application, but the request for the expedite examination of an application can also be made, which costs 5 times the govt. fee for filling the Trademark application.

DOCUMENTS/INFORMATION MAY BE REQUIRED TO PROVE DISTINCTIVENESS:



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- » The extent of advertisement with a few sample copies of advertising material and brochures;
- » The quantum of usage with a few invoices and the last gross annual sale of the goods under the Trade name;
- » The extent of use of the mark in respect of time and area;
- » A brief write-up on the importance attached to the trade mark in particular;
- » The class of costumers and their standard of intelligence and education;
- » The date of commencement of the use of the mark;
- » If the trade mark has been registered in several countries and the law of Trademark is similar to that of India, certified copies of the registration of the marks in such countries may also be provided to us.

OPPOSITION OF MARK:

When the Trademark is advertised in the Trademark Journal, then third party can oppose the registration of the Trademark within the 3 months from the date of the Trademark journal made available to the public.

IF OPPOSED BY GENERAL PUBLIC

If the Trademark application is opposed, then the Trademark office will request evidence in writing from both parties. If the dispute is not settled by the parties, then matter is determined at a hearing. Registration of an



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opposed Trademark application will be delayed pending till the determination of the opposition.

REGISTRATION:

In the absences of opposition, a Trademark is registered, and the relative certificate of registration is issued for 10 years from the date of filing of an application. It took tentatively 24-30 months from the date of filling of the Trademark application upto the final registration of the Trademark.

Saket Agarwal, Partner
For **AGARWAL & CO.**
Solicitors & Advocates
Trademarks, Patent & Copyright Attorneys
94, Ajanta Apartment,
36, I.P. Extension, New Delhi – 110 092
☎ +91 – 11 – 22732540, Fax: +91 11 22721340
Mobile: +91 98101 76867