

## TRADE MARK REGISTRY IN INDIA – UPDATE

The following important changes have taken place in the Trade Marks Registry in India.

1. **Enhancement of Filing Fee** - The fee for filing new trade mark applications has been enhanced from Rs. 2500 to Rs. 3500 w.e.f. December 29, 2010. For applicants who filed applications on or after this date under the old fee are required to pay the deficiency of the fee on or before January 30, 2011. If the deficient fee is not paid by this date then the application filing date will be shifted to the date when the deficient fee is received by the Registry and the processing of the application for registration will only commence thereafter.
2. **Free Trade Mark Searching** - The searching for trade marks on the Indian Register has been made free. It is now possible to conduct free online searches on the following link :

<https://www.ipindiaonline.gov.in/tmrpublicsearch/tmsearch.aspx>

A screen shot of the page is attached :

Criteria	Keyword	
WORDMARK	<input type="text"/>	AND ▾
CLASS	<input type="text"/>	AND ▾
GOODS-SERVICE DESCRIPTION	<input type="text"/>	AND ▾

All new filings made at the Registry are now updated on the official site within a week to ten days and these filings also reflect in the searches. Official search reports are no longer available. It is also possible to conduct device mark searches using the Vienna Code.

3. **List of Well-Known Marks** - The Trade Marks Registry has also for the first time published a list of Well-Known marks on the site. Informal inquiries at the Registry have disclosed that the list has been compiled from the

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**INDIA**

**TRADE MARK  
REGISTRY IN INDIA**

**NEWSLETTER  
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observations in decisions passed by (i) the Supreme Court of India, the various High Courts, the Intellectual Property Appellate Board and the Trade Marks Registry. At present 52 trade marks are listed in this including well-known international brands Aiwa, Bata, Benz, Carrefour, Caterpillar, Charlie, Dunhill, Evian (mineral water), Fedders, Toshiba, Holiday Inn, Honda, Intel, Intimate, M (of McDonald), Mars, Omega, Panadol, Pepsi, Philips, Pizza Hut, Playboy, Revlon, 7 O'Clock, Taco Bell, Toshiba, Glaxo, Horlicks, Cartier, Red Bull, Vicks, Volvo, Whirlpool, Woolworth and Yahoo. The list of Indian brands includes Bajaj, Bislery, Dr. Reddy, Enfield Bullet, Hamdard, Haywards 5000, Infosys, Kangaro, Kirloskar, Mahindra & Mahindra, Nirma, Odonil, Odomos, Tata, Telco, T in a Circle (of Tata) and Usha. The list can be viewed at :

<https://www.ipindiaonline.gov.in/tmrpublicsearch/frmwelknownmarks.aspx>

4. **List of Prohibited Marks** - The Trade Marks Registry has also published a list of over 100 prohibited marks which includes names such as Gandhi, Jawahar Lal Nehru, Interpol, WHO, Unesco etc. The complete list can be viewed at :

<https://www.ipindiaonline.gov.in/tmrpublicsearch/frmprohibitedmarks.aspx>

5. **Electronic Document Retrieval** – The Trade Marks Registry since the past few months has provided for an Electronic Document Retrieval system by virtue of which all principal documents filed at the Registry or issued by the Registry such as official examination reports, registration and renewal certificates etc. will be accessible online. According to a survey conducted by L&S, India is one amongst 4 countries to provide this service. The other three countries are U.S.A., Germany and (believe it not) Armenia. These documents can be retrieved through the Trade Mark Application and Registration Retrieval System from which current statuses of marks can be obtained by using the application / registration number of the mark.

6. **List of Marks due for renewal** – The office now publishes a month-wise list of Registered Trade Marks which are due for renewal. This list can be accessed at [http://ipindia.nic.in/tmr\\_new/default.htm](http://ipindia.nic.in/tmr_new/default.htm)

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7. **Correction of Registration Certificates** – By a notification of January 5, 2011 the Registry has launched a drive for carrying out corrections of the Registration Certificates. A special officer has been nominated at each of the 5 offices of the Trade Marks Registry in Mumbai, Delhi, Kolkotta, Chennai and Ahmedabad for carrying out the corrections.
8. **Issuance of Registration Certificates** - In yet another notification of January 5, 2011 the Registry has stated that the issuance of Registration Certificates shall now be expedited and almost 1000 – 12000 certificates shall be issued daily. Currently, the Registry is printing and dispatching certificates for marks published in Trade Marks Journal No. 1430 dated December 16, 2009. The Registry estimates clearing all backlogs in relation to registration certificates by March 31, 2011.

### **DELHI HIGH COURT ISSUES DIRECTIONS TO THE TRADE MARKS REGISTRY**

Whilst, on the one hand the Registry is attempting to clear backlogs at a break neck speed, on the other hand there is the issue relating to missing files. The Trade Marks Registry in an affidavit filed in the Delhi High Court has gone on record to state that in the year 2006 during the process of construction of the new building for the Trade Marks Registry and the process of shifting, files of registered and pending trade marks may have been misplaced. Similarly, files could also have been misplaced during the process of shifting when the decentralization of the office of the Registry took place around that period. The Delhi High Court, by an order dated December 16, 2010 has ordered an inquiry into the matter by a Senior Officer of the Government of India. The court has directed for a detailed affidavit to be filed by March 2011 indicating clearly how many files have gone missing and the corrective action taken by the Registry in this regard. The court has also sought information relating to the procedure to be adopted for the purpose of reconstruction of the file.

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