

# ***Trademark***

## **Trademark**

A trademark is a visual symbol in the form of a word, a device, or a label applied to articles of commerce with a view to indicate to the purchasing public that they are the goods manufactured or otherwise dealt in by a particular person as distinguished from similar goods manufactured or dealt in by other persons.

- **According to Black's Law Dictionary:**

Trademark means a word, phrase, logo, or other graphic symbol used by a manufacturer or seller to distinguish its product or products from those of others.

## **Characteristics of trademark**

There are three essentials of trademarks:

- 1) It should be a mark.
- 2) It should be capable of being represented graphically.
- 3) It should be capable of distinguishing the goods or services of one person from those of others.

There are also other characteristics of trademarks:

- a) It may include shape of goods, their packaging and combination of colors.
- b) It must be used or proposed to be used in relation to goods or services.
- c) The use must be for the purpose of indicating a connection in the course of trade between the goods or services and some persons having the right as proprietor to use the mark.
- d) The right to proprietorship of a trademark may be acquired by registration under the Act or by use in relation to particular goods or services.

## **Functions of Trademark**

A trademark normally performs following functions:

- it identifies the goods of one trader and distinguish them from goods sold by others
- it signifies that all goods bearing a particular trademark come from a single source
- it signifies that all goods bearing a particular trademark are of an equal level of quality;
- it acts as a prime instrument in advertising and selling the goods.

The main functions of a trademark are, therefore, identification, source, quality and advertising.

## **What is a good trademark?**

Apart from distinctiveness or capable of distinguishing a good trademark should possess the following attributes:

1. it should be easy to pronounce and remember, if the mark is a word,
2. in the case of device mark the device should be capable of being described by a single word,
3. it must be easy to spell correctly and write legibly,
4. it should not be descriptive but may be suggestive of the quality of the goods,
5. it should be short and simple,
6. it should appeal to the eye as well as to the ear,
7. it should satisfy the requirements of registration,
8. it should not belong to the class of marks prohibited for registration.