



Law Guru

TRADEMARK



- ❖ Meaning and Definition of Trademark
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TRADEMARK



Meaning

A Trademark is a design, symbol, word or phrase that identifies the source of your products and distinguish them from the products of other companies.

TRADEMARK



Definition

According to Section 2 (zb) of Trademarks Act, 1999. "trade mark" means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colors”.

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Essentials

1. A Trademark must be a mark which includes a device, heading, brand, label, ticket, signature, word, letter, name, numeral, packaging or combination of colors or any combination of the above.
2. It should be easy to speak to remember. A good trademark is such that the public can easily spell and speak

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Essentials

3. It should not be too lengthy and complicated to be forgotten easily. If it is lengthy or complicated, people will not bother to take the effort to memorize it and ultimately it will be forgotten.
4. A good Trademark should not be barred under the trademarks act under the prohibited classes of Trademarks.

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Things can be registered as Trademark

These items can be registered as Trademark:-

- ❖ Your business name
- ❖ A Product name
- ❖ Your logo or label
- ❖ A symbol or design
- ❖ A Product Package



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Duration

The duration of Trademark registration is **ten year**, that may be renewed for a further period of ten years on payment of prescribed renewal fees.

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Evolution of Trademark law in India

The Central government took up the matter and circulated the Trademark bill for public opinion in 1879. The need for a law exclusively addressing trademark practice and procedure in India was again sought for in the 19th century which eventually materialized into the Trademark Act, 1940. Subsequently, in the wake of ensuring trade and commerce development, the Trademark Act, 1958. The Trademark Act, 1958 was therefor repealed by the Trademark Act, 1999. Which at present governs trademark law and practice in India.

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Trademark Infringement

Section 29 of the Act provides remedy in cases of trademark infringement.

- ❖ A register trademark is infringement by a person if he uses such registered trademark as part of his trade name of his business concern dealing in goods or services in respect of which the trademark is registered.
- ❖ A registered trademark is infringement by any advertising of that trademark if such advertising takes unfair advantage to its distinctive character.

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Differences between Copyright, Patent & Trademark

Copyright

Copyright is a right that gives exclusive right to the owner to protect the creative work.

Patent

Patent is a right that gives it's owner legal right to protect his invention.

Trademark

A Trademark is a design, symbol or phrase that identifies your products and distinguish them from the products of other companies

Thank You
For
Watching