

COMPREHENSIVE OVERVIEW OF TRADEMARK PROTECTION: UNDERSTANDING THE BASICS AND IMPORTANCE FOR BRANDS

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Abstract:

Patents, trademarks, models, and industrial designs are all included in the category of industrial property rights, and each one plays a distinct part in fostering both technological and financial advancement. Different parts of a product's lifecycle are explicitly protected by patents and trademarks: patents cover the early stages of idea, research, and development, whilst trademarks cover later stages like manufacture, promotion, and sales. Trademarks protect brand identification and aid in stopping unfair acts like counterfeiting. They fall into several types, such as imaginative, arbitrary, suggestive, descriptive, and generic marks. Regional differences exist in trademark law. The Trade and Merchandise Marks Act in India governs trademark registration and protection, but the European Union provides a number of national, international, and community systems, each with its own registration procedures. One application can cover all EU member states thanks to the community trademark system, which streamlines regional registration. Furthermore, British companies now have simpler access to worldwide trademark protection thanks to acceptance of the Madrid Protocol by the United Kingdom, which has had a major positive economic impact. Together, these systems show how trademark rules are adapted across borders to promote fair commerce, customer confidence, and international company expansion.

Keywords: Trademarks, Protection, Patent, Protocol, Development, Research, Registration, Promotion.

Introduction:

In the 13th century, England enacted the first trademark laws, requiring bakers to place a distinguishing symbol on their bread. Silversmiths and later other manufacturers were obliged to brand their goods in the fourteenth century. Only at the end of the 19th century did England implement more extensive trademark laws. It was later adopted in the United States, France, and England. The law outlined the rights of trademark holders in addition to the processes for applying for a trademark. Since then, trademark usage has expanded to almost every sector and region, and it is now a crucial component of a company's ability to compete.

Although special trademark laws were developed in some countries (such as the United States, Japan, France, and England), the common law was the primary source of protection for trademarks during their inception. International norms for trademark protection were also established by the Paris Convention. In essence, patents, trademarks, blue prints, templates to

exploit the phrase more frequently utilized in local laws and designs are all considered types of industrial property rights. Each of these types of industrial property is a reaction to the presence of different "objects," the preservation of which promotes the economic and technological development of civilization. It is immediately clear that trademarks and patents cover very distinct facets of the "objects."

Patents typically pertain to the initial phases of the sequence's conception, investigation, and creation, production, promotion, and sale while trademarks are linked to the last phases of manufacturing, advertising, and retailing. This is the case "Concept, investigation, creation, manufacture, marketing, sale" is a suitable sequence to broadly describe the steps involved in developing a new product and launching it onto the market. [1]

A trademark is any term, symbol, name, or other device that is used to identify and differentiate products or the monopoly rights to exploit the goodwill that is represented in the trademark. As a result, competitors are protected from stealing this kindness through unethical business practices like mislabelling of products, deceptive marketing or forgery. Since the law expressly forbids the application of symbols that could lead to uncertainty in the market, error, or deception about the origin of the goods that they are attached to, trademark protection can also benefit consumers by guaranteeing a certain level of uniformity and, in some situations, quality in the goods that are purchased.

The degree of intrinsic uniqueness and the degree of security granted to the trademarks under each of the five main trademark categories are reflected in the categories.

- Marks with no pre-existing significance that are intentionally created to function as trademarks fall under the category of "fanciful marks".
- Marks that are utilized in a way that avoids consumer confusion but yet have some intrinsic meaning fall under the category of "arbitrary marks."
- The "Suggestive marks" category includes marks that discreetly highlight particular aspects of the goods;
- Marks that specifically mention at least one aspect of a product fall under the category of "descriptive marks."
- Marks that provide specific details on the category that the trademarked product falls within fall under the category of "generic marks." [2]

In other words, trademarks pertain to the more commercial parts of the process, while patents deal to the scientific and technological aspects. Distinct signs must possess the ability to graphically depicted and possess the ability to distinguish between the products of one manufacturer or dealer from those of others in order to be registered as trademarks. Furthermore, they must not result in any of the relative or absolute grounds for rejection.

The rights conferred by a registered trademark or a granted patent, however, are essentially very similar: they both grant the owner a temporary monopoly that permits them to exploit the protected product for profit while also preventing others from doing so. Due to the fact that both types of protection have time limits from the day of the registration or protection

application typically 20 years for patents and 10 years for trademarks we use the term "temporary monopoly." However trademarks can be renewed forever, unlike patents.[1]

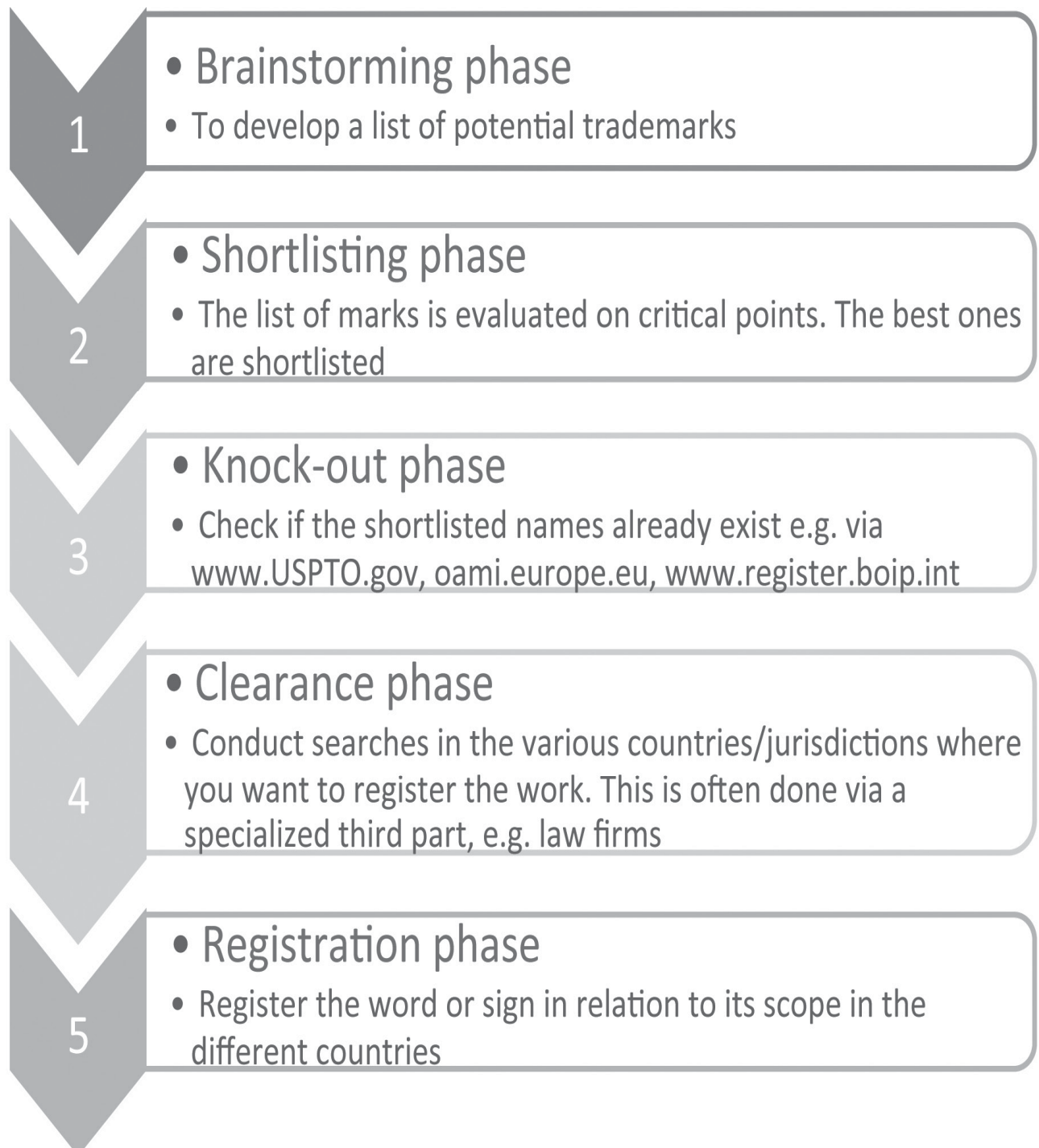


Fig.No:1

Process for Developing A Trademark

Law of trademarks in India:

In India, a trademark registration law was originally passed in 1940. The Trade and Merchandise Marks Act, 1958, which is currently in effect, took its place. As a result, the Patent Office and the Trademarks Registry were unified under one roof.

There are two sections to the trademarks registry:

- Part A is where distinctive marks are registered.
- Differentiating markers in Part B

Defensive registration is also permitted. Registration is valid for seven years, however it can be extended. Provisions are in place to stop trademark trafficking. To register as a user who has registered, one must have the Central Government's approval. For infringement, civil and occasionally criminal procedures may be brought. [3]

Protection by trademarks in Europe:

There are currently three distinct systems in place in Europe, and more especially in the European Union, for the usage of trademarks to protect products and services:

1. The system for national trademarks,
2. The system for international trademarks, and
3. The system for community trademarks

The applicant benefits greatly from this circumstance since they can select the solution that best fits their business plan. An approved representative may be appointed under the national system, and the official language of the national office must be used when submitting an application. Only the area of the concerned nation will be covered by the protection acquired. The process outlined is followed in every nations in question if the candidate wishes to take more than one national route. This includes different application fields in different national offices, in different languages, the designation of several representatives, etc.

One potential solution to this problem is international registration. Based on a national registration or application, international registration, which is overseen by the World Intellectual Property Organization (WIPO), offers trademark protection in the Agreement's member states in accordance with the principles of the Madrid Agreement/Protocol. According to the agreement or convention, French or French/English are the languages for international registration. Not every state in the system is automatically protected by international registration. The national headquarters of the specified states have the authority to reject the international trademark for their nation, but the candidate must specify in the application that says he wants his trademark to be recognized in. Furthermore, the agreement has not been ratified by all states.

The most current system to be developed is the community mark system. It was established on April 1st, 1996. The European Union uses this regional method for trademark reregistration. Through the community trade mark system, a candidate can submit:

- A single application
- In one language (selected from the European Union's eleven official languages);
- The Office of Internal Market Harmonization is the only office to which utilizing a single method of payment (in euros);
- When appropriate, using just one representative;

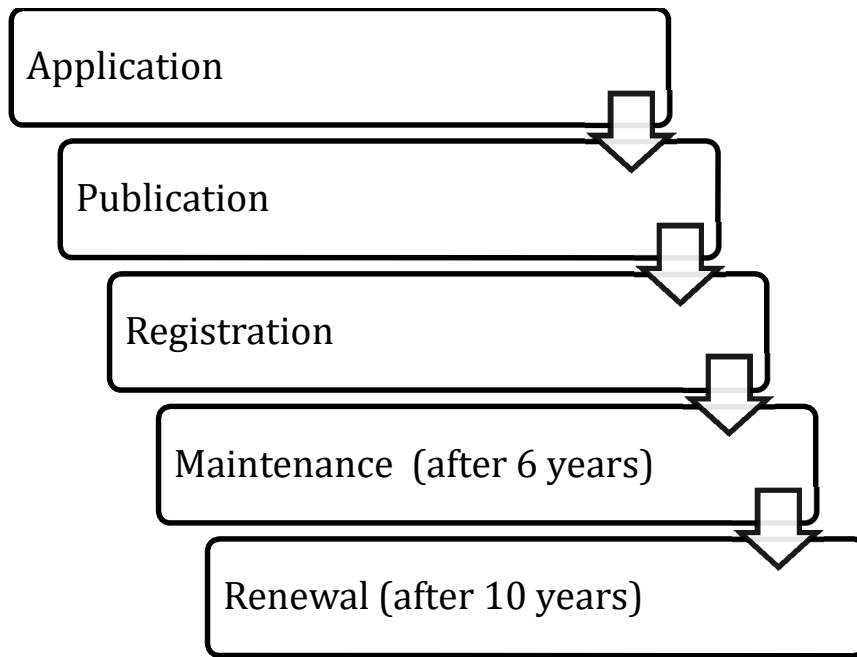
This is applicable in all 15 EU member states in order to obtaining a unified The community mark and the trademark that is registered. In other words, from a business standpoint, a brand that is well-known in a single market with more than 370 million consumers and among the highest purchasing power globally. The community trade mark systems' existence does not need the mark to be utilized in every member state is an additional advantage. It is sufficient for it for use wherever throughout the Union.[1]

UK ratifies trademarks protocol:

The Protocol to the Madrid Agreement pertaining to international mark registration has been ratified by the United Kingdom. By taking this action, which was made possible by the Trademarks Act of 1994, British companies will be able to take advantage of the international trademark registration system, which makes trademark protection easier abroad. Trademark experts predict that the international registration system may save UK businesses up to £15 million annually. It is intended that the convention would go into effect at the start of 1996 and that other European nations will follow suit after the UK ratifies. [4]

The Madrid Agreement:

The World Intellectual Property Organization (WIPO) in Geneva is responsible for overseeing the Madrid Agreement, a treaty enabling worldwide trademark registration. With about 40 countries as members, It started operating in 1891. The UK has been unable to join, because its trademarks system was not consistent with the Agreement. A Protocol to the Agreement was signed in 1989 with the intention of luring new nations, especially the United Kingdom. Only Sweden and Spain had ratified the Protocol up to this point; the majority of nations, particularly those who are already signatories to the Agreement (such as France, Germany, Italy, and Benelux), have stated that they were awaiting the UK. The UK was allowed to ratify the Protocol once the Trademarks Act of 1994 was passed, which it did on 6 April 1995.

**Fig.No:2****FEDERAL TRADEMARK PROTECTION****CONCLUSION:**

We've seen how trademarks may help patented ideas generate more revenue by strengthening the protection offered to protected items and, in a sense, extending the patent's lifespan. Additionally, we have shown how patents may support trademark establishment and the development of a trustworthy connection between producers and consumers. As an addition to the information gleaned from patents, we have also discussed some of the advantages that come with trade mark information by offering business information. My goal is to have specifically inspired you to think about trademarks while promoting patented goods or as a supplement to patent data.

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