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# TM rule 2017 notifications Salient features

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The article explains the important regulations of Trademark new rules effective from 2017 in India.

## **TM rule 2017 notifications Salient features**

The Department of Industrial Policy and Promotion (DIPP) on Monday 6th March, notified the Trademark Rules, 2017 with its increased price in Trademark registration fee. TM 2017 notifications Salient features as follows:

### **Less paper, multi-utility forms introduced with provisions of sound & 3d trademark:**

Trademark new regulations 2017 narrow down the form to 8 in total. The new 2017 notification rules opted for format can be used for multiples type of application, as compared to rules 2002 which demand separate formats for each type of application. Now under new regulations for every new application, TM A will be an applicable & similar way for opposition TM O. This is also the first time the application form is simplified and contain a provision for sound mark & 3D or three-dimensional trademark

### **Concessional fee for startups, SME & individuals:**

Although at one hand the TM regulations 2017 increased the fee to double a fee before but still provided Concessions for Individual, small business & startups. Effective fee for startups, SME, an Individual owner is now 5000 INR for paper application & 4500 for e-filing for other it is 10000 INR & 9000 INR.

### **10% concession fee on e-filing:**

The TM 2017 regulations to promote digital India campaign provides 10% concession fee if you file your application through e-filing, other than that TM regulations consider email as now the new mode of communication. Previously rule 15 of 2002 act read and interpret the paper letter by post as the only mode of communication other than email can be accepted as a primary mode of communication, new regulations Rule 18 (2017) also talks about E-mails.

also talks about E-mails. Service of Documents by the Registrar, e-mail has been made an essential part of the address for service to be provided by the applicant or any party to the proceedings so that the office communication may be sent through email.

**Hearing through video conferencing has been introduced:**

Video conferencing has been introduced to save time and reduce the monetary burden of the applicant during the hearing process; especially beneficial to the applicant doesn't reside in IPO office cities. Currently, TM registrar office located in 5 cities in India and covers multiple states as TM jurisdictions for the application process, depending on user place & location of business the application has to file only in one of applicable IPO office. The Tm rule 2017 benefit such distance applicant to conduct hearing through Video conferencing, the video conferencing shall be deemed to have taken place at the appropriate office as read in new notification

**Changes in the definition of Opposition:**

Now opposition covered wider definition under rules 2017. Rules Definition of "Opposition" 2002 set, Rule 2 (o) defined "opposition" as "opposition includes an opposition to the registration of a trademark or a collective mark or a certification trade mark, as the case may be;" And while in the 2017 set, "opposition" is defined as: "opposition means an opposition to the registration of a trademark or a collective trademark or a certification trademark, as the case may be and includes an opposition to grant of protection to an international registration designating India and opposition to alteration of registered trademark;"

**Hearing & Decision of Trademark:**

Under TM rule 50 of 2017 "hearing & decision" Number of adjournments in opposition proceedings has been restricted to a maximum of two by each party, which will help dispose of matters in time and adjournments and each adjournment shall not be for more than thirty days.

**Prior use to support with evidence & affidavit:**

Rule 25 (2017), introduced the addition of filing of the statement of a user as a mandatory

requirement unless the trademark is proposed to be used, contain a statement of the period during which, and the person by whom it has been used in respect of all the goods or services mentioned in the application. In case, the use of the trademark is claimed prior to the date of application, the applicant shall file an affidavit testifying to such use along with supporting documents.

**No extension on opposition reply to delay registration process:**

New TM rules notification 2017 make it very clear that there very limited provision available, with No Extension of Time for Filing Evidence in Opposition Proceedings, rule 45 (2) 2017 says if the opponent takes no action in within time mentioned the application consider as to be abandoned. The opposition reply has to be furnished in two months as can be read in rule 46 of TM 2017.

**Expedited Processing of Trademark Application in each step:**

Earlier TM rule 2002 provide expedite the examination process by paying an additional fee but rest of process take on time even after paying expedition fee, result in failure of achieving fast registration. TM rule 2017, provide expedited process at each step. As per rule 2017, the application for expedition process has to be through Form TM-M stating the reason for expedited examination along with payment of a fee which is close to 5 times higher than the application filing fees, expedition request can be made only through e-filing.

**Provisions for Well-known marks.**

As per news agency live mint DIPP introduce heavy cost to enjoy the status of well-known brand in India, under rule 124 any concerned person can make request to listed its mark as well-known mark, for listed your trademark now as well known mark you have to submit evidence, and related documents most important to enjoy the status now you have to pay a fee of INR 100,000.

Regards

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