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Extent and limits of rights over a word and device mark registration

Your biggest asset is your business and product name. Think about it. Maybe you also have a logo and a slogan, which took countless hours to develop and finally it exhibits the visions and expectations of your brand. Therefore, protecting your business name, product name, brand name, logos, symbols, slogans, packaging design and domain names through trademark registration is absolutely crucial for the future. The sooner you protect your business, the better.

A trademark is a word, logo, phrase, symbol or design, or their combination that identifies and distinguishes the source of the goods or services of one party from those of others.

Any “mark” that is used to distinguish your goods from the goods of another can be trademarked. That means your business name, product name, brand name, logos, symbols, slogans, packaging design and domain names can all be trademarked.

Trademark can be registered as a word-mark or a device-mark.

Q. What is Word-mark and Device-mark?

A Word Mark simply means the name of the company, institution or product whereas Device Mark includes logo, label and / or composite mark containing different elements (such as words, pictures, graphics, colours, logo and other such features) in a single mark.

Q. Whether to register the mark as a word-mark or Device-mark?

One of the important decisions to make before registering a trademark is whether to register the mark as a word-mark or device-mark.

A Word Mark registration registers the word itself and grants stronger protection. Registration of a word mark provides wider protection by providing exclusive rights to use the word and also to depict the word in various formats and styles.

A Device Mark on the other hand can consist of different elements (such as words, pictures, graphics, colours, logo and other such features) and its registration confers the right to the use of the mark as a whole. Registration of a composite device mark shall not grant any exclusive rights over the individual element forming only a part of the device mark. For that reason, the protection given to the word(s) in a device mark is limited when compared with the protection given to a word registered as a Word-mark.

Q. Whether a Word or Logo forming a part of a Composite Device Mark is to be registered separately?

According to **Section 17** of the **Trade Marks Act, 1999**, when a trademark consists of several matters, its registration shall confer on the proprietor exclusive right to the use of the trade mark as a whole. That means in case of registration of a composite device mark, exclusive rights shall not be conferred on individual components / elements. Hence, separate application to register every important component/element in a Device Mark must be filed separately to claim exclusive rights over it.