




Trademark Protection under Different Legal Regimes

Mr. Vipul Jain, .IN Registry
22nd February 2023

Trademark

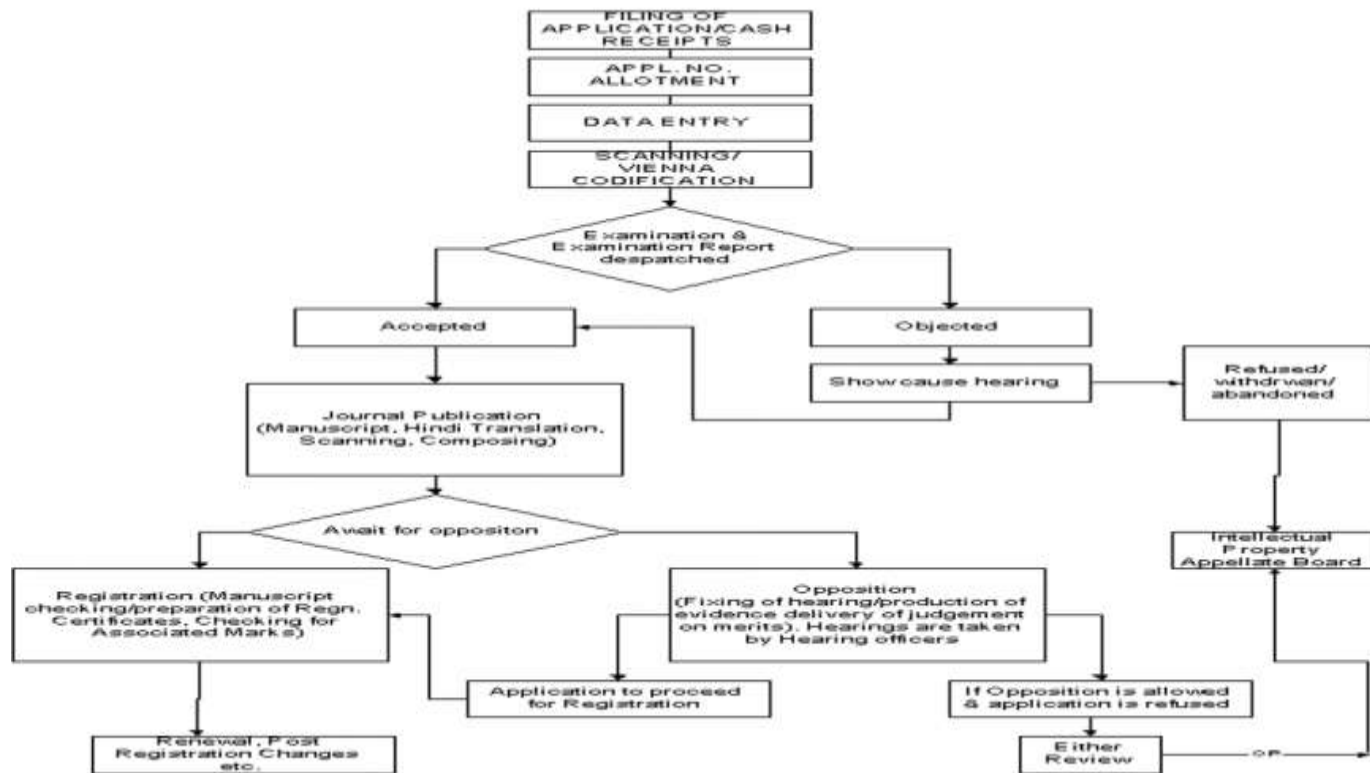
As per section 2 (zb) of THE TRADE MARKS ACT, 1999 “TRADE MARK” means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours.



How Trade Mark can express?



Trademark Registration Process Flowchart



How Trade Mark affect Domain Name?

Domain names are the Intellectual property of the Registrant (Domain name user). The registered domain name can affects the Name, Phrase or Mark/ symbol of any registered Trademark which may affect the Intellectual Property of existing Trademark holder.

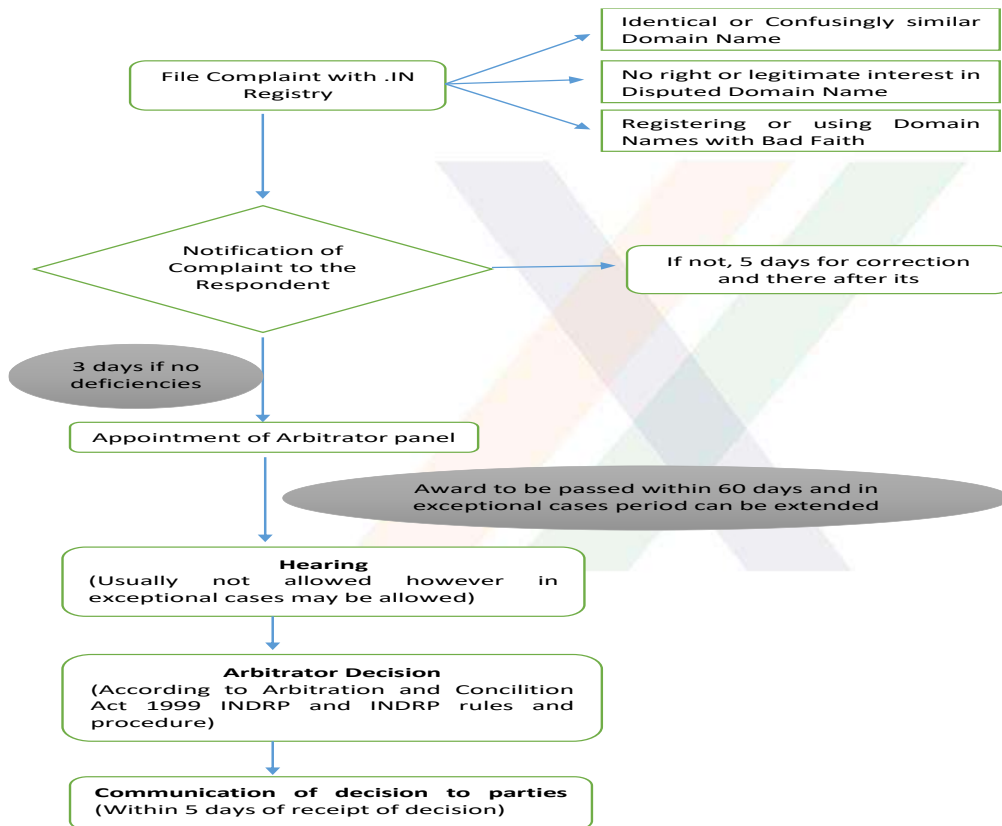
Remedy for Trademark Infringement on Domain name

- Any aggrieved person, legal entity or any Trademark holder can file complaint to respective domain registry or go with ICANN Uniform Domain Name Dispute Resolution Policy (UDRP).
- In case of ccTLDs they can approach respective ccTLD, in case of .IN domains aggrieved person can approach to National Internet Exchange of India (NIXI).
- .IN Registry, (NIXI) have its own dispute redressal mechanism named as .IN Domain Name Dispute Resolution Policy (INDRP).

How to resolve Domain Dispute

- Aggrieved party can approach .IN Registry (NIXI) in case of .IN domain dispute.
- They shall file complaint as per the .IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP).
- .IN Domain Name Dispute Resolution Policy (INDRP) is available at <https://www.registry.in/domaindisputeresolution>.

Process of INDRP



Process of INDRP

- Aggrieved party approach .IN Registry (NIXI) and file complaint for the disputed domain name with payment of nominal arbitration fees.
- After receiving the complaint .IN Registry (NIXI) will appoint a arbitrator for that particular domain dispute.
- When the arbitrator appointed for the domain dispute arbitrator shall send notice to the respondent for filing reply.
- The Arbitrator shall pass an award within 60 days from the date of commencement of arbitration proceeding. In exceptional circumstances, the timeline may be extended by a maximum period of 30 days by the Arbitrator subject to a reasonable justification in writing.
- All awards should be upload on .IN Registry website by the .IN Registry (NIXI) link for award is <https://www.registry.in/Policies/DisputeCaseDecisions>.

Comparison between INDRP and UDRP

Basis	UDRP	INDRP
Fullform	Uniform Domain Name Dispute Resolution Policy.	.IN Domain Name Dispute Resolution Policy.
Applicability	UDRP is a global policy that applies to all gTLDs and some ccTLDs such as .com, .net, .org, .us, .tv etc.	INDRP applies only to domain names registered under the .IN ccTLD
Jurisdiction	UDRP is administered by the Internet Corporation for Assigned Names and Numbers (ICANN), a global non-profit organization that manages the domain name system.	INDRP, is administered by the .IN registry, National Internet Exchange of India (NIXI), a not for profit Organization under section 8 of the Companies Act 2013 is authorized by the Indian government to manage the .IN ccTLD.
Dispute Resolution Provider	UDRP disputes are resolved through one of the approved dispute resolution service providers (DRSPs) such as WIPO, the National Arbitration Forum (NAF), or the Asian Domain Name Dispute Resolution Centre (ADNDRC).	INDRP disputes are resolved through a arbitrator appointed by .IN Registry (NIXI).
Timeframe	UDRP proceedings typically take around 2-3 months to complete.	INDRP proceedings take around 60 days and in exceptional circumstances it can be extend up to 30 days.

• Upcoming updates in .IN Registry to protect Trademarks

- .IN Registry (NIXI) is planning to collaborate with Indian trademark registry so that whenever any new domain register with conflict of any existing trademark then that Registrant should take prior approval from the Trademark holder and the Trademark registry.
- This will help to protect trademark holder rights and reduce the domain dispute cases.



Thank You

Connect: vipulj@nixi.in

