

ISSN: 2582 - 2942



LEX FORTI

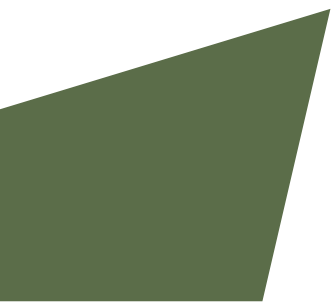
LEGAL JOURNAL

VOL- I ISSUE- VI

AUGUST 2020

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of LexForti Legal Journal. The Editorial Team of LexForti Legal Journal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of LexForti. Though all efforts are made to ensure the accuracy and correctness of the information published, LexForti shall not be responsible for any errors caused due to oversight otherwise.



ISSN: 2582 - 2942

EDITORIAL BOARD

EDITOR IN CHIEF

ROHIT PRADHAN

ADVOCATE PRIME DISPUTE

PHONE - +91-8757182705

EMAIL-LEX.FORTII@GMAIL.COM

EDITOR IN CHIEF

MS.SRIDHRUTICHITRAPU

MEMBER || CHARTED INSTITUTE

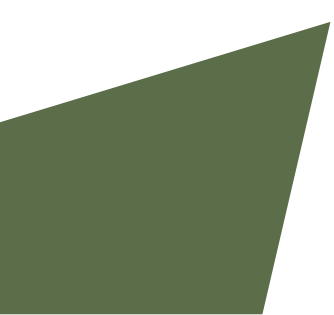
OF ARBITRATORS

PHONE - +91-8500832102

EDITOR

NAGESHWARRAO

PROFESSOR (BANKING LAW) EXP. 8+ YEARS; 11+ YEARS WORK EXP. AT ICFAI; 28+ YEARS WORK EXPERIENCE IN BANKING SECTOR; CONTENT WRITER FOR BUSINESS TIMES AND ECONOMIC TIMES; EDITED 50+ BOOKS ON MANAGEMENT, ECONOMICS AND BANKING;



ISSN: 2582 - 2942

EDITORIAL BOARD

EDITOR

DR. RAJANIKANTH M

ASSISTANT PROFESSOR (SYMBIOSIS
INTERNATIONAL UNIVERSITY) - MARKETING
MANAGEMENT

EDITOR

NILIMA PANDA

B.SC LLB., LLM (NLSIU) (SPECIALIZATION
BUSINESS LAW)

EDITOR

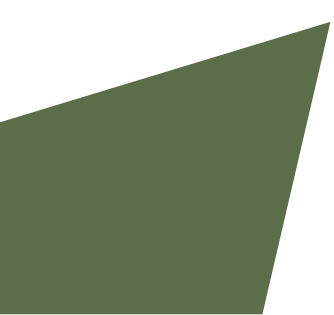
DR. PRIYANKA R. MOHOD

LLB., LLM (SPECIALIZATION CONSTITUTIONAL
AND ADMINISTRATIVE LAW)., NET (TWICE) AND
SET (MAH.)

EDITOR

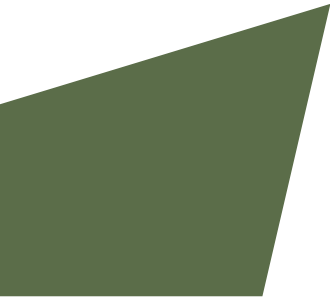
MS.NANDITA REDDY

ADVOCATE PRIME DISPUTE



ABOUT US

LexForti is a free open access peer-reviewed journal, which gives insight upon broad and dynamic legal issues. The very objective of the LexForti is to provide open and free access to knowledge to everyone. LexForti is highly committed to helping law students to get their research articles published and an avenue to the aspiring students, teachers and scholars to make a contribution in the legal sphere. LexForti revolves around the firmament of legal issues; consisting of corporate law, family law, contract law, taxation, alternative dispute resolution, IP Laws, Criminal Laws and various other Civil issues.



The Registration of the Trademark in India under the Trademark Act, 1999

S. Yashwont Kiran

ABSTRACT

This article deals with the registration procedures of the trademark in India under the Trademarks Act, 1999. According to law in general terms the word trademark means an identity or a brand which is made and registered in order to do any kind of business in a respective field which is subjective to law. The trademark is not only an identity but it is also a reputation of the quality of a product or a service which is related to the monetary gain. The main importance of the registration of trademark is to distinguish the products from one another for the purpose of identification of the goods or services by the customers or by the people. The trademark is generally a symbol used in a product or in a service. The trademark is mainly used by the proprietors to advertise their product or their service. The main object of the laws relating to trademark is to prevent the infringement of trademark of a company which enables the customers to get a clear identification of a product in the market.

KEYWORDS: Trademark, Registration, Identity, Brand, Product, Service

INTRODUCTION

The Trademarks Act, 1999 is a legislation enacted exclusively by the parliament of India and it deals with the laws relating trademarks. The concept of trademark is one of the intellectual property rights which govern the aspects of trademark rights. After the independence of India, the Trade and Merchandise Marks Act, 1958 was in the force but later it was repealed by the Trademarks Act, 1999. The Trademarks Act, 1999 and the Trademarks Rules, 2017 deals with the laws relating to the trademark. The Trademarks Act, 1999 is the substantial law relating to the trademark and the Trademarks Rules, 2017 is the procedural law relating to the trademarks. The registration of trademark in India is very important because it gives a valid protection against the infringement of the trademarks.

The International Trademark applications can be made by an Indian proprietor through the Madrid Protocol which was resulted from the Madrid Agreement of 1989, and it came into force in the year 1995. In the year of 2013, India also became a member to this international treaty called as the Madrid Agreement of 1989 which is related to the trademarks for the purpose of providing a unique opportunity to all the domestic companies of India to protect their mark across the world jurisdictions by filing a single application with one set of fees. The Madrid System is an efficient and cost-effective solution for registering and managing of trademarks worldwide by filing a single application.

In India it is not compulsory to register a trademark but it is advisable to do so because a registered trademark will be within the statutory protection for the trademark and also it enables the proprietor to enjoy the benefit of taking an infringement action against the infringer. In an action of infringement of trademark, the trademark registration is a primary evidence of ownership so it is very important to register a trademark. The duration of trademark in India is up to the period of 10 years, but may be renewed from time to time in accordance with the provisions of the Trademarks Act, 1999.

The law of trademarks in India deals with the conditions for registration, procedures for registration, effect of registration, assignment and transmission, use of trademarks, rectification and correction of the register, collective marks, certification trademarks, special provisions for textile goods, appellate board, offences and penalties, and miscellaneous provisions.

CHAPTER - I

THE REGISTER AND CONDITIONS FOR REGISTRATION UNDER THE TRADEMARKS ACT, 1999

This chapter deals with the register and conditions for registration under the trademarks act, 1999. The chapter 2 of the trademarks Act, 1999 deals with the register and conditions for registration. **Section 3 to 17** of the trademarks Act, 1999 deals with the register and conditions for registration. The following are the detailed explanations of the provisions relating to the register and conditions for registration.

Section 3 of the trademarks Act, 1999¹ deals with the *appointment of Registrar and other officers*, which states that the Central Government may, by notification in the Official Gazette, appoint a person officially to be known as the Controller-General of Patents, Designs and Trademarks, who shall be the Registrar of Trade Mark for the purposes of this Act. **Section 3(2)** deals with the Central Government may appoint such other officers with such designations as it thinks fit for the purpose of discharging, under the superintendence and direction of the Registrar, such functions of the Registrar of the trade mark under this Act as he may from time to time authorize the officials to discharge.

It states that only the central government have the power to appoint a person to be known as the controller-general of patents, designs and trademarks, and the same person shall be the registrar of trademark for the purposes of this Act and also the central government has the power to appoint such other officers with such designations under the superintendence and direction of the registrar for the purpose of performing the works given by the registrar.

Section 4 of the trademarks Act, 1999² deals with the *power of Registrar to withdraw or transfer cases, etc.*, which states that the Registrar may, by order withdraw any matter pending before an officer appointed under the said sub-section (2) and deal with such matter himself either starting from the beginning or from the stage it was so withdrawn or transfer the same to another officer.

It states that the registrar has the power to withdraw any matter pending before an officer by making an order in writing and also has the power to deal with the matter by himself from the

¹Section 3, Trademarks Act, 1999

²Section 4, Trademarks Act, 1999

beginning or from the stage from where the matter was withdrawn or transfer any matter to another officer either from the beginning or from the stage it was so transferred.

Section 5 of the trademarks Act, 1999³ deals with the *trademarks registry and officers thereof* which states that for the purposes of this Act, there shall be a Trademarks registry and the Trademarks Registry established under the Trade and Merchandise Marks Act, 1958 shall be the trademarks Registry under this Act.

The Central Government may specify the head office of the Trademarks Registry and for the purpose of facilitating the registration of trademarks, there may be established at such places as the Central Government may think fit branch offices of the trademarks Registry and there shall be a seal of the trademarks Registry. **Section 6** of the trademarks Act, 1999 deals with the *register of trademarks* which states that for the purposes of this Act, a record called the Register of Trade Mark shall be kept and maintained at the head office of the Trademarks Registry, by which all registered trade mark with the names, addresses and description of the proprietors, notifications of assignment and transmissions, the name, addresses and description of registered users, conditions, limitations and such other matters relating to registered trade mark as may be prescribed.

The Registrar shall keep the records wholly or partly in computer storages or in any other electronic form as may be prescribed. The Register shall be under the control and management of the Registrar of trade mark.⁴

In James Chadwick & Bros. Ltd. vs. The National Sewing Thread Co. Ltd, the Supreme Court stated that in an action of alleged infringement of a registered trade mark, it has first to be seen whether the impugned mark of the defendant is identical or similar with the registered mark of the plaintiff. If the mark is found to be identical, no further question arises, and it has to be held that there was infringement.

If the mark of the defendant is not at all identical, then it has to be seen that whether the mark of the defendant is deceptively similar in the sense that it is likely to deceive or cause some confusions in relation to goods in respect of which the plaintiff got his mark registered. For that purpose, the two marks have to be compared.⁵

³Section 5, Trademarks Act, 1999

⁴Section 6, Trademarks Act, 1999

⁵*James Chadwick & Bros. Ltd. vs. The National Sewing Thread Co. Ltd*, 1953 SCR 1028

Section 7 deals with *classification of goods and services* which states that the Register shall classify goods and services, as far as may be, in accordance with the international separate classification of goods or services for the purposes of registration of trademarks and any question arising as to the class within which any goods or services falls shall be decided by the Registrar of Trademarks whose decision shall be final.⁶

In *M/S. Nandhini Deluxe vs. Karnataka Co - Operative Milk Producers Federation Ltd* the Supreme Court of India had stated that the proprietor of a trade mark cannot enjoy monopoly over the entire class of goods particularly when he or she is not using the trade mark in respect of certain goods which are falling under the same class.⁷

Section 9 deals with the **absolute grounds for refusal of registration**. The following are the absolute grounds for refusal of registration

ABSOLUTE GROUNDS FOR REFUSAL OF REGISTRATION

- Trademarks which are entirely lacking or free from any of the distinctive character that is to say, not capable distinguishing the goods or services of one person from those of other person which consists of marks or indications which may serve in the market to designate the kind, quality, quantity, values, geographical origin, intended purpose, or the time of manufacturing of the goods or rendering of the service or any other characteristics of the goods or services.
- Trademarks which are entirely lacking or free from any of the distinctive character that is to say, not capable distinguishing the goods or services of one person from those of other person which consists of marks or indications which have become a customary usage in the current language or in the established practices of the trade.
- A mark or symbol shall not be registered as a particular trade mark if it is of in such a nature as to mislead the public or creates confusion to the public.
- A mark or symbol shall not be registered as a particular trade mark if it contains any matter likely to hurt the religious feelings of any community or the citizens of India.
- A mark or symbol shall not be registered as a particular trade mark if it contains any nude content or any other obscene matter.

⁶Section 7, Trademarks Act, 1999

⁷*Nandhini Deluxe vs. Karnataka Co- Operative Milk Producers Federation Ltd* , AIR 2018 SC 3516

- A mark or symbol shall not be registered as a particular trade mark if its usage is prohibited under the Emblems and Names (Prevention of Improper Use) Act, 1950.
- A mark or symbol shall not be registered as a particular trade mark if it contains exclusively of the shape or structure of goods which results from the substantial nature of the goods themselves.
- A mark or symbol shall not be registered as a particular trade mark if the shape or the structure of goods which is necessary to obtain any kind of technical results.
- A mark or symbol shall not be registered as a particular trade mark if *the shape or structure which gives any substantial value to the goods.*

These above mentioned trademarks shall not be registered under the Trademarks Act, 1999.

EXCEPTION FOR ABSOLUTE GROUNDS FOR REFUSAL OF REGISTRATION

Section 9 of the Trademarks Act, 1999 also deals with the exception for the absolute grounds for the refusal of registration which states that a mark or symbol shall not be refused for registration process if before the date of the application for registration of the mark or symbol has acquired a distinctive character as a result of a well-known trade mark.⁸

In *BDH Industries Ltd. vs. Croydon Chemical Works Pvt. Ltd.*, it was held that apart from the structural, visual and phonetic similarity or dissimilarity, the question has to be considered from the point of view of man of average intelligence and imperfect collection. Secondly it is to be considered as a whole and thirdly it is the question of his impression.⁹

Section 11 of the Trademarks Act, 1999 deals with the **relative grounds for refusal of registration**. The following are the certain relative grounds for registration of trade mark.

RELATIVE GROUNDS FOR REFUSAL OF REGISTRATION

- A trade mark shall not be registered if its identity with an earlier trade mark and similarity of goods or services covered by the trade mark.

⁸Section 9, Trademarks Act, 1999

⁹*BDH Industries Ltd. vs. Croydon Chemical Works Pvt. Ltd.*, AIR 2002 Bom 361

- A trade mark shall not be registered if its similarity to an earlier trade mark and the identity or similarity of the goods or services covered by the trade mark.
- A trade mark shall not be registered if it is identical or similar to an earlier trade mark and is to be registered for goods or services which are not even similar to those for which the earlier trade mark is registered in the name of a different proprietor.
- A trade mark shall not be registered if its use in India is liable to be prevented by virtue of any law in particular or by virtue of law of copyright.

EXCEPTIONS FOR RELATIVE GROUNDS FOR REFUSAL OF REGISTRATION

- Nothing under this Section 11 of the Trademarks Act, 1999 shall prevent the registration of a trade mark where the proprietor of the earlier trade mark or other earlier right consents to the registration, and in such a case the Registrar of the trademarks may register the mark or symbol under special circumstances under Section 12.
- A trade mark shall not be refused registration on the grounds specified in subsections (2) and (3) of section 11 unless objection on any one or more of those grounds which are raised in opposition proceedings by the proprietor of the earlier trade mark.¹⁰

Section 14 deals with the **use of names and representations of living persons or persons recently dead** which states that where an application is made for the registration of a trade mark which falsely suggests or prefers any kind of connection with any category of living person, or people or a person whose death took place within the period of twenty years prior to the date of the application for registration of the trade mark, and the Registrar may, before he proceeds with the application of trade mark, requires the applicant of the trade mark to furnish him with the permission in writing of such living person or, of the legal representative of the deceased person to the connection appearing on the trade mark, and may refuse to proceed with the application of the trade mark unless the applicant furnishes the Registrar with such consent or permission.¹¹

Section 16 deals with the **registration of Trademarks as associated Trademarks** which states that on application made in the prescribe manner by the registered proprietor of two or more

¹⁰Section 11, Trademarks Act, 1999

¹¹Section 14, Trademarks Act, 1999

Trademarks which are registered as associated trademarks, the Registrar of the Trademarks may dissolve the association as respects any of them if he is satisfied that there would be no likelihood of confusion being caused if that trade mark were used by any other person in relation to any of the goods or services or both in respect of which it is registered, and the registrar of Trademarks may amend the register accordingly.¹²

For example, a proprietor named “Mallayya” can register a trademark for “Mallayya’s wines”. But if the proprietor wants to expand his business then he must also register associated trademarks for “Mallayya’s beer” and “Mallayya’s whiskey”. Therefore, if a company wants to expand its business then the proprietor must file an application for associated Trademarks.

In case of *P. Kamala Devi Chordia vs. P. Ganeshan and Ors* the Hon’ble Intellectual Property Appellate board held that "Section 54(1) (section 55 of Trademark Act, 1999) enables the authority to accept the use of a registered associated trade mark or of a trade mark with any other additions or alterations, not substantially affecting its identity."¹³

CHAPTER - II

THE PROCEDURE FOR REGISTRATION UNDER THE TRADEMARKS ACT, 1999

This chapter deals with the procedure for registration under the Trademarks Act, 1999. The **chapter 3** of the Trademarks Act, 1999 deals with **procedure for and duration of registration. Section 18 to 26** of the Trademarks Act, 1999 deals with the **procedure for and duration of registration of Trademarks**. The procedure for registration of trade mark involves the following steps:

1. Application for Registration (Section 18)
2. Advertisement of Application (Section 20)
3. Opposition to Registration (Section 21)
4. Correction and Amendment (Section 22)

¹²Section 16, Trademarks Act, 1999

¹³*P. Kamala Devi Chordia Vs. P. Ganeshan and Ors*, 2004(29)PTC578(IPAB)

5. Registration (Section 23)

The following are the detailed explanations of the provisions relating to the procedure for and duration of registration.

APPLICATION FOR REGISTRATION

Section 18 deals with the **application for registration**. The application for registration can be made in **Form Number TM–A** under the **first schedule** of the **Trademarks Rules, 2017**¹⁴. It can be filed by both physical filing and e- filing. The following points are the detailed explanations of application for registration under the **Section 18** of the Trademarks Act, 1999.

- Any person claiming to be the genuine proprietor of a symbol or a trade mark used or proposed to be used by him, who is desirous of registering it, shall apply in writing to the Registrar of Trademarks in the exact prescribed manner for the registration of his trade mark.
- A single application of trade mark may be made for the registration of a trade mark for different or various classes of goods and services and fee payable therefor shall be in respect of each such classes of goods or services given under the Trade Mark Rules, 2002.
- For the registration of a trade mark, a single application can be made for the registration of a trade mark for different classes of goods and services which were mentioned clearly in the **Rule 20** of the **Trademarks Rules, 2002** which deals with the **classification of goods and services**.¹⁵
- Every application of the trade mark shall be filed in the office of the Trademarks Registry within the territorial limits and the principal place of the business in India of the applicant of the trade mark or in the case of joint applicants of the trade mark, the principal place of the business in India of the applicant whose name is first mentioned in the application of the trade mark as having a place of business in India, is situated.
- If the applicant or any of the joint applicants does not carry on business in India, the application shall be filed in the office of the Trademarks Registry within whose territorial limits the place or

¹⁴Form Number TM-A, First Schedule, Trademarks Rules, 2017

¹⁵https://ipindiaonline.gov.in/tmrpublicsearch/classification_goods_service.htm, 12/05/2020; 03:00 PM

the location mentioned in the address for services in India as disclosed in the trade mark application, is situated.

- Subject to the provisions of this Trademarks Act, 1999 the Registrar may refuse the trade mark application or may accept it absolutely or partially which refers to making such amendments, corrections, modifications, conditions or limitations, if any as the registrar may think fit.
- In the case of a refusal of the application or conditional acceptance of an application of the trade mark, the Registrar shall record in writing the grounds for such refusal of the application of trade mark or conditional acceptance and the materials used by him in arriving at his decision.¹⁶

In *M/S. Nandhini Deluxe vs. M/S. Karnataka Cooperative Milk Producers Federation Ltd*, it was held by the Supreme Court of India that the Appellant could not claim any proprietary rights in the impugned mark under **Section 18(1)** of the Trademarks Act, 1999. The registration was objected to under **Sections 9, 11, 12 and 18** of the Trademarks Act, 1999.¹⁷

ADVERTISEMENT OF APPLICATION

Section 20 deals with the **advertisement of application** which states that when an application for registration of a trade mark has been accepted whether absolutely or subject to conditions or limitations, the Registrar of the trade mark shall, as soon as may be after the acceptance of the application, cause the application of the trademark accepted together with the conditions or limitations if any, subject to which the application has been accepted by the registrar, to be advertised in the prescribed manner.

The mark is later immediately advertised in the Trademark Journal. The Trademark Journal is published class-wise every Monday by the Trademark Office.¹⁸

If there are any errors or amendment was made in the application then the Registrar may in his discretion cause the application to be advertised again under **Section 20 (2)** of the Trademarks Act, 1999.¹⁹

¹⁶Section 18, Trademarks Act, 1999

¹⁷*Nandhini Deluxe vs. Karnataka Co- Operative Milk Producers Federation Ltd* , AIR 2018 SC 3516

¹⁸<https://selvams.com/kb/in/trademarks/advertisement-trademark-application>, 19/05/2020; 12:14 PM

¹⁹Section 20, Trademarks Act, 1999

In *Cadila Laboratories Ltd. vs. The Registrar Of Trademarks*, it was held by Justice **K.M. Mehta** that the Registrar will give direction for causing the application of the petitioner to be advertised before acceptance as provided under the proviso to Sub-section (1) of Section 20 of the Act and thereafter he will deal with the application in accordance with law.²⁰

OPPOSITION TO REGISTRATION

Section 21 deals with **opposition to registration**. The notice of opposition can be made in **Form Number TM-O** under the **first schedule** of the **Trademarks Rules, 2017**.²¹ The following are the detailed descriptions of **Section 21** of the Trademarks Act, 1999.

- Any person may, within three months from the date of the advertisement of the trade mark application or any re-advertisement of an application for registration or within such further period, not exceeding one month in the aggregate, an application can be made to the registrar in the prescribed manner and on payment of the prescribed fee, which allows to give notice in writing in the prescribed manner for the purpose of making an opposition to the registration of the trade mark.
- The Registrar shall serve a copy of the notice of opposition on the applicant for registration of trade mark and, within the period of two months from the receipt by the applicant of trade mark of such copy of the notice of opposition.
- The applicant shall send a counter statement to the registrar of the grounds on which he relies for his application, and if the applicant does not do so then the applicant shall be deemed to have abandoned the application of the trade mark.
- If the applicant or the proprietor of the trade mark sends such counter statement, then the Registrar shall serve a copy thereof on the person giving notice of the opposition.

²⁰*Cadila Laboratories Ltd. vs. The Registrar Of Trademarks*, 2002 (24) PTC 308 Guj

²¹Form Number TM-O, First Schedule, Trademarks Rules, 2017

- Any kind of evidence gathered by the applicant of the trade mark or by the opponent shall be submitted in the prescribed manner and within the prescribed time to the Registrar, and later the Registrar shall give an opportunity to both of them to be heard, if they so desire.²²

In *Jagatjit Industries Limited vs. The Intellectual Property Appellate Board & Ors*, an appeal filed before the Appellate Board, the Appellate Board, by its judgment reversed the Registrar's order, and held that the notice of opposition had been taken on record and numbered. The Registrar was, therefore, directed to expeditiously decide the opposition proceedings under **Section 21** of the Trademarks Act, 1999.²³

CORRECTION AND AMENDMENT

Section 22 deals with **correction and amendment** which states that the Registrar may, on such terms as he thinks just, at any time, whether before or after acceptance of an application for the registration of trade mark under the **section 18** of the Trademarks Act, 1999 permit the correction of any error in or in connection with the application or permit an amendment of the application. In *Hindustan lever vs. Kilts*²⁴ the word SAFEEO was held descriptive and not registrable for cleaning powder and liquid for being too close to the word SAFE meaning, clean, white and hence the word SAFEEO was refused for the purpose of trade mark registration.

REGISTRATION

Section 23 deals with **registration** of trade mark which states that when an application for registration of a trade mark has been accepted and either;

- the application of the trade mark has not been opposed by others and the time for notice of the opposition has expired or;
- The application of trade mark has been opposed by others and the opposition of the application has been decided in favour of the applicant of the trade mark. The Registrar of trade mark shall, unless the Central Government of India otherwise directs, register the said trade mark and the trade mark when registered shall be registered as of the date of the making of the said trade mark

²²Section 21, Trademarks Act, 1999

²³*Jagatjit Industries Limited vs. The Intellectual Property Appellate Board & Ors*, Civil Appeal no. 430 of 2016

²⁴*Hindustan lever vs. Kilts*, 1982 PTC 38

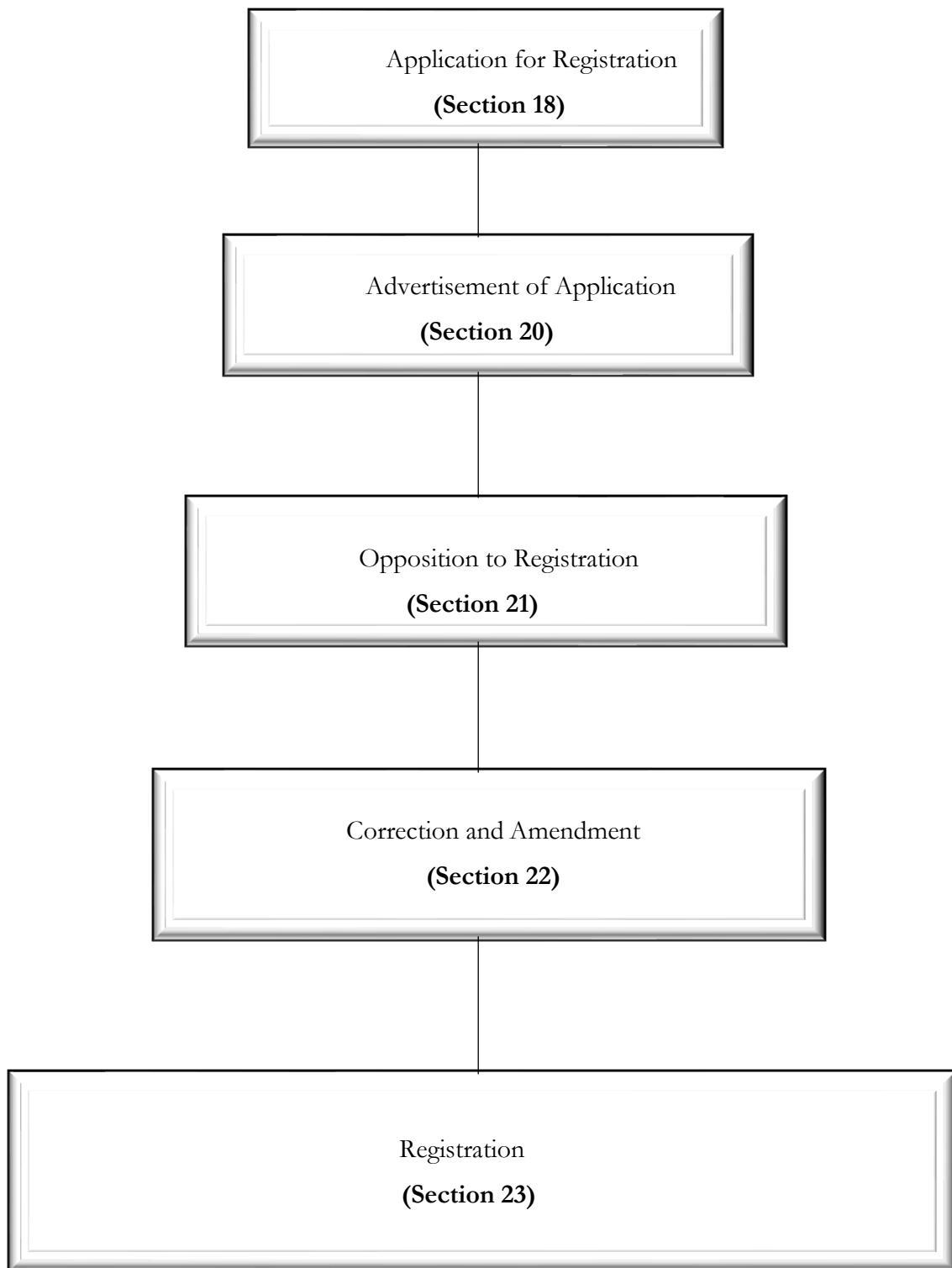
application and that date shall, subject to the provisions of section 154 of the Act, and it shall be deemed to be the date of registration of the said trade mark.

- On the registration of a trade mark the Registrar of the trade mark shall issue to the applicant a certificate of registration in the prescribed form thereof, sealed with the seal of the Trademarks Registry.
- Where the registration of a trade mark is not even completed within 12 months from the date of the application of the trade mark by reason of default on the part of the applicant, the Registrar may give a notice to the applicant of the trade mark in the prescribed manner and treat the application as abandoned unless it is completed within the time specified in that behalf in the notice given by the registrar.
- The Registrar of trade mark may amend the register or amend the certificate of registration for the purpose of correcting a clerical error or an obvious mistake.

In *Pam Pharmaceuticals vs. Richardson Vicks Inc & Ors*²⁵, the respondent's trade mark DROXYL has been registered by the Registrar of the trade mark under the Registration No - 508348 in respect of pharmaceuticals and medicinal preparations. The court of law held that the respondent's trademark called as DROXYL is derived from pharmaceutical preparation called as CEFADROXIL and thus designates kind of goods and devoid of distinctive character.

²⁵*Pam Pharmaceuticals vs. Richardson Vicks Inc & Ors*, 2001(1)42GLR125

FLOWCHART FOR TRADE MARK REGISTRATION IN INDIA



CONCLUSION

The concept of trademark plays an important role in the life of proprietors who wishes to grow up their business to another level. It is very important to register a trademark because the laws related to trademark acts as a security to the businesses of the proprietors. A business with an unregistered trade mark can be a good competitor in the market but it will not be a healthy business for a long time because there are more possibilities for the infringement of trade mark by the other competitors. Since the existence of an unregistered trade mark leads to the infringement of the original trade mark and also creates a confusion to the customers or to the people in selecting the original product and services, it is advisable to register a trade mark to avoid the legal disputes and other confusions. However, the registration of trademark is not compulsory, a registered trademark is an evidence and it acts as an instrument to fight against the infringement of trademarks, so it is advisable to register a trademark under the Trademarks Act, 1999.