

Roll No. _____

TRADE MARKS AGENT EXAMINATION, 2025
[Under Rule 148 of the Trade Marks Rules, 2017]

PAPER – II

Duration: Three Hours

Max. Marks: 100

Instructions:

1. *This paper consists of 3 parts and all questions in Part A, B and C are compulsory.*
2. *Candidates should read the questions carefully before answering.*
3. *Candidates should write the examination either with Blue or Black Ball point Pen only.*
4. *No clarification will be provided during the examination on any technical / legal matter.*
5. *There is no negative marking.*
6. *All references to 'Act' and 'Rules' may be read as the Trade Marks Act, 1999 and the Trade Marks Rules, 2017 respectively, as amended up to date.*
7. *Possessions of any kind of study materials and/or electronic gadgets and/or discussing with other candidates in any manner inside the examination hall are/is strictly prohibited.*
8. *No candidate should leave or will be allowed to leave the Examination Hall (i) without completion of One hour (ii) without signing the Attendance Sheet; (iii) without properly handing over her/his Answer Booklet to the Invigilator.*
9. *If any candidate wants to leave the examination Hall before the completion of scheduled time, with the permission of the Invigilator he/she can leave by surrendering question paper also.*
10. *Candidates who have been seating in the Examination Hall till the end of the examination can take their question paper along with them.*

PART – A

Answer all the SIX questions

(6 x 5 = 30)

1. A trade mark proprietor whose trade mark 'Anmol' (word mark) in class 30 got recently published in the Trade Marks Journal has approached you with a copy of notice of opposition served upon him by the Registrar of Trade Marks. The proprietor desires to change his earlier Agent and requests you to take charge of the further proceedings before the Registrar. How would you inform the proprietor regarding required documentation, prescribed form, prescribed fee and timeline etc.? What would

accordingly be your next course of action on behalf of proprietor before the Registrar of Trade Marks?

2. A 'startup' entity from the State of Gujarat enquires you about its desire to file a trade mark application in class 30. They also want to hire you as their agent for the purpose. How would you explain them regarding required documentation, prescribed form and fee, mode of filing of application and appropriate office of the Trade Marks Registry etc.?
3. Your client has received an examination report for their trade mark "QuickFit" (Word mark) in Class 25 which was applied by him on 1 May 2024 for 'clothing' on proposed to be used basis. The Registrar has raised Objection under section 11 of the Act citing the trade mark "Quickfoot" for socks which was filed on 9 April 1999 with claimed user used since 1 April 1999 and was finally registered on 10 September 2001. What possible grounds do you think can be presented in the reply to the Examination report? Assume all possible grounds for your client. You are at liberty to cite the relevant case law on the subject.
4. Mr. Seemant, from Varanasi, Uttar Pradesh approaches you to file a trade mark application in India. He informs you that he is a law-abiding person, a lawyer by profession and has high regard for Judiciary in India. He further informs that he would like to register, as a trade mark, his own photograph with pictorial representation of the Supreme Court of India in the background through which he would like to provide legal consultancy services. How would you advise your client regarding registrability of the proposed trade mark? Support your advice with applicable Law.
5. Ms. Drishti from Mumbai, is a manufacturer and merchant in fresh peanuts and roasted peanuts. She is also running a retail store for these goods in Mumbai since 20 April 2018. In the year 2021, during Covid-19 pandemic, she also started selling her products through various e-commerce platforms. She wants your advice for filing her trade mark application in appropriate classes. How would you advise her regarding number of applications to be filed, various classes for which the applications are to be made, prescribed form and fee for filing the applications online and offline.
6. What do you mean by 'Rectification' of Register? Explain the 'non-use' as a ground of rectification. Support your answer with relevant statutory provisions.

PART - B

Answer all the FOUR questions

(4 x 10 = 40)

7. Discuss various grounds of refusal under the Trade Marks Act, 1999. How far do you think 'bad faith' can be a ground of attack or defense in a proceeding before the Registrar of Trade Marks?
8. Mr. Ramdeen, a resident of Kanpur in State of Uttar Pradesh inherited the business of retail cloth store trading as 'Matadeen & Co.' in Kanpur which his father Late Mr. Matadeen had established and continuously running since 6 December 1964. Mr. Ramdeen, the only issue to his parents, unfortunately lost both his parents in a car accident in the year 2023. He approaches you and wants the trade name 'Matadeen & Co.' to be registered as a trade mark in his name.

Draft a 'user affidavit' for your client as per requirements of Rule 25 of the Trade Marks Rules, 2017. Also cite the relevant annexures of supporting documents which you consider, may be useful in proving his claim of user.

9. What do you mean by 'assignment' of a trade mark? One Mr. Gopaldas, a resident and businessman from Delhi approaches you for recording his name in the Register of Trade Marks as a subsequent proprietor of the Indian trade mark registration numbers XXX123 and YYY456, both in class 24. The said trade marks stand registered in the name of one Mr. Alex Parker, a British citizen doing business and residing in London. Mr. Parker assigned these trade marks to Mr. Gopaldas vide a deed of assignment created in London on 11.12.2024.

Suggest your client regarding prescribed form, total prescribed fee, cost effective mode of filing, stamp duty payment and required supporting documents which may be necessary as per procedure before the Registrar of Trade Marks in India.

10. M/s. Girish & Sons, a proprietary firm from Chennai has a registered trade mark in India under application number 18XXXX which completed its first 10 years on Register and was valid up to 28 July 2024. The proprietor although received O-3 notice from the Registrar in time, however, missed the deadline to renew his trade mark. Now he has approached you on 24 December 2024 to help him renewing his trade mark. In these circumstances, do you think renewal is still possible? Advice your client regarding applicable rules, forms, fee etc.

PART - C

Answer all the TWO questions

(2 x 15 = 30)

11. An application for registration of word mark 'MARIGO' was filed on 1 July 2022 under Application number 3022XXX in respect of 'RICE' in class 30 by M/s. Marigo Pvt. Ltd. from Bengaluru, Karnataka (*hereinafter referred to as the Applicant*). The applicant claimed the use of mark since 30 May 2000 and filed the user affidavit with supporting annexures/ evidence. Eventually, the said application was examined, accepted and advertised as per provisions of the Trade Marks Act, 1999. As per official records of the Trade Marks Registry, the said mark was published in Trade Marks Journal No. 17XX dated 11 March 2024 and made available to the public on the same day.

One M/s. Mari Mango Pvt. Ltd. from Delhi (*hereinafter referred to as the Opponent*), opposed the registration of the said Application on 20 May 2024, by filing Notice of Opposition objecting to the registration of the impugned application primarily under section 11 and 18 of the Act. The opponent in their Notice of Opposition dated 20 May 2024, have contended that they are in the business of manufacturing and marketing of wide range of edible goods including rice under the trade mark 'MANIANGO' since 1 April 1996 and have one trade mark registered under number 2323YYY which was registered on 7 September 1999 for 'EDIBLE GOODS INCLUDING RICE' with a condition that the sale area restricted to State of Delhi & Haryana. The opponent's primary contention is that the Applicant is not the proprietor of the applied mark as he has dishonestly adopted the same from the Opponent's mark who are prior user, simply to cause confusion, deception among public resulting into passing off their goods as those of the Applicant.

After service of the notice of opposition to the applicant on 19 December 2024 the applicant approaches you to file a counter statement on his behalf which is to be filed before the Trade Marks registry. Based on the given facts, draft a Counter Statement, and take all the possible pleas in your pleadings to rebut the statements of the Opponent. Also cite relevant provisions of the Act and Rules as applicable to the facts and circumstances.

12. One M/s. Manic Pvt Ltd. from Kolkata (*hereinafter called the 'company'*) is continuously using the trade mark 'MANIC' for medical apparatus since 20 April 1984 which claims to be a leading brand in its field and has various trade mark registrations for its variants in Class 10 under Application Nos.789XX, 112XXX, 1312XX, 2876XX, 2955XX, 3012XX, 3875XX and 4765XX. The company also has registration in Class 5 under Application No.345XX and 2876XX. Moreover, the company also has its trade mark registrations in class 10 in China, Japan, Korea, Germany, and US. The company, to their claim, has been conferred with several prestigious awards for their contribution in the field of

manufacturing and marketing of medical apparatus in India and abroad. The applicant's company had a turnover 25.5 cores Indian rupees in the financial year 1984-85 which has gradually increased during the subsequent years and has reached to a total of 89,230 cores Indian Rupees in the financial year 2023-24.

The company approaches you to file an application for well-known trade mark before the Registrar of Trade Marks in India.

How would you advise your client regarding the prescribed form, fee and procedure of filing a well-known trade mark application before the Registrar of Trade Marks? Also draft a statement of case to be filed along with the application for the well-known trade mark. You are at liberty to assume more facts to suite your client's case.

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