

Standard Operating Procedure

(Relating to processing of application filed u/r 124 of Trade Marks Rules 2017)

An application is filed for determination of a well-known trademark u/r 124 of the Trade Mark Rule, 2017. Standard operating procedure in this regard decided as under:

- A. Application to be filed under 124 of the TM Rules, 2017 through online compressive e-filing portal at official website. A detail guidelines were already issued vide public notice dated 22/05/2017.
- B. Applications filed under rule 124 for inclusion of a trademark in the list of well-Known trademark are processed centrally at TMR, Mumbai.
- C. A designated section namely “Well-Known TM Section” has been setup for processing such application as per prescribed procedure and to take timely action in the matter.

Designated Officer In-charge of the Well-Known TM Section will ensure that-

- ✓ Basic Scrutiny of the applications filed under rule 124 for inclusion of a trademark in the list of well-Known trademark shall be completed within 30 days from the date of receipt of such application.
- ✓ If, in the process of scrutiny, any discrepancy / deficiency are noted by the Section-In-Charge, compliance letter shall be dispatched to the applicant by post/email within seven days from the date of completion of scrutiny.
- ✓ After the completion of scrutiny of the application for inclusion in the list of well-known TM, if it is found eligible, the same shall be put up before the Tribunal (constituted for the purpose) for further verification and determination regarding acceptability of marks as well-known trademark.
- ✓ If no objection is found in the application by the Tribunal, the mark shall be published in the TM Journal to invite public objection, if any, under rule 124 (4) of the TM Rules for final determination regarding acceptability:
Provided that if it is found by the Tribunal that the mark is already determined as a well-known trademark by a competent Court or Tribunal, the same shall proceed for publication in the TM Journal directly under rule 125 (5) of the rules.
- ✓ If any objection is raised by the section / tribunal in regard to the inclusion of the mark in the list of well-Known trademark, the matter shall be set down for hearing before

hearing officer attached with the section and a hearing notice shall be issued in consultation with the concerned hearing officer.

- ✓ Hearing officer shall dispose the matter through speaking order after giving due opportunity to the applicant.
- ✓ Normally where no hearing is required for acceptance, decision should be taken within three months from the date of compliance, if any. In case, it is noted that hearing is required to be offered in the matter, normally first hearing is to be offered within six months from the date of last compliance.

D. If no objection received within prescribed time after the publication of the mark under rule 124 (4) or objection related proceeding decided in favour of the applicant, the trademark shall be published under rule 125 (5) in the TM Journal as a well-known Mark and shall also be included in the list in the Well-Known trademarks.

E. After publication, If any objection received in regard to the published mark under rule 124 (4), copy of the objection shall be forwarded to the applicant within 30 days and applicant shall be asked to submit counter statement, if any within 30 days from the date of receipt of the copy of objection as forwarded to him. After the receipt of the counter statement or after the expiry of the one month time in this regard, a hearing shall be fixed within three months from the date of submission of the counter statement or expiry of one month from the forwarding of the third party objection petition in the matter with due notice to the parties and the matter shall be disposed off after providing due opportunity of being heard to both the parties in the matter.

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