

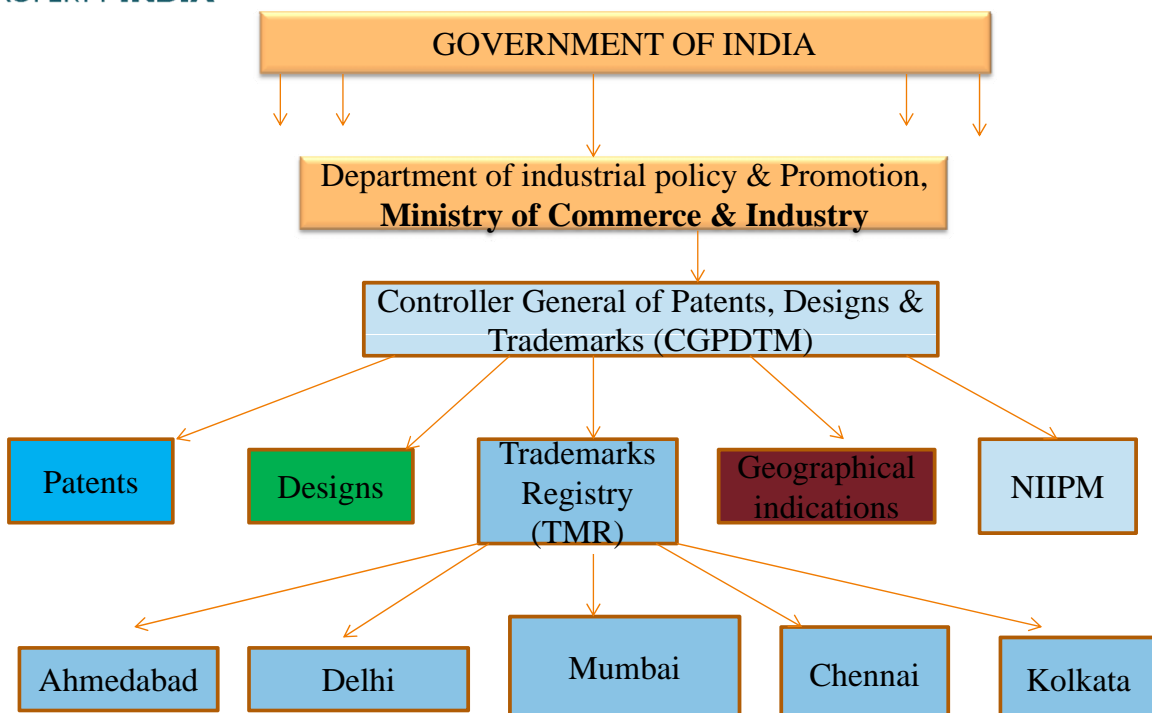
Current status on accession to Madrid System



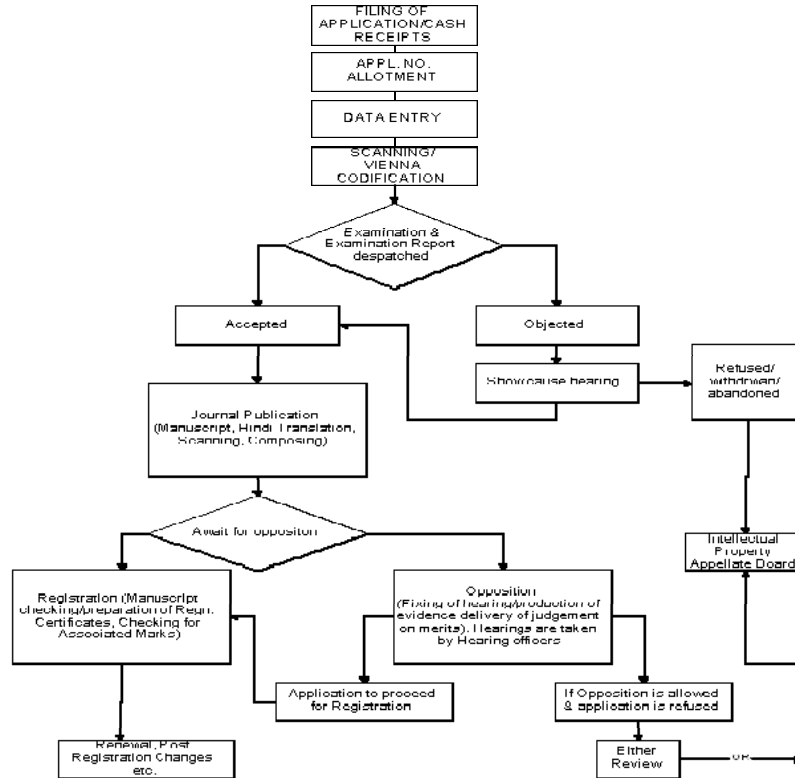
Outline of the presentation

- **Administrative set up**
- **Flow chart of processing of TM application in India**
- **Present status of the Trademarks Registry (TMR) office**
 - Technological aspects
 - Legal aspects
- **Distribution of functions of the TMR**
- **Obstacles in accessing the Madrid Protocol**
- **What we want to do before accessing..**
- **Steps taken**
- **Steps being taken**

Administrative set up



Flow chart of processing of TM application



Present status of Trade Mark Registry office

Technological aspect-

- **Trade Marks Automated System (TMAS)** for functions of the Trade Marks Registry to be performed simultaneously at all TMR Offices with re-engineered work flows/processes
- **High-end Application, Database and Backup Servers** at Primary Site [TMR Delhi] and Disaster Recovery Site [TMR Mumbai] connecting with all TMR offices through TMR-Wide Virtual Private Network (VPN);
- **e-Filing System for Trade Marks Applications** with Payment Gateway and Digital Signature Solutions;

Present status of Trade Mark Registry office, contd.

- Official Website of the Controller General of Patent, Design & Trade Marks <http://www.ipindia.gov.in> that provides-
 - Search for same/similar trademarks in a class
 - Actual status of a trademark application/registered trademark
 - Scanned copy of documents filed on paper
 - Trademark journals
 - Annual reports, Public notices & other important information

Present status of Trade Mark Registry office

Legal aspect-

- The Trade Marks Act 1999 & The Trade Marks Rules 2002 govern the law relating to trademarks in India
- These came into force on **15th September 2003**, replacing the Trade & Merchandise Marks Act 1958 & Trade & Merchandise Marks Rules 1959
- The Trade Marks (Amendment) Act 2010 incorporating ‘provisions relating to protection of trademarks through international registrations under Madrid Protocol’ has been passed and published in the official Gazette, by the Government of India

Present status of Trade Mark Registry office

- **Legal aspect, contd.-**
- **The draft Rules to implement The Trade Marks (Amendment) Act 2010 relating to the Madrid Protocol have been finalized** and it is being published in the official Gazette of the Government of India to invite comments/suggestions. from the public

Distribution of functions

- **Branch offices**
 - (having 1-3 Hearing officers, 3-6 Examiners, other supporting staff)
 - Receive applications & other documents connected to it, from the applicants within their territorial jurisdictions**
 - do data entry & digitization of all receipts**
 - maintain records of documents**
(from 01.12.2010 maintaining of paper records is dispensed with)
 - dispose of requests for amendments or corrections & if allowed, incorporate the same in the system**

Distribution of functions, contd..

- **Branch offices..**

- conduct hearing of show cause and/or contested matters

- Entertain & dispose of requests for renewals & for post registration changes

- issue certified copies of documents and other certificates of entry in the Register.

Distribution of functions, contd..

- **Head office**

- functions as **Branch office** for matters relating to applications pertaining to its territorial jurisdiction

- Codifies **figurative elements of trademarks** as per Vienna agreement

- examines **all applications** made for registration of trademarks

- publishes **all accepted applications** in the trademarks journal

- registers **all applications**, where no oppositions were received or oppositions disposed of in favour of the applicant

Some statistics

Activities	During 2009-2010	During 2010-2011
Applications filed for Registration of trademarks	1,41,943	1,79,317
Number of Applications advertised in the Trade Marks Journal	85,724	1,24,250
Number of trade marks registered	67,490	1,15,472
No. of marks in respect of which registration was renewed	30,482	24,685

Some statistics of current year 2011-2012, till 31.01.2012

TM applications received	149888
Examination of TM applications	84988
Publication of accepted TM applications	33043
Registration of TM applications	34787
Renewal registrations of trademarks	12691
Digitization of TM records	512249
Revenue generated in Rs.	848274373

Obstacles in accessing to Madrid Protocol

- Backlog in disposal of **requests for amendments/correction** in TM applications and those in registered trademarks
- Trademark applications filed with **vague & incorrect classification of goods & services**
- **Lack of awareness** amongst staff and trademark applicants/attorneys regarding Madrid Protocol

What we aim to do before accessing to Madrid Protocol

- Provision for **complete online filing** of International Applications and online receipt of designations & other correspondence from IB, WIPO
- **Technological upgradation** for complete e-transmission of data relating to International Applications and International registrations under the Madrid Protocol, and for maintaining records of Register of International registrations designating India
- **Liquidate backlog** in various functions of the office.
- **Increase the man power** in TMR office

What we aim to do before accessing to Madrid Protocol, contd.

- **Training to TMR** staff regarding provisions relating to Madrid Protocol
- **Awareness amongst the public/ trademark attorneys** regarding Madrid Protocol
- **Modify our practice & procedure**
 - to control filing of improper TM applications , in particular application with incorrect or vague specification of goods & services
 - to curtail time taken in processing of TM applications
 - to control delaying tactics of trademark attorneys

Steps taken

- Provision for **complete online filing** of International Applications and online receipt of designations & other correspondence from IB has been included in the Draft Rules to implement The Trade Marks (Amendment) Act 2010 relating to the Madrid Protocol.
- Provision for selecting goods and services strictly as per NICE classification, has been made in the Draft Rules
- The Government of India has initiated the process for augmentation in manpower in TMR office
- Most of the records of the TMR have been digitized and put in the system

Status of Digitization of old trademark records as on 31.01.2011

Branch Name	Not Digitized	Digitized	Total Files
Delhi	100917	153625	254542
Chennai	40539	70923	111462
Kolkata	21854	66964	88818
Mumbai	93600	184690	278290
Ahemdabad	26163	29036	55199
Total	283073	505238	788311

Steps are being taken

- **To upgrade the technical support**
- **To liquidate backlog in attending requests for correction and amendment** in trademark applications as well as in registered trademarks
- **To liquidate backlog in other areas** like data entry & digitization of TM applications/registered trademarks, examination, attending post examination correspondence, etc.
- To publish **correct classification of goods and service of Indian origin**, not available in NICE Classification.
- To give **training to TMR officials & staff** regarding the Madrid Protocol

Steps are being taken

- **To sensitize the trademark attorneys and public** regarding the protection of trademarks through Madrid Protocol.
- To develop better working habits & punctuality amongst staff so that actions can be taken within a fixed timeframe.
- To utilize the expertise of WIPO officials and the experience of countries successfully implementing Madrid Protocol

**Let us hope that we join the
Madrid Protocol and
implement it successfully to serve the
proprietors of the trademarks of India
and of the Madrid System community
at large**

Thanks for patient listening

R. A. Tiwari
Assistant Registrar of Trade Marks & GI
O/o CGPDTM,
DIPP, Ministry of Commerce & Industry
Government of India